LEGISLATIVE COUNCIL

Tuesday 21 February 1995

The PRESIDENT (Hon. Peter Dunn) took the Chair at 2.15 p.m. and read prayers.

QUESTIONS ON NOTICE

The PRESIDENT: I direct that written answers to the following questions on the Notice Paper, as detailed in the schedule that I now table, be distributed and printed in *Hansard*: Nos 58, 59 and 67.

23 NORTH TERRACE, HACKNEY

58. **The Hon. ANNE LEVY:**

1. To what use is the building at 23 North Terrace, Hackney, currently being put, since the former Education and Resource Centre of the former Department of Consumer Affairs has been moved from it?
2. What rent was previously paid for these premises by the former Department of Consumer Affairs?
3. What rent is now being paid by the Customer and Education Services Branch in the City Business District?

The Hon. K. T. GRIFFIN: The lease on the property that the former Department of Public and Consumer Affairs had at 23 North Terrace Hackney expired on 30 November 1994 and consequently, the Office of Consumer and Business Affairs has no current use of the building.

The rent for the period 1993-1994 financial year was $130 467. During this period the number of staff located at the Education and Resource Centre was eight and one trainee.

The rent for the recently formed Customer and Education Services Branch (CAES—12 employees and 2 trainees) for the 1994-1995 financial year will be $176 000.

It is important to note that the rationale for the integration of the former Education and Resource Centre (ERC) with the rest of the Office of Consumer and Business Affairs (OCBA) was based on the outcomes of a review which found that there was a need to integrate the staff and the work of the ERC more closely with the 'core' and the strategic directions of OCBA.

The former ERC which is now part of the Customer and Education Services Branch provides critical support to the Commissioner for Consumer Affairs in fulfilling statutory responsibilities relating to consumer education, the major focus of which is on the new legislation and education, prevention of consumer problems, and conducting joint education campaigns with industry, professional and consumer groups.

This Branch has provided the framework and the tools for the very significant organisational and cultural change process which has occurred since the election of this Government. This process has also produced very significant savings to the Departmental budget which far outweighs the minor increase in the cost of accommodation.

MOTOR BIKES AND TRAIL BIKES

59. **The Hon. ANNE LEVY:**

1. What is the breakdown, by type of complaint, of the 40 complaints received by the Office of Consumer and Business Affairs in 1993-94, relating to motor bikes and trail bikes?
2. What is the breakdown, by type of complaint, of the 674 complaints received by the Office of Consumer and Business Affairs in 1993-94, relating to the purchase of used motor vehicles?

The Hon. K.T. GRIFFIN: There are a number of comments which are warranted before I provide a response to the questions asked by the honourable member on 8 February about vehicle and motor cycle complaints.

In 1995, one would expect answers to such questions to involve the pressing of a few buttons on a computer which then produces the desired information. This is not the case in the Office of Consumer and Business Affairs.

The information systems which this Government inherited in the former Office of Fair Trading could be classed as non-existent.

During the years of the former government, very few initiatives were put in place which would enable information to be available in a timely and cost effective manner. Antiquated card systems were the order of the day and the limited computerisation that was in place did not support sound and effective management of the business.

This is changing, with exciting new systems being implemented, which will not only enable important access to information for management purposes, but also enable significant improvement in service to our customers—the people of South Australia.

Unfortunately system development within Consumer Affairs Branch of the office is not completed, which means significant staff time is required to answer these questions at considerable cost.

Now to answer the specific questions.

The Commissioner for Consumer Affairs has advised details of the complaints received, as attached.

The major area of complaint from consumers about motor cycles was in relation to repairs, with 16 complaints being received in 1993-94.

Warranty (259) and general repair work (137) were the main areas of complaint in relation to motor vehicles.

Motorcycle complaints

Type of complaint	No. of Complaints
Motor cycle repairs	16
Misrepresentation	1
Loss of goods	1
Non receipts of registration papers	1
Consignment	9
Refund	2
Overcharge	1
Motorcycle	3
Motorcycle ministerial	1
Faulty parts	2
Not recorded	3
Total	40

Motor vehicle complaints

SHMV warranty	259
SHMV transaction	6
Consumer credit	9
Motor vehicle contracts	32
Ministerials	8
Motor vehicle repairs	137
Refunds	23
Claims SHMV comp. fund	6
Stamp duty and other fees	8
Damage to vehicle	2
Speedo interference	6
New vehicle complaints	2
Overcharge for towing	1
Unroadworthy vehicles	9
SHMV defects	2
New vehicle defects	5
Faulty parts	14
Recision	1
Lawnmower	1
Motor vehicle auction	2
Non-supply of goods	1
Assurance	1
Engine problems	4
Registration	4
Overcharging	3
Unlicensed dealers	6
SHMV sales	16
Extended warranty	2
Misrepresentation	34
Caravan repairs	1
Encumbered motor vehicles	1
Conduct	5
Faulty workmanship	1
Unconscionable conduct	1
Repossession	2
Private sale	4
Return of goods	1
Consignment	2
Air conditioning	2
Liquidation	1
Harassment	1
Car hire	1
Dealer insolvent	1
Stolen vehicles	1
Jacked deal	1
Mail order	1

Change of ownership	1
Misleading advertising	5
Dealer disappeared	1
Backyarder	1
Dealer gone out of business	1
Auto gas converter	3
Transmission	2
Stereo system removed	1
Value of car	3
Misappropriation	1
Denial of liability	1
Not recorded	23
Total	674

MARKETING AND EXPORT ENHANCEMENT CENTRE

67. **The Hon. R.R. ROBERTS:** What progress has the Minister for Primary Industries made in establishing a Marketing and Export Enhancement Centre to provide a 'one stop shop' link between primary producers and markets, as outlined in the Liberal Party's Agriculture Policy dated October 1993?

The Hon. K.T. GRIFFIN: During 1994 considerable progress was made by Primary Industries South Australia (PISA) to improve linkages between producers and markets. Work was undertaken on 16 industry development plans and approvals given to appoint industry analysts and facilitators with a clear focus on exports.

Single point contact with the department on export development continued to be through the general manager, development and marketing who was supported by an officer seconded from the Economic Development Authority.

Subject to the availability of resources it is the intention to strengthen departmental services in this area through the creation of a new economic development unit which will include industry and export development, market analysis and quality assurance personnel.

PAPERS TABLED

The following papers were laid on the table:

By the Attorney-General (Hon. K.T. Griffin)—

Supreme Court Act 1935—Rules of Court—New Commencement Date.
Response to Public Works Committee Report—Seaford 6—12 School.

By the Minister for Consumer Affairs (Hon. K.T. Griffin)—

Regulation under the following Act—
Liquor Licensing Act 1986—Dry Areas—Wallaroo, Berri.

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

Response to Public Works Committee Report—
Hindmarsh Bridge on Port Road.
Corporation By-law—
Glenelg—No. 4—Streets and Public Places.

TRANSPORT DEPARTMENT

The Hon. DIANA LAIDLAW (Minister for Transport): I seek leave to make a ministerial statement about the Department of Transport strategic review.

Leave granted.

The Hon. DIANA LAIDLAW: One year ago, in early 1994, I announced fundamental changes to the delivery of transport services in South Australia and to the functions of agencies responsible for transport services.

1. The establishment of the Passenger Transport Board to oversee all policy and regulatory issues related to public passenger transport provision in South Australia, including taxis and hire vehicles.

2. The establishment of TransAdelaide from the former State Transport Authority, focused on the delivery of public transport services.

3. The establishment of the Ports Corporation to operate the State's publicly owned ports on a commercial basis.

4. The establishment of a new looking Department of Transport which, in addition to its road related responsibilities, would take on responsibility for infrastructure components of the former State Transport Authority, plus community service obligations and marine safety activities from the former Marine and Harbors Agency.

At the same time, members will be aware that the Federal Government now requires all national highway construction work to be competitively tendered and, from 1996, will require all national highway maintenance work to be competitively tendered. All these moves have dramatically changed the role and responsibilities of the Department of Transport which, for years, had concentrated solely on road construction and maintenance, and more recently on other road related functions, including motor registration and road safety.

In the meantime, the State Government released the Commission of Audit and the Federal Government released the Hilmer report. Both reports addressed the need for the public sector to become more accountable, more efficient and more active in creating a competitive environment. It is true also that the State Government has a very strong view that a cost-effective transport market, embracing aviation, road, rail and shipping, is critical to the realisation of our ambitious economic agenda and to the creation of jobs. There is little point in attracting new industries to the State or in providing existing industries with incentives to expand if such industries are not competitive and if they cannot sell their products and produce interstate and/or overseas because they are handicapped by transport costs.

Against this background, the Department of Transport has devoted enormous time and energy over the past six months to reassessing its purpose in life, and I compliment all involved for the professional manner in which they have pursued this task. Today, I am pleased to announce the outcome of this soul searching exercise. The department's new mission is:

> to plan, develop and manage the use of an integrated transport system across all modes for the movement of people and freight, in partnership with industry, the Passenger Transport Board and other stakeholders.

In practical terms, this new mission statement means that in pursuit of the Government's economic, environmental and social objectives the department will focus on providing:

1. leadership in the development of Government transport policy;
2. leadership in the development of integrated transport system planning;
3. management of the use of the transport system; and
4. management of transport infrastructure.

This new mission represents a fundamental shift in focus for the department, a shift which recognises that to be relevant in the future the department—

- must focus on all infrastructure issues, not just roads;
- must concentrate on being an asset manager, not just an asset provider; and
- must reassess overheads that it has carried in the past if it is to be cost effective.

The department has now adopted 'the funder, purchaser, provider' model, outlined by the Commission of Audit, as the most appropriate structure for the department to define its core functions, and for determining the level at which it will choose to be involved in the provision of goods and services

in the future. Thus, the department will essentially become an agency concentrating on policy, regulation and operational risk management, coupled with advisory functions necessary to operate in a commercially competitive and/or outsourced environment.

The department will retain, as a critical function, the capacity to provide for adequate management of risk in areas of operational activity. It will retain a technical and strategic capacity sufficient to manage the provision of goods and services, and to be an informed client. It will retain an operational policy, planning and auditing capacity. It will retain a professional project management capacity, which is required to ensure adequate management and a continuous improvement in efficiency of operational activities.

The department will also retain some operational capacity in areas of high risk and/or strategic or economic significance—and in areas which cannot be supplied cost effectively or competitively by the external market. The Department of Transport will retain a small road construction capacity, and it will continued to manage internally those activities in the Far North of the State.

In addition, it is to the credit of relevant unions that they are working with the Department of Transport at the present time by means of a pilot project, to test the capacity of the private sector to undertake road maintenance work. Ownership of the Motor Vehicle Registration data base will be retained by the department. However, the processing operations of the head office of the Motor Vehicle Registration Division—but not the smaller regional offices, which all record a higher productivity record—will be the subject of calls for expressions of interest from the private sector. These expressions of interest will then be examined to test the capacity of the private sector to operate (but not own) this business.

Meanwhile, the department's mechanical services and plant divisions will be prepared for sale, including all workshops, a process which will be managed by the asset management task force; and the professional and technical areas in the department will be downsized. As members will appreciate, the future status of the department's vehicle inspection activities hinges on the outcome of the inquiry by the Parliamentary Standing Committee on Environment, Resources and Development into inspections of vehicles.

The initiatives which I have outlined ensure that the Department of Transport, the Government and the taxpayers of Australia have access to the best available prices from our combined public/private sector providers, whilst ensuring at all times high standards of probity, professional conduct and competitive tendering practices.

The new streamlined Department of Transport will retain the ability to provide expert advice to the Government because it will retain its strategic core competencies of policy, regulation and operational risk management. Savings will flow which will not only help the department implement a variety of transport initiatives but will also help the transport sector remain competitive, and help the State reduce debt. It is envisaged the department's new strategic direction will lead to a work force reduction of 1 300, from 2 600 in June 1994 to 1 300 in December 1996—plus a saving to taxpayers of approximately $141 million over 10 years. But a lot of these jobs will not be lost to the transport sector. The Government will continue to need and will continue to fund road construction and maintenance work, motor vehicle registration work and professional and technical work, while contractors in the city and the country will continue to need their vehicles repaired and maintained. Thus work will still be available—but the employer will change.

All changes proposed will be introduced progressively over the next two years in close consultation with the work force and unions. The downsizing of units will be achieved through the use of separation packages and redeployment processes in accordance with public sector human resource management principles. There will be options for retraining and redeployment within the department, the transport portfolio and the Government sector. Employees wishing to transfer into the private sector will have access to various outsourcing arrangements and packages currently available. All employees will have a range of options available and everyone will have ample time to make informed decisions about future career options.

The Government has a policy of no retrenchment. For staff who continue to be engaged by the Department of Transport, opportunities will be provided to help them address the change in their work environment and the new roles and responsibilities that they will be asked to adopt. For this purpose, training and development programs will be available for all as part of the implementation strategy during the next two years and beyond.

The Hon. T.G. Roberts interjecting:

The Hon. DIANA LAIDLAW: Quite possibly. Mr President, change is inevitable. As all who have worked in the department for some years are well aware, the department itself has undergone considerable change in the last 20 years as it has reformed from a road provider to an asset manager in the Highways Department, to the Department of Road Transport in 1989 and then to a new Department of Transport in November 1993 just prior to the last State election. At all times, the department has gathered new functions and new responsibilities and over time it has contracted out more and more work to the private sector. Today about 40 per cent of the department's goods and services are delivered by the private sector.

The new strategic direction simply represents an increase in the extent and speed of the change process—and most importantly it has a long term focus which will take the department well into the next century. Over the past 20 years, the department has shown its ability to manage change, and I am confident that the department will do so again with enthusiasm and professionalism. The active involvement of staff and unions is considered essential over the next two years and beyond to provide constructive feedback so the implementation program can be continuously improved. The reforms that I have announced today ensure that the Department of Transport remains a viable, vital force in the future in its drive to meet the challenges of the Federal and State Government's agenda for a competitive, cost efficient transport market. I seek leave to table a copy of 'The Way Ahead: A strategic review of the South Australian Department of Transport.'

Leave granted.

STATE FINANCES

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I seek leave to make a ministerial statement on behalf of the Treasurer on the subject of the State's finances.

Leave granted.

The Hon. R.I. LUCAS: The Treasurer today made a statement to the House, and I do so on his behalf in this Chamber, on the subject of State finances, the details of

developments since the Treasurer brought down the Government's first budget in August last year, and the impact of these developments on the budgetary outlook for the next few years. The 1994-95 budget adhered to the targets which we set out in last year's May financial statement aimed at arresting the decline in the State's financial position under the previous Government and beginning the process of rebuilding the local economy. To this end the Government is committed to eliminating the underlying budget deficit in the State's non-commercial public sector by the end of the first four years in office.

In the budget statement the Government set a target of work force reductions in the budget sector of 4 300 full-time equivalents in 1994-95. By the end of December last year, budget sector agencies advised that the projected full year net reduction was 2 700 full-time equivalents. Agencies had also identified other savings initiatives. However, in view of continuing budgetary pressures from rising interest rates and wages, Cabinet has determined that it was necessary to reinforce the work force reduction targets which had originally been set down in last year's budget. Accordingly, agencies have been advised that they must make a greater effort to achieve the original work force targets. However, the Treasurer emphasises that this does not require agencies to go beyond the overall target of 4 300 for 1994-95 announced in the budget. At the same time, these work force targets do not take into account savings which will be required to fund the two non-supplemented $10 per week increases under enterprise bargaining, nor work force losses from contracting out proposals other than those which have been identified to this point.

Unlike the previous Government, which continued to deliver outdated or unnecessary services without question, this Government is focusing on overall outcomes. By the very nature of this Government's budget targets, agencies are being presented with the challenges of providing high quality services in core areas, considering policy changes which will increase efficiency of operations and ceasing functions which may no longer be regarded as essential. This approach, the Treasurer stresses, merely enforces the intent and integrity of the original 1994-95 budget plan. Together with a carefully managed program of asset sales, this approach will ensure that the State's debt is cut in real terms and that debt reduction is sustainable over the long term.

The 1994-95 budget provided yet another clear signal of the Government's determination to solve the State's budget and debt problems inherited by this Government and foisted upon the State's households and businesses by the collapse of the State Bank, the failure of the former Labor Government to manage the State's public finances and sustained cutbacks in the level of Commonwealth financial assistance to the State by the Hawke and Keating Labor Governments. The task confronting the Government in the 1995-96 budget year has been made much more difficult by the Commonwealth's irresponsibility on the fiscal and wages fronts. Since last August's State budget, more rapid economic growth has been accompanied by higher interest rates and wages pressures.

Members interjecting:

The Hon. R.I. LUCAS: Give me time. The Federal Government has been leaving it to the Reserve Bank to raise interest rates as the sole means of preventing an even more disastrous deterioration in the current account deficit. In fact, since we returned to office in late 1993, long term interest rates in Australia have increased by about 3.5 percentage points. These sorts of increases as a result of the Federal Government's economic mismanagement not only impact on the State budget but also affect ordinary South Australians. High interest rates have dampened the housing market and the job outlook for those who work in the building industry. Small, medium and large businesses are all forced to reconsider their investment decisions, decisions which affect job growth and prosperity for all South Australians. The Federal Government's failure to adjust its own fiscal policy will mean that the State's 1995-96 budget will be forced to absorb an even higher interest burden. The 1995-96 State budget will now have to be framed taking into account a non-commercial sector interest burden which is $65 million higher than expected at the time of last year's budget and a massive $110 million higher than was anticipated at the time of the May 1994 financial statement.

Fifty per cent of the non-commercial sector's additional interest bill is directly the result of the $3.5 billion blow-out in State debt caused by the State Bank and SGIC losses during the reign of our predecessors. As a consequence, our interest bill this year is some $360 million higher as the direct result of the Bannon and Arnold Governments' incompetence. The Federal Government is supporting a wages policy which allows wage increases totally unrelated to productivity improvements. This policy places further pressure on State Government work force levels, a situation which could have been avoided if we had been allowed to implement enterprise bargaining in the Public Service without the influence of a centrally determined wage increase, which puts a floor under any wage increase offered by an employer.

The Government has made an offer to public sector unions in an attempt to get enterprise bargaining moving and to provide some reward for the cooperation of our employees in the fundamental reform of the public sector, which is now under way. The Government has been negotiating in good faith with unions for a fair and affordable outcome in this area, and recently offered employees a $15 per week wage increase with two further productivity-based increases of $10 per week over an 18-month period. However, the Government will strenuously oppose campaigns by particular unions to gain bigger pay rises than have been offered. Our policy is based on wage increases based on productivity gains, not chasing increases granted in other States. The Treasurer stresses that the Government will not provide additional funding for the cost of bigger increases awarded as a result of these campaigns, and, therefore, the result could only be more pressure on the jobs of members of these renegade unions.

The underlying deficit targets for the 1994-95 budget year and the 1995-96, 1996-97 and 1997-98 forward years, which were decided upon by the Government and published with the 1994-95 budget, clearly commit the Government to putting the total non-commercial sector of the budget into surplus by 1997-98. We remain on track to achieve this target. To sum up, the Treasurer has today provided a brief outline of progress to date in implementing the very necessary budgetary changes required to secure the State's financial position. The additional interest and wage burden will not cause the Government to alter its financial targets as set out in the budget.

POLITICAL DONATIONS

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I seek leave to table a copy of a

ministerial statement made today by the Premier on the subject of political donations.

Leave granted.

PRISONS, DRUGS

The Hon. K.T. GRIFFIN (Attorney-General): I seek leave to table a report to the Minister for Correctional Services on an investigation into drugs in the South Australian prison system.

Leave granted.

The Hon. K.T. GRIFFIN: I also seek leave to table a ministerial statement made today by the Minister for Correctional Services in respect of an investigation into drugs in prisons in South Australia.

Leave granted.

QUESTION TIME

SCHOOLS OUTSOURCING

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services a question on outsourcing.

Leave granted.

The Hon. CAROLYN PICKLES: The Opposition has a copy of a submission presented to the Minister's department by Serco Australia Pty Ltd for the provision of facilities management services to schools in South Australia. Facilities management is an arrangement whereby a contractor is employed to provide a range of support services at a school. Put simply, the proposal to the department is for a private company to be contracted to carry out administrative functions in schools now undertaken by school services offices employed by the Department for Education and Children's Services.

Outsourcing work in individual schools raises many complex questions and has been opposed by the Public Service Association and the South Australian Institute of Teachers. The Opposition has been informed that a meeting has been arranged at the Smithfield Plains Primary School on Wednesday concerning a pilot program of outsourcing school management. The meeting will involve school services officers from the Smithfield Plains Primary School the Smithfield Plains High School and the Peachy Road Schools. The information is that representatives from Serco will be meeting schools and that a trial of private school management will run for a period of two years. My questions to the Minister are:

1. Has the Minister approved this trial?

2. Why did the Minister's office inform the South Australian Institute of Teachers only last Friday that the working party established to consider whether a trial should proceed would meet at the end of the month and invite the institute to make a submission?

3. Why has the Minister failed to consult the Public Service Association and the South Australian Institute of Teachers?

4. Is the Minister aware of allegations of repeated failure by Serco to meet contractual requirements in New Zealand and overseas?

The Hon. R.I. LUCAS: The honourable member's information is sadly astray. The undertaking that I have given the Institute of Teachers and others is correct. There has been no decision by the Government or the department to proceed with the trial for Serco. There has been no decision by anyone within the department to proceed with the trial for outsourcing these functions. The suggestion by the honourable member that this has been proposed by the department is incorrect. What has occurred is that Serco, together with a number of other people, has put propositions to the Government. As Minister I have indicated to it that I have some concerns with aspects of its proposals. I have said that I am not prepared at this stage to entertain a pilot program or a trial. All I was prepared to do was establish a working party to look at whether or not we would even go as far as having a trial or a pilot program within schools along the lines proposed by Serco.

I met with the Institute of Teachers, which had some concerns about this. I indicated that attitude to the institute. The Institute of Teachers left that meeting entirely satisfied with the position that I had outlined to them. I indicated to them that if they wanted to make a submission to the working party then, as always, the open door policy of the Government was there and we would welcome a submission from the Institute of Teachers and others on the question of whether or not we should conduct a trial or a pilot program.

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: There are thousands of meetings tomorrow. I have to indicate to the honourable member that I do not keep—

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: I do not know whether there is a meeting tomorrow. I can tell the honourable member that the simple answer to her question is that the Government has not authorised a two year trial, or any trial. The department has not authorised a two year trial. Nobody has authorised a two year trial. There is nothing wrong with people having discussions about their attitudes to this. The Institute of Teachers is against it, while a number of principals and school councils support the notion of outsourcing these functions.

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: There is a good number of them and some who are members of the Labor Party as well. There are varying attitudes within the education sector about propositions such as the Serco outsourcing proposition. I can only indicate again that I have some concerns about aspects of the Serco proposition, and I have indicated that to Serco and the institute. No decision has been taken other than that we will establish a working party to look at whether or not we would even go to the first step of having a trial.

BLOOD TESTING KITS

In reply to **Hon. R.R. ROBERTS** (9 February).

The Hon. DIANA LAIDLAW: The replies are as follows:

1. In 1993 the drink driving provisions of the Road Traffic Act were amended in part to streamline the unduly lengthy police procedures for blood testing of persons whose breath analysis indicated prescribed alcohol concentration. The amendments, which came into effect on 1 February 1994, enabled police undertaking breath analysis to issue, at the request of the person, a blood test kit to facilitate the taking and analysis of a sample of the person's blood. This arrangement has freed the police from the time-consuming responsibility of escorting the person and waiting for the test to be completed.

1. In June 1994 a person in Port Pirie was charged with driving whilst having a prescribed concentration of alcohol in his blood (.198). He was issued with a blood test kit in conformance with police practices at that time.

2. On 22 July 1994 without regard to or knowledge of the Port Pirie incident, I approved for the purposes of section 47g(2a)(b) of the Road Traffic Act, a description of a blood test kit. The approval occurred in response to a question the previous week from the Police Prosecutions Branch whether the form of the blood test kit had been approved in the manner indicated by section 47g(2a)(b). To that time, legal sources advised although it was not usual for specific approvals to be sought and that a challenge as to the validity of the test kit was most unlikely, there was no reason why a type of kit could not be approved.

On 21 December 1994 the Port Pirie Magistrates Court dismissed the case. The decision has since been examined by the Crown Solicitor's office and will not be appealed. While it is apparent that, in the view of the magistrate, the blood test kit approval by the Minister had not, in effect, been satisfied at the time of the offence in June 1994, the remedy to this apparent anomaly has been in place since 22 July 1994.

Although not the basis for the dismissal of the case, potential difficulties associated with the technicalities of future proof of the approval of the blood test kits emerged during the trial and are being addressed by the Minister for Emergency Services and the Attorney-General.

3. The amendment to the Road Traffic Act relevant to the test kits took effect from 1 February 1994. I understand that, from that date until my approval of the kit in July 1994, 554 test kits were issued by police.

4. Blood test kits are issued as an evidentiary aid to persons charged with prescribed concentration of alcohol offences; they do not constitute part of the prosecution case. Their purpose is to provide the defendant with the means of obtaining evidence for their defence should they so desire. The prosecution case is based upon the readings obtained from the breath analysis instrument, not the blood test which may or may not be obtained by the defendant.

Consequently, no-one can be convicted on the basis of the blood test kits. If a defendant chooses to use the blood test kit, the results of the analysis can be introduced in their defence. If the validity of the blood test kit was not raised as an issue at the trial, any conviction obtained would be based upon the evidence presented to the court by both parties. There were, therefore, no convictions from the use of the blood test kits.

5. As there can be no convictions arising from the use of the blood test kits, it is not necessary to advise anyone of the defence raised.

I am advised that all prosecutions which arose during the period to July 1994 and which had not been finalised by the courts, were withdrawn by police following consultation with the Crown Solicitor's Office.

TRANSPORT DEPARTMENT

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Minister for Transport a question about the transport strategic review.

Leave granted.

The Hon. T.G. ROBERTS: The Minister, in presenting a quite detailed statement to the Council, outlined what the department's intentions were in the restructuring thereof. The mission, as outlined in the statement, is 'to plan, develop and manage the use of an integrated transport system across all modes for the transport of people and freight in partnership with industry, the Passenger Transport Board and other stakeholders'. Therefore, my questions are as follows:

1. What guarantees can the Minister give that the proposed changes to the delivery of transport services will not adversely impact on passengers who are aged, handicapped, isolated in the northern and southern suburbs or are underprivileged?

2. Will there be increased fares and decreased services, reliability of timetables and attention paid to safety and cleanliness of the transport system?

The Hon. DIANA LAIDLAW: I am a little confused by the honourable member's question. The Department of Transport is quite separate from the Passenger Transport Board, which is responsible for fares, services and the contracting out of passenger transport services, including buses. That process will begin in March next year. The statement that I gave today refers essentially to the road functions of the Department of Transport together with the marine safety activities and infrastructure issues that were the former responsibility of the State Transport Authority. I am certainly pleased to provide the honourable member with a briefing about the matters with which he is concerned as they are matters that are of concern to me also. However, they come under the umbrella of the Passenger Transport Board reforms, which services will be tendered from March. So, I can give the honourable member such a briefing if he so desires.

INFORMATION TECHNOLOGY

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services, representing the Treasurer, a question about EDS outsourcing.

Leave granted.

The Hon. M.J. ELLIOTT: I have been told that the State Government's outsourcing negotiations with information technology company Electronic Data Systems (EDS) was based on the premise that EDS would take on $100 million worth of Government computing work per year. I am told now that the Government will be struggling to achieve even $65 million of business per year for EDS. This must place in jeopardy the signing of any actual contract with EDS, as EDS may no longer be interested in taking on the work.

I have also been told that, by the time the Government and EDS sign a contract, which is expected to be within the next month, EDS would already have spent $15 million in winning the contract. The company's ability to recover that money will be affected by the smaller amount of work it will be doing for the Government, which will in turn impact on the economy of the outsourcing itself.

The Government anticipated transferring 400 to 500 information technology staff to EDS as a result of the outsourcing contract. However, it would now seem that many of the staff employed in 140 or so agencies are actually engaged on other duties as well as their prime computing function. This is especially the case in the medium and smaller agencies where dedicated computing professionals are harder to justify.

The result of this, I am told, is that perhaps only 100 to 150 full-time equivalents may be within the scope of the outsourcing project and therefore eligible to transfer to EDS. The Government will therefore be left with an additional 300

to 400 full-time equivalents that it had expected to lose. The salary saving on those staff will therefore also not be made.

People fear that the combination of these factors calls into serious question the wisdom of the outsourcing project. The Government has refused to give the public significant information about outsourcing. It even locked out State Treasury officials who were in a position to give sound internal advice. The nine-year contract being proposed is a long commitment and, might I add, only a week or so before the Government announced that it was going to give the contract to EDS I was told by Government advisers that they were hoping for a five to seven year contract and not the nine years about which they are now talking.

With rapidly changing technology, the capacity for things to go wrong is greatly enhanced by that very long contract. We are aware that the previous Government attempted to outsource information technology, but it failed to get the economics of it to stack up. I am told that the potential losses on this could be as disastrous as the State Bank itself. My questions are:

1. Will the Minister confirm that the Government is finding that the number of transferred staff and the level of work to be transferred is far less than that which was originally anticipated?

2. What pressure is being placed on the Government to provide further incentive to save political face?

3. Will the Government now involve Treasury officials in future discussions?

4. Will the Government make more information available for public scrutiny?

The Hon. R.I. LUCAS: I think the honourable member's suggestion that the Government and taxpayers might lose $3.5 billion as a result of this arrangement is extraordinary. Nevertheless, I will refer the honourable member's question to the Treasurer and bring back a reply.

WORKCOVER

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Minister for Consumer Affairs, representing the Minister for Industrial Affairs, a question about WorkCover claims.

Leave granted.

The Hon. J.F. STEFANI: Last Friday I was contacted by an Italo-Australian constituent residing in the Campbelltown area about a telephone call which he had received from a representative of a company purporting to be interested in the general welfare of the community. The caller advised my constituent that he was calling from Melbourne and was keen to avail my constituent of a free hearing test. After some discussions, an appointment was arranged for the free hearing test, which took place last week at an address at Woodville.

My constituent also had received a call reminding him of his appointment the day before the hearing test. On his attending the appointment, the hearing test was carried out by a technician who provided the use of a headset, and sound tests were conducted which were registered on a graph by a manual response from the person undergoing the test. After the test my constituent was taken to another office and was advised that he had incurred some 20 to 30 per cent loss of hearing, probably as a result of his work, even though he had been self-employed for the past two years. He was advised that hearing loss would have occurred over a number of years and therefore there was a distinct possibility that a successful WorkCover claim could be established.

He was further advised that, on the payment of a single up-front fee of $250, a specialist hearing test would be arranged and would confirm his hearing loss. He was further advised that the company had been successful in establishing many claims with WorkCover and that all costs, including solicitors' costs, were covered on a percentage basis, depending on the amount paid by WorkCover.

The Hon. M.J. Elliott: Can you name the company?

The Hon. J.F. STEFANI: Yes, I can name the company; I will give that to the Minister. My questions are:

1. Can the Minister advise if WorkCover is aware of the activities of free hearing test companies operating in South Australia?

2. Will the Minister have these activities investigated by both the Commissioner for Consumer Affairs and WorkCover?

3. Will the Minister publish any information that can safeguard the public against any possible exploitation?

The Hon. K.T. GRIFFIN: If the honourable member gives me the name of the company—I presume it is a company—I will certainly have the matter investigated both by the Minister for Industrial Affairs and by the Commissioner for Consumer Affairs. Quite obviously there is some concern in relation to a percentage of the recovery being applied towards legal and other fees. The fact is that that is illegal. Contingency fees are recognised by the law, but only in the context of uplift fees to no more than 100 per cent add-on of the normal approved fees. So, any attempt to recover legal fees on a percentage basis is just illegal.

From time to time I have heard rumours of the practice of percentages being charged where there has been a successful recovery, but I have never had firm proof of that. However, I indicate that, if that is occurring, it will be pursued quite vigorously. It is conducive to litigation, even though in normal circumstances a person may not then wish to pursue a particular claim. I will take the matter further and bring back a reply.

LEGAL MALPRACTICE

The Hon. M.S. FELEPPA: I seek leave to make an explanation before asking the Attorney-General a question about legal malpractice.

Leave granted.

The Hon. M.S. FELEPPA: Concerns about malpractice in the legal profession were raised by a report from the Legal Practitioners Complaints Committee tabled by the Attorney-General in this Parliament on 29 November last year. The issue was also raised again by South Australia's most senior barrister, Mr Williams, QC, who has some 40 years experience in the legal system. He was reported, by the *Advertiser* on 16 February this year, as saying:

> Some lawyers seem to abuse the privilege of being viewed in the community as 'fit and proper people' to handle other people's affairs but were in trouble with the law themselves.

The watchdog for the legal profession received 934 complaints for malpractice during the past 12 months, and 16 of these cases were subsequently dealt with by the Legal Practitioners Disciplinary Tribunal.

I believe that about 1 800 lawyers practise in South Australia and, with the numbers of complaints received, it equates to about one complaint for every two legal practitioners. In addition, there would be those more serious cases of fraud and misappropriations which must be investigated by the police. The number of complaints reflect badly on

lawyers, who are officers of the court and commissioners for oaths and affidavits, as well as being licensed to practice law. It seems that, from looking through the alphabetical contents of the volumes of Acts of Parliament for the years, there are one or two amendments each year covering the activities of the legal profession.

These are, I imagine, needed to close the loopholes discovered by some alert legal minds who operate within the legal profession. When people have recourse to the legal system they expect justice and a high standard from lawyers. Lawyers are legally trained, well educated, participate in the administration of justice and should know what is fair and honest. People, therefore, have a right to expect a high standard of conduct from all members of the legal profession when making what is often a random choice of someone to advise or act for them. These trusting people are the very people, unfortunately, who are criminally injured by legal malpractice.

Even though I believe personally that there are good lawyers of good esteem, my question to the Attorney-General is the following: since the tabling of the Legal Practitioners Complaints Committee report, has the Attorney-General initiated any investigation into the unprofessional conduct by lawyers? If the answer is 'Yes', has an investigation been concluded, and what is the course of action considered by the Attorney-General in order to protect the people of South Australia from such legal malpractice?

The Hon. K.T. GRIFFIN: A couple of important issues must be recognised: this information is getting out into the public arena, and that resulted from an amendment to the Legal Practitioners Act about two years ago which the previous Attorney-General brought into the Parliament and which I supported; reports to the Parliament; and openness before the Legal Practitioners Disciplinary Tribunal, so that the matter is now getting an appropriate airing. For the first time too the presiding member of the Legal Practitioners Disciplinary Tribunal, Mr Williams, QC, has been prepared to make some public statements.

He has issued a discussion paper for consideration by the community, as well as the legal profession, in relation to the disclosure of names of practitioners brought before the tribunal. Important issues in relation to that need to be taken into consideration and weighed. He has also raised a number of other issues relating directly to the practice of the law by legal practitioners. In addition, the Chairman of the Legal Practitioners Complaints Committee, in the report I tabled recently, also drew attention to some of his concerns about the training standards for the legal profession, about some of the practice methods, and the ability of some persons to appropriately administer a legal practice.

He has raised a number of important issues. The bulk of the members of the legal profession do carry on competently, efficiently and cheaply good legal practices, and just a handful of people are the subject of constant complaint. I note from the reference by the honourable member that there was something like 900 complaints for 1 800 lawyers. It is a bit simplistic to merely translate the number of complaints and equate it to one complaint for every two legal practitioners, without looking at the nature of the complaints and also looking at how many of those are made in respect of the same practitioner.

Many complaints are quite minor matters. Complaints may include matters such the legal practitioner not communicating, or a person not receiving a reply to a particular letter, or not receiving adequate information. In those circumstances, whether one is in practice or in a trade or other occupation, those sorts of complaints are frequently made. My constant response, both to professionals and to other occupational groups, is that if you provide good service you eliminate complaints and you get a lot of referral business. The important thing is that, if there is a complaint, deal with it quickly and that way you do give satisfaction to the client or the customer.

So far as the conduct of the whole process of dealing with complaints is concerned, when I came to office some issues had to be addressed in relation to the complaints committee. As a result, some additional resources have been granted to the complaints committee, and there are continuing discussions between me, the Legal Practitioners Complaints Committee and the Law Society about the appropriate level of activity required to deal with complaints against legal practitioners. Again, on the same basis, if individual practitioners can demonstrate that the complaints and the causes for concern are being addressed promptly then that gives greater confidence in the legal profession.

As the honourable member says, there have been some amendments each year to the Legal Practitioners Act—there will probably be some in this session too—but they are not so much resulting from lawyers finding loopholes but from dealing with different situations. It happens with all the law that Parliament makes that, as you deal with a set of circumstances and seek to apply the law, some deficiency may be identified and, in those circumstances, it is appropriate to make some changes to the statute. It is a fine-tuning process. Substantive and substantial amendments were made about two years ago and, as I say, in opposition I supported the majority of those changes, and, as a result, some tidying up amendments are made each year as new issues are identified.

So far as the reputation and practices of the profession are concerned, the honourable member will be aware that, under the Hilmer report in relation to competition policy, there was a special emphasis given to the legal profession, particularly in New South Wales, Victoria and Queensland where numerous anti-competitive practices were in place. In this State, I am pleased to say, there are very few, if any, anti-competitive practices in place. There is advertising; you do not have to instruct a solicitor to get to a barrister; and you are not required to have a junior counsel with a senior counsel.

All those sorts of issues have long since been addressed in this State, but, in the Hilmer context, there is still a heavy focus through the COAG process on the legal profession. Ministers for Consumer Affairs at the end of last year expressed some concern that there needed to be a proper consumer focus on the drive towards a free and open market, and that therefore one needed to consider what the effective competition will be on the consumer (adverse or positive), and take that into consideration when moving towards a free and open market place in relation not only to the professions but also to business enterprises and Government business enterprises.

So, competition policy has an impact on this also. It opens up the profession and, as I say, that has long since been the position in this State. If the honourable member has other concerns in relation to the Legal Practitioners Complaints Committee or the disciplinary tribunal's operations or report, I am certainly willing to give further consideration to them.

LAW GRADUATES

The Hon. BERNICE PFITZNER: I seek leave to make a brief explanation before asking the Attorney-General and Minister for Consumer Affairs a question about postgraduate training for law graduates.

Leave granted.

The Hon. BERNICE PFITZNER: I raised this concern some nine months ago, and it still has not been resolved. Indeed, now in view of further information I have received, I wish to raise a different aspect of the same issue. When one trains for a medical career, over six years, the seventh year is virtually mandatory in order to obtain registration to practise as a private medical practitioner. The seventh year can be considered as part of the medical course. During our time we used to be called resident medical officers, but now they are called interns, and that seventh year was almost guaranteed by employment in a teaching hospital. The law course ought to be similarly organised.

The tertiary student studies for three to six years to obtain either a single or double degree, that is, single law, or law arts or law economics, etc. However, at the end of the three to six years, in order to become and work as a private legal practitioner, the young law graduate needs to do six months of a course known as the General Certificate of Legal Practice course, which used to be called the General Diploma of Legal Practice course, and then has to do modules in five or six subjects. I understand that each module costs approximately $300, and that one module that I know of has only two sessions of lectures. Over and above this, the young law graduate has to look for a job in a marketplace over-supplied with lawyers. This situation is outrageous, unfair and inequitable. My questions to the Attorney-General are as follows:

1. Can the Attorney-General please confirm that this is the general present situation?

2. If so, will he make investigations in order to obtain a more fair and equitable situation? If not, why not?

3. Where does the money paid for each subject module go, and what is it used for?

The Hon. K.T. GRIFFIN: This has been an ongoing problem, both for the previous Attorney-General and for me. Although we do not specifically have responsibility for what happens to law graduates, we seem to get very much involved in consideration of what might be the appropriate qualifications for admission to practise. It is an issue which has from time to time been raised at the Standing Committee of Attorneys-General. There were some concerns earlier in 1994 that one of the courses was being discontinued and then there were some urgent discussions involving the Chief Justice as well as the University of South Australia and the Law Society to find some alternative means by which graduates could obtain the necessary practical experience which would then qualify them to be admitted to practise.

As I understand it, although I have not been brought up to date on it for several months, the Law Society was certainly proposing to run a course which would have an effect of topping up some of the subjects and courses which had been run by the University of South Australia. I am not sure as to where that is at the present time, but I will obtain some information about the current position relating to these courses and also the detail which the honourable member seeks in relation to the various modules and the content of those modules, and I will bring back a reply.

PUBLIC SECTOR SALARY DEDUCTIONS

In reply to **Hon. A.J. REDFORD** (24 August).

The Hon. K.T. GRIFFIN: The Minister for Industrial Affairs has provided the following response:

On 15 February 1994 the Government announced that automatic deduction of union membership fees from public sector employees' payroll would continue, provided that each employee provided annual authorisations for that practice.

At the time of announcing the decision, the United Trades and Labor Council (UTLC) were advised that if administrative problems were encountered by the unions in meeting the re-authorisation deadline of 1 April 1994, then the deadline would be extended as a transitional arrangement.

On 2 March 1994, the UTLC requested an extension of the re-authorisation deadline and on 7 March 1994 the Government confirmed that the deadline had been extended by two months to 1 June 1994 as a transitional arrangement.

A legal challenge by the Public Service Association (PSA) to the Government's decision was made in the Supreme Court on 18 March 1994. On 19 April 1994, the Supreme Court dismissed the legal action, refused to grant any injunctions, and ordered costs against the PSA. An appeal by the PSA against this decision was subsequently withdrawn.

The total costs being claimed by the Government amount to $17 788.71 and steps are being taken to recover this amount from the PSA.

The Government's decision to give public sector employees freedom of choice in automatic union deductions appears to have been well received by Government employees.

Records relating to the deduction of union subscriptions from payroll in Government agencies indicated that only 42 per cent of employees who had subscriptions deducted through the Government's AUSTPAY system as at 1 April 1994 had submitted renewal forms as at 31 May 1994. It is estimated that a further 20 per cent of public sector employees have arrangement for union subscriptions to be deducted by direct bank debit. On the basis of these figures being representative of other Government payroll systems, approximately 35-40 per cent of public sector employees in South Australia have exercised their freedom of choice not to maintain their union membership or automatic union deduction of membership fees in accordance with the State Government's decision.

DRIVER IN CONTROL

In reply to **Hon. T.G. ROBERTS** (6 September).

The Hon. K.T. GRIFFIN: The Minister for Industrial Affairs has provided the following response:

Regarding the potential for people to be required to work 12 hours a day for shift work, the drivers would not be employees of Driver in Control. They would be franchisees or sub-contractors somewhat similar to cab drivers. They would not therefore be covered by the provisions of any South Australian award; profit-sharing or other arrangements would be the subject of some form of contractual agreement between drivers and the operators of the business.

Drivers operating on a 12 hour shift would not represent any breach of health and safety legislation; a number of occupations in retail and other areas entail working over such periods with a provision for breaks. Drivers working with Driver in Control would be reacting to intermittent demands for provisions of their services.

NORTHFIELD WOMEN'S PRISON

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

The Hon. K.T. GRIFFIN: The Minister for correctional services has provided the following response:

1. There is no evidence to suggest that the women involved in Ms Coulter's project were questioned, either formally or informally by prison officers following the radio interview in question. The issues raised by Ms Coulter at the time of the interview were the topic of discussion between both staff and prisoners, yet this did not include the questioning of any of the women involved in the project.

It should also be noted that some of the women involved in Ms Coulter's project strongly disagreed with many of the statements made and informed her of those concerns in writing, to which I am informed Ms Coulter has replied.

2. Northfield Prison Complex has 1.5 Education Coordinators available to assist prisoners with access to educational services. Given the total population of the prison (50 men and 60 women, total

110) this is a higher ratio of Education Coordinator/prisoners than in any other prison in South Australia.

The position of Education Coordinator for the Women's Centre recently became vacant and the Department for correctional services has requested an exemption under the Equal Opportunity Act 1984 to advertise this position 'for women only', to meet the needs of the women offenders in the prison. There is currently a woman educator acting as the Coordinator for the women. Discussions have taken place regarding upgrading the position to full time and it is hoped that with the achievement of further economies within correctional services this will be possible in the future.

3. (a) The range of courses changes regularly to meet the education and training needs of women. However, this financial year the following programs have been available:
Literacy, calligraphy (which is in fact another way of teaching basic literacy), welding certificate, sheet metal, woodwork, personal grooming, creative writing, drama, music, photography, basic car maintenance, short course in cooking, computing and a playgroup which provides women with opportunities to learn about child development. In addition, a number of women are involved in distance education programs which include German, Spanish and French languages, Community Services Certificate, secondary education, Small Business Management. Negotiations are well advanced with DETAFE to provide two introductory trade training courses targeted at women. These courses will take place in the next three months. Negotiations are being undertaken to provide a certificate computer course in the new year.

(b) The amount of time individual prisoners spend in educational programs is variable because of the variety of courses being undertaken. For example, a prisoner involved in senior secondary education may spend considerably more time on her studies than a prisoner in a short vocational training course. However, in the current financial year there has been 683 hours of education service made available for women at the institution. Women prisoners are allowed to attend education for a minium of two half days per week.

(c) The education centre is equipped with the latest in education computing equipment and orders have been placed to upgrade one of the computers to use the PALS, interactive literacy system. This will significantly enhance the centre's ability to meet the literacy needs of the women in the institution. Women who are studying can have assistance in acquiring text books. The prison system will purchase and loan the students the books for the duration of their course; other reference books are available from various teaching institutions.
As a result of training provided through Kickstart programs, a facility has been constructed where metal and wood training can take place. Additionally, one of the staff of the institution has been accredited by TAFE to deliver welding programs to certificate level.
Women who are involved in secondary education programs have weekly phone tutorials with their teachers. Women who need support with their study can use either of the education coordinators to assist them or the education coordinators will arrange for support from lecturers or teachers in other locations.

(d) As indicated above, access to libraries for study purposes is facilitated. Additionally, the Department for correctional services is investigating ways in which it can improve the library service in all prisons, particularly in the area of recreational reading.
The education coordinators have been seeking donations of books from local libraries and other sources and the library has installed a computerised library lending system to assist in this process.

4. It may be of interest to know that the General Manager of the Northfield Prison Complex is a fully qualified psychologist.

In addition, Northfield Prison Complex utilises the services of the departmental psychologists on an as needs basis and the prison medical service provides a psychiatrist to the women's centre two and a half days per week.

Whilst it would definitely be an advantage to employ a full time psychologist to conduct daily clinics at Northfield, this can only be achieved through relinquishing another staffing position at the facility. This is presently being negotiated.

WORKERS COMPENSATION

In reply to **Hon. M.J. ELLIOTT** (9 February).

The Hon. K.T. GRIFFIN: In the area of workers' compensation the Government is committed to maintaining a fair balance between the welfare of injured workers and the need to make the WorkCover scheme more affordable and nationally competitive. In 1992 the then Labor Government enacted provisions which resulted in differential treatment with respect to lump sum payments for people with a mental illness and restricted claims for disability consisting of an illness or disorder of the mind caused by stress. At the time the amendments were made a select committee had been looking at WorkCover for a considerable time. The Australian Democrats did not oppose the amendments. The Government's current proposals take the 1992 approach one step further and are based on the same principle. The proposed amendments do not affect all claims arising from mental illness but rather treat stress related claims in a different way.

The Government has, at this time, made no decision on the recommendations in the report of the Legislative Review of the Equal Opportunity Act conducted by Mr Martin QC. As previously advised the recommendations in the report will be the subject of further consultation before any final decisions are made. Mr Martin QC has recommended an extension of the Act to cover people with mental illness, but he has also indicated that the legislation must carefully balance the rights of all persons affected by the Act and that exemptions are important in that regard. Therefore Mr Martin QC has set out a general principle with respect to discrimination on the ground of mental illness, but he has acknowledged that some differential treatment may be warranted in certain situations. Therefore I do not consider that treating people with stress related claims differently from other claimants under WorkCover is necessarily contrary to the principles espoused in the Martin report.

HIV TRANSMISSION

In reply to **Hon. BERNICE PFITZNER** (27 October).

The Hon. DIANA LAIDLAW: The Minister for Health has provided the following information.

1. Current SA Health Commission guidelines on HIV infected health care workers issued on 1 June 1992 recommend that health care workers infected with HIV not perform exposure-prone procedures. They also state that health care workers who engage in exposure-prone procedures have an ethical duty to consider their own potential HIV status and should be encouraged to seek routine testing if they believe they are at risk from occupational or other exposures. These guidelines were attached as Appendix E to the Third Report of the Social Development Committee's 'AIDS: Risks, Rights and Myths'.

The NSW guidelines referred to by the honourable member are only draft at this stage; the Minister has asked the Health Commission's HIV/AIDS advisory committee to review the guidelines when finalised and advise of changes to the current South Australian guidelines which may be necessary or desirable.

2. The Royal Australasian College of Surgeons 1994 policy document 'Infection Control in Surgery: Management of AIDS (HIV) and Hepatitis B' states:

> 'Prior to surgery, patients should be tested for antibodies to HIV and Hepatitis B as clinically indicated'.

These guidelines recommend taking a full history regarding risk factors of patients, and undertaking pre-operative testing with the patient's full knowledge and consent, together with appropriate counselling.

These guidelines have been widely promulgated and publicised, and are appropriate.

WOMEN'S AND CHILDREN'S HOSPITAL

In reply to **Hon. SANDRA KANCK** (22 November).

The Hon. DIANA LAIDLAW: The Minister for Health has provided the following information.

1. The current library is appropriately sized to accommodate the active library stock from both the Queen Victoria Hospital and the Adelaide Children's Hospital. The space required for archival storage utilising compactus systems is 16 square metres, and space will be allocated, probably in the Good Friday Building ground floor, which is the main archival storage area.

2. The only cut in journal subscriptions last year was in a small number of yearbooks. This financial year, it has been necessary to

cut journal subscriptions by approximately 15 per cent, or roughly $17 000. This will affect about 20 journal subscriptions.

Hospital and university medical librarians attempt to co-ordinate journal subscriptions such that relevant material is available, through inter-library loan if not locally.

3. Medical researchers at the Women's and Children's Hospital will continue to have access to the latest research information. As a pre-eminent teaching and research centre, the hospital provides leadership in research and in new developments in medical practice. Competition with private enterprise in this respect is not an issue.

CHEMICALS

In reply to **Hon. T.G. ROBERTS** (22 November).

The Hon. DIANA LAIDLAW: The Minister for Industrial Affairs has provided the following information.

The honourable member has asked this Government to provide resources to local government to produce a register for known and suspected chemicals to which locals may be exposed through primary and secondary industry use, domestic storage or transported products in a local area.

The member's question is deceptively simple and fails to address important questions about the type of information to be collected in such a register and whether the community is actually exposed to hazardous chemicals in particular circumstances, simply because they are present at a workplace or on a farm.

It is by no means a simple task to produce a single register in a local government area of the chemicals in use in local industry, on farms or carried in transport on the roads. It is an even more complicated task to determine which of these may give rise to exposure of local residents, and for which there is therefore some purpose in having documentation of the substances involved.

If what the honourable member seeks is for information to be available to a community about the chemicals that may be present in the area through various industrial or agricultural purposes, then this information is already or will shortly be available through various legislative provisions:

- The Farm Chemicals Program of the Department for Primary Industries maintains a register of all agricultural and veterinary chemicals in accordance with the requirements of the Agricultural Chemicals Act. Information can be accessed through offices of this department.
- The proposed hazardous substances regulations under the Occupational Health, Safety and Welfare Act will require all employers to maintain a register of the hazardous substances used at the workplace, including material safety data sheets for each hazardous chemical product. This information will be available to employees at the workplace and to emergency services. The Department for Industrial Affairs would have access to this information through its health and safety inspectors.
- These same hazardous substances regulations will also enable medical practitioners to request information about hazardous ingredients of chemical products.
- The Dangerous Substances Act requires that all vehicles transporting dangerous goods must be placarded to identify carriage of these substances.

It would be a very costly investment to compile a register for each local government area of all hazardous chemicals used industrially, agriculturally or in transport in the community, just on the off chance that a community member might want information about one of these products.

The above systems, whether established or in train, will provide access to the information when and if it is needed through the relevant offices of either the Department for Primary Industries, the Department for Industrial Affairs or the relevant emergency services.

STUDENT SUSPENSIONS

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services a question regarding school suspensions.

Leave granted.

The Hon. R.I. Lucas: What about school closures?

The Hon. T.G. CAMERON: No, not that one. The statistic that 2 400 students were suspended during the third term of 1994 is disturbing and indicates an urgent need to address the way we manage behavioural problems in our schools. Even more disturbing is the information that 9 per cent of children suspended were aged between four and nine years. My questions to the Minister are:

1. How many children were suspended from school during 1994 by year group?

2. What is the summary of reasons for suspension by year group?

3. Has any analysis been undertaken of the cause and results of the suspension policy and, if so, what are the findings?

4. Were any students suspended recommended to the Minister for expulsion?

The Hon. R.I. LUCAS: The answer to the last question is 'None.' There has not been an expulsion in living memory from a Government school. The departmental officers cannot find one, anyway. I have asked them to go back up to five years and they cannot find one. There has not been a recommendation to me as Minister—

Members interjecting:

The Hon. R.I. LUCAS: I have short term memory loss. As to the specific question about whether any have been recommended to me in my 14 or 15 months, the answer is 'No'. I can provide some detail on the age breakdown and will bring that back at a later stage. We cannot provide information on the whole of 1994. Evidently, the history is that only for the past two years has this information been collected by the department in any systematic way, and it is done for one term of the year—Term 3—and the information that was released in the past two weeks related to the Term 3 audit of suspension. The information that I can provide would relate only to that survey or audit figure, but I will be pleased to do that. The information also provides a breakdown, not according to grade levels, as the honourable member indicated, but according to age levels, such as four to seven or eight, then through the varying age levels to 13 to 15 and then 15 and over and provides that detailed breakdown. It also provides a breakdown as to broad categories of reasons for suspension given by the school as to why the student was suspended.

Without going into a long story, a lot of work has been done by the department and the Government in the past 12 months in this broad area. As the honourable member would know, the Government has announced a package of measures, $2 million over the next two years, to try to address at least part of this problem. One aspect is that suspension has really been the only effective option that schools have had when they have reached the end of their tether—when they have done everything they are required to or can do with the existing resources in the school, with the behaviour support people and the number of agencies like Anglican Family Services and others who work with students with behavioural or family problems in schools. When they have done everything, all that was left for many of them was suspension and continued suspension.

One of the reasons for that was that, first, there were not enough places in learning centres or alternative schools. They may have wanted to exclude a student from the school for a period of up to ten weeks and send them to one of these learning centres, or to an alternative school like Bowden Brompton—although a placement there is for up to 12 months—but the waiting lists were too long and there were not enough places. Part of the Government's response was to increase places in learning centres, annexes and other similar programs by 50 per cent over this year in order to provide other options for schools. Therefore, some students who

might be suspended half a dozen times or 10 times in a year may well be excluded and, hopefully, have their behaviour changed at one of those learning centres rather than continually being expended from a particular school.

Secondly, for those students 15 and over, because of the old policies in relation to expulsion, principals for whatever reason did not choose to go down that path. It was a cumbersome procedure: they had to recommend it up through department; it eventually went to the Minister; then the Minister had to satisfy himself or herself; and then a decision would be taken. The policy change which the Government has announced and which has gone out for discussion is that principals will be able to expel students over the age of 15 in certain circumstances for periods up to 18 months. Due process will have to be followed, but it will be possible to take a decision at the local level and more quickly in response to the particular circumstances.

The problems in relation to junior primary schools are worrying; according to principals they have been there for some time now, and one of the responses will be to have specially designated learning centres for junior primary students. There are some examples of six year olds being suspended up to 10 times in a year because of unpredictable, violent behaviour which is not controllable by the departmental experts, the staff and the principal and which threatens the safety and welfare of other students and teachers at the school. So, sadly, clearly there can be no fault other than obviously quite severe problems that those young people have suffered in their family circumstances that have meant they have arrived at school at the age of five or six with such very significant behavioural problems, even at that very early age. We need to provide specialist help for those very young children to try to change their behaviour so that they can come back into mainstream schooling. However, the reason why we need these learning centres is that we also must protect the safety and welfare of the other students and also the staff at some of these schools, because of the unpredictable and violent behaviour of some of them, sadly, even at that very young age.

REAL ESTATE AGENTS

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Minister for Consumer Affairs a question about real estate agents.

Leave granted.

The Hon. R.D. LAWSON: In the *Advertiser* of 14 February 1995 it was reported that the Real Estate Institute of South Australia plans to lobby the Government for the introduction of a professional standards tribunal. The item in the newspaper notes that, from 1 June this year, four new Acts covering South Australia's real estate industry will come into operation to replace the Land Agents, Brokers and Valuers Act. The report goes on to quote the chief executive officer of the Real Estate Institute, Mr John Munchenberg, who advances the need for an independent complaints body. It is said that under the institute's proposal:

> . . . all complaints would be heard by the Professional Standards Tribunal with the right of appeal through the District Court. The tribunal, to be administered by the Real Estate Institute, would include industry practitioners and nominees from the Office of Consumer and Business Affairs.

Mr Munchenberg is quoted as saying:

> It would be far more efficient if the tribunal handled all complaints.

My questions to the Minister are:

1. Is the Minister aware of these proposals?
2. Does he favour them?
3. Will the Commissioner have power to delegate disciplinary matters to the Real Estate Institute or some other industry or professional body when the new Act comes into force and, if so, is it intended that the Commissioner will delegate disciplinary functions?

The Hon. K.T. GRIFFIN: I saw the reference in the newspaper to that matter purporting to quote Mr Munchenberg. Subsequent discussions by my officers with him indicated that he believed that he had been misquoted in respect of that matter, but I think members on both sides and probably on the cross benches, too, were aware that at the time we were debating the real estate package it was forcefully put by the Real Estate Institute that a professional standards tribunal ought to be established. The Government was certainly not persuaded that that was an appropriate thing to establish, because it would have added another level of bureaucracy to the system and we are moving very much in the opposite direction. There is certainly no objection to the Real Estate Institute establishing its own professional standards body which might deal with its own members, but it is certainly not intended that in the regulations there be any recognition of the proposal. To be fair, the Real Estate Institute is very passionate in its support of this, but its passion has not persuaded the Government that it is something that we ought to adopt.

So, there is no intention to delegate the disciplinary powers of the Commissioner to anybody, whether it be a tribunal such as that proposed by the REI or to the REI itself. Under the Act, disciplinary matters are dealt with by the Administrative and Disciplinary Division of the District Court. That is the body which most appropriately will deal with disciplinary issues. Investigation will be the responsibility of the Commissioner. Issues of delegation of responsibilities to the REI and other professional bodies are the subject of current negotiation but, in the deadlock conference which related to the four Bills in the package, constraints were placed upon the power of the Commissioner to delegate, and they will be respected.

REPORTS

The Hon. ANNE LEVY: I seek leave to make a brief explanation before asking the Minister for Consumer Affairs a question about the release of reports.

Leave granted.

The Hon. ANNE LEVY: Early last year I asked the Minister a question regarding the study being carried out on prepaid funerals, for which I had set up a working party. He indicated at the time that it was not pushing ahead very fast and that when its report arrived he would consider whether it should be released. Early in January he made a public announcement regarding a code of conduct for funeral directors regarding prepaid funerals, so I presumed that he had received the report from the working party on prepaid funerals and that it had recommended such a code of conduct. Last year I also asked the Attorney-General about a survey being undertaken by Shelter relating to the desirability of having residential tenancies advocacy groups which had been funded by the then Department of Consumer Affairs. In July last year he told me that he expected to receive that report in September. My questions are:

1. Has the Attorney-General received the report from Shelter and the report from the working party on prepaid funerals?

2. If so, will he release both of them, table them in Parliament or make them somehow available to many people, including me, who would like to read them?

The Hon. K.T. GRIFFIN: It is intended that the report in relation to Shelter will be tabled and become publicly available possibly as early as this week. The report was received, as I recollect, later than the September date which I had anticipated, but it will be made available and tabled in the Parliament.

As regards the prepaid funerals working party, I announced that a code of practice had been developed in relation to prepaid funerals. My recollection is that no formal report was presented but that the working group had focused upon a code of conduct. I will have that checked and bring back a reply, hopefully this week.

LYELL McEWIN HOSPITAL

The Hon. SANDRA KANCK: I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for Health, a question about the Lyell McEwin Hospital.

Leave granted.

The Hon. SANDRA KANCK: I received a letter from a constituent describing his ordeal while a public patient at the Lyell McEwin Hospital. He needed an operation to remove haemorrhoids, which was complicated because, as a carrier of Hepatitis A, he needed a blood transfusion. He was admitted to the hospital on a Tuesday and blood transfusions were carried out on both Tuesday and Wednesday in readiness for his operation on Thursday. On the Thursday morning he was given relaxant tablets and what he believed to be a premed. However, he awoke later that day to learn that his operation had not been performed because an emergency operation on another patient had forced the abandonment of his. His operation took place the following day, Friday, this time without any notice or a premed, but simply after breakfast, which he should not have had. He was whisked away to the operating theatre. Less than 24 hours after the operation he was discharged from the hospital, despite complaining of severe pain and discomfort. During the weekend he suffered quite severe bleeding and continual excruciating pain. On the Monday he rang the senior surgeon, who arranged for him to be readmitted to the hospital, where he stayed for a further three days.

The patient believes that his ordeal occurred because of staff shortages. Staff were very rude to him and appeared stressed. Staff did not inform him about the operation to allay any fears. His operation was postponed due to an emergency. Staff were not aware of the consequences of releasing him too soon and staff did not inform him of the impending operation on the day that it finally took place. Indeed, the fact that he was given breakfast and not given any premed indicates that the ward staff had not been told that he was having the operation that morning. My questions to the Minister are:

1. Does the Minister agree with the patient that his ordeal was due to staff shortages at Lyell McEwin; if not, what reasons does he give?

2. What plans will he put in place to ensure that an incident like this will not occur again?

The Hon. DIANA LAIDLAW: I know that the Minister for Health will share my concern about the case as outlined by the honourable member. I will seek a full answer from the Minister and bring back a reply shortly.

DOG AND CAT MANAGEMENT BILL

Adjourned debate on second reading.

(Continued from 14 February. Page 1144.)

The Hon. T.G. ROBERTS: I support the main body of the Bill and indicate that I have some amendments that I have not yet been able to circulate. They are being finally drafted and printed and I will be able to circulate them at a slightly later date. They are not major amendments, but they try to come to terms with some of the problems raised with me by people who are concerned about cats and the collection and disposal of unidentified cats in national parks, sanctuaries, and so on.

I also have an amendment in connection with the final arbiter in relation to the putting down of a dog. I will circulate that amendment as well. Basically, rather than a justice of the peace being required to make the assessment, it will require a magistrate to make the same assessment and decision. The other amendments I will circulate and speak to at a later date. I apologise for that, but I was still in the negotiating stages in Caucus this morning and I have not been able to prepare them for this afternoon's session.

The Dog and Cat Management Bill has finally arrived in the Legislative Council after many years of discussion and negotiation both by this Government and its predecessor. In relation to the cat management section of the Bill, there was certainly a great deal of discussion around the 1992 report, and a subsequent report was commissioned, out of which emanated this Bill. I should like to thank those people who have assisted by briefing me on all aspects of the history of the drafting and final stages of presentation of the Bill to the Legislative Council. I thank Ken McCann from the LGA, who I think put in a great deal of time educating people about the content of the Bill. I also thank those people in the department who have provided clarification on the intentions of the Bill.

It has been a long time since I have had so many letters on any issue, especially one on which I thought it would be reasonably easy to obtain a consensus to enable us to proceed. The dog section of the Bill was not as contentious as the cat section. The nature of cats as opposed to that of dogs presented potential legislators and drafters of Bills with a concern in that the problems and behaviour of cats varied so much that it was difficult to get a Bill that covered the behaviour of cats in certain circumstances. There are cats which have domestic qualities of contentment and which are family pets and suckers for owners, and these should be compared to feral cats and the problems that such unattended or feral cats cause in national parks and sanctuaries and the potential damage that they can do to other animal species. There is a wide ranging behavioural association with cats so it was difficult to get an umbrella approach to cat behaviour that would please everybody.

The spectrums by which people made assessments on dog behaviour in the community were much narrower than those where cats were concerned. In the early days, dog owners must have commissioned better PR people than did cat

owners, because dogs came across in the community as man's best friend, and appropriately everybody has a view that dogs (their own particularly) are there to service the needs and requirements for their affection and in return the dogs respond. Cats had a very bad PR agent because, although domestic pets were uniformly loved, there were varying ranges of feeling for cats—from total dislike and hate through to love and affection, which dogs did not appear to arouse. Dogs were seen to be quite different from cats, and the bundles of letters I received indicated that. The growth of ownership of large beastly dogs, which were presenting communities with problems, seem to be growing from concerns that people had about self protection.

An honourable member interjecting:

The Hon. T.G. ROBERTS: Beastly dogs are those small, thickset ones that look very angrily and bark at you when you are door knocking, jogging or riding bikes, as opposed to those—

The Hon. R.I. Lucas: Particularly door knocking.

The Hon. T.G. ROBERTS: Yes. In fact, members of Parliament should have drawn up their own Bill for protection and presented it as an addendum to the Bill, because dogs have presented us with a difficult job from time to time when trying to get to the owners to talk to them about an election that might be on. There appears to be growth in the number of larger dogs which, in the main, have the role partly of protecting personal property and as personal pets. Communities have had to deal with that problem themselves without legislation. Although there were powers under the old Act to restrain and to have orders placed, the new Bill has been strengthened to give more power to people to make assessments of dog behaviour. More people will probably make use of the Act. I hope that it leads to better neighbour relations in relation to how dogs act in proximity to other neighbours and that it enables people to use the Act to discipline undisciplined owners.

In connection with dogs, it is quite obvious that in most cases it is not the dogs' problem: it is the problem of the owners in not being able to suitably train or restrain those dogs to behavioural attitudes that are compatible with people living in close proximity to each other and to allow the owners of those dogs to maintain some sort of control over them so that they do not impede the progress of people, place fear into the hearts of children and adults, and so that their training behaviours do not impact on neighbours.

The other problem associated with dogs is barking and yapping. That is not a major problem in many areas but it does from time to time wear down neighbours to the point where the situation deteriorates to the stage where they make reports to local government as to what a solution should be for those problems. In that case the reason for the barking, the yapping and the incessant noise, would be investigated. An assessment would be made with, and there would be an attempt to control the problem associated with noise coming from dogs.

The definition of effective control is expanded to provide that a dog will be deemed to be under effective control if the dog is effectively held or tethered by a chain, cord or leash not exceeding two metres in length, or contained in a vehicle or other structure, although untethered dogs will be permitted to be transported and kept in utility vehicles. One of the points made to me is that dogs should perhaps be kept in harnesses in utilities to prevent them from being thrown out if a vehicle is involved in an accident or has to stop suddenly, particularly in metropolitan areas. That is not a provision as yet, but it may be looked at later on. A guarantee has been given that the Act will be looked at in 12 months to see how it is proceeding.

Members interjecting:

The Hon. T.G. ROBERTS: Settle down, I do not want any puns coming from the other side. If there are any problems with the way in which the Act is being administered I think the Government is quite prepared to look at changes that will improve the administration thereof. I am quite relaxed about that.

In relation to the registration of dogs, if a person fails to register his or her dog expiation notices will be issued at 14 day intervals. The minimum age of registration has been lowered from six months to three months. This concerned some breeders on the basis that they need a little longer than three months to see whether they will maintain or keep a dog. In regard to showing, they felt that three months was not quite long enough. However, they were not so fussed about it as to try to get any changes or an amended position. The Canine Association will have time to look at those aspects of the Bill and if, in 12 months time, there is agreement about changes, I am sure that those sorts of things will be accommodated.

The other thing about the Bill is that most organisations and individuals had various views on how to proceed, and in most cases it was never a totally unanimous position. I guess the people involved in drafting the Bill and putting it together had to draw a consensus out of those views that could bring about the outcomes that we see in this Bill.

As to other aspects of registration, the owner of a dog registered interstate who brings that dog to South Australia must, on request, produce evidence of registration. Breeding or training kennels and businesses using dogs to provide security or other services will be required to pay the council a total registration fee appropriate to the number of dogs kept or used. Boarding kennels will not have to register unregistered dogs boarding with them but will be required to maintain records of dogs kept at the kennel and provide these records to the council. That provision will come to terms with another problem although, as I said, there is still uncertainty about kennels, particularly in the metropolitan area, where some dogs are not kept as well as they could be and the noise that can emanate from the kennels can be a problem. Also, dog owners must notify the council in which the dog was registered if the dog is moved to different premises, if the dog is transferred to another person or if the dog dies or is missing for 72 hours.

The Bill also builds in protection from dog attacks. This problem is a vexed question out in the community. An express power has been included to allow a person to destroy or injure a dog if that is reasonable and necessary for the protection of life or property. That is not too much of a change from what already exists because, if a dog has attacked a child or a person and the police are called in, they tend to take fairly arbitrary action. Indeed, they must take such action to destroy the dog because in many cases, if a dog has committed a violent act, it is often difficult to round up such a dog and catch them in a way without putting those people who are in charge of the job at risk. Sometimes dogs can be collected safely and a different form of correcting that dog's behaviour is looked at.

The right to destroy any dog found on an enclosed property where livestock are present has been expanded to include an enclosed property where there are farm animals. Singularly, dogs tend to be reasonably easy to control and

present reasonable behaviour patterns, but where dogs are able to pack, particularly in close proximity to towns, regional centres or the metropolitan area, they can do much damage. Once dogs form packs, even when they go back to their single owners, they tend to want to pack again at the earliest possible opportunity, and that can be destructive to stock animals and sometimes other domestic animals.

As to muzzling of greyhounds, greyhounds are only to be permitted to be unmuzzled whilst training, exercising or racing if they do so with the consent of the owner or occupier of the land. Prescribed breeds are listed in the Bill. It was argued that this was an unnecessary clause because it is difficult to do any DNA testing or testing that would accurately identify pit bull terriers, fila Braziliero, Japanese Tosa or doga Argentina. It was believed that experts and dog judges could tell the difference and they therefore remain in the Bill. I have settled on that measure if only because the community has problems with the pit bull terrier. Certainly, the media has highlighted problems associated with pit bull terriers and the fact that they may be manageable and controllable for most of the time but, on the odd occasions when they are not controllable, they can do much damage.

Although other breeds of dogs can be a danger to small children and sleeping babies, for example, it appears that the general community position is that the American pit bull terriers not only are dangerous but also look dangerous, whereas a wire haired terrier or the like that may do damage does not look as dangerous and the damage they do in communities is much less than that done by the pit bull terrier, which is basically bred to fight. Again, this is unfortunate because it is not the dog's fault: the dogs have been bred specifically for a purpose, and people bet on them and make all sorts of macho rituals that are associated with pit bull fighting. They are not a described or prescribed breed on the basis that they are a domestic pet that is hard to control—it is because of the instincts that these dogs have.

As to dangerous dogs and dogs creating a nuisance, councils are empowered to issue orders relating to dogs which are dangerous or create a nuisance. An order may be made if the dog has attacked or harassed a person or an owned animal or has created a nuisance through noise. The order may comprise an order for destruction, an order to confine the dog, an order to muzzle the dog in public or an order to take steps to stop the dog barking. Owners or persons responsible for the control of the dog must be given notice of the impending order and there is a right of appeal to the Administrative Appeals Court against the issue by a council of an order or a refusal to revoke an order. Councils will have the ability to issue directions as to how the order may be complied with. The directions are not mandatory but, if a person chooses to comply with the directions, no prosecution for contravention of the order may be taken.

There are transfers of power from the State Government to local government to administer the Act, and there will be provision to amend existing regulatory provisions and include additional provisions relating to the management of dogs. Some of those include identification, control and regulation of cats and the transfer of administrative responsibility.

The Bill establishes the Dog and Cat Management Board and fund. The board is to include five people from the Local Government Association. I intend to move an amendment to this clause to provide that there must be one male and one female on the board. This amendment has been insisted upon, although I have been given commitments that there will always be provision for a woman on the board, but my Caucus has asked me to move an amendment to guarantee the placement of a woman on the board.

We are getting to a point in local government now where there are enough women in prominent positions to make this provision much more workable. We are in the transitional period where, fortunately, enough women who are starting to come through local government will be easily placed on management boards in all positions—

The Hon. Anne Levy: There is a higher proportion of them in the State Government.

The Hon. T.G. ROBERTS: Yes. The number of woman mayors is increasing to a point where it is commonplace to have women in the top posts in local government. As I said, the board is to be comprised of five people nominated by the Local Government Association, one of whom will be nominated by the Minister, and the members of the board nominated by the LGA must include three people who, in the LGA's opinion, have the abilities and experience required for the effective performance of the board's functions; there will also be two persons representing the interests of the community.

I have been lobbied by the Canine Association in relation to its having membership on the composite board, but there is an administrative body that will advise the board and it may be that the Canine Association and other associations that are attached to dog ownership and any corporate bodies which have membership associated with dog handling or which have interests in dogs generally can play a role on that advisory committee. They could offer the benefit of their experience in relation to their own organisation and the views of their own membership to that committee and, hopefully, that will integrate a democratic process that includes those people who are elected to represent dog owners and those people at board level.

The operation and powers of the board are wide and varied and they are well described in the Bill. As I said earlier, the most contentious part of the Bill relates to cats. The information base on which we are operating to draft the Bill is open to conflict and challenge, but there is a uniform position in relation to de-sexing and most people agree that the number of cats is a problem, and I understand that the Democrats are looking at an amendment for a stricter control over de-sexing. The de-sexing of cats and the fact that the number of cats needs to be controlled is agreed to by most bodies; the only people who disagree with that are the cat breeders, and I think most people acknowledge that there should be exemptions for cat breeders. However, most of those people who own cats tend to agree with the argument for voluntary de-sexing with incentives. I believe that the answer to the problem is for de-sexing programs to be offered by and to be subsidised by local government through funding by State Governments, but I understand that we cannot move amendments in relation to that in this Chamber. However, I think that is one way of encouraging owners of cats to be responsible and to keep the number of cats down.

Everyone agrees that the best way to protect the wildlife within the metropolitan area, within national parks and sanctuaries is to minimise the number of cats within those particular regions or areas. The cats that are domesticated, well looked after, de-sexed, well-fed and have identification probably will not stray and probably will not enter national parks or sanctuaries unless they are in close proximity to where they are living, and therefore they probably will not offer too much of a problem to wildlife, even though they have instincts to kill and to hunt, which have to be curbed by

responsible owners. If they are well-fed, collared and identified, hopefully the dangers they pose to wildlife in metropolitan areas will be minimised. I do not think there is any way you can eliminate it completely because of the nature of cats. I am certainly not an expert in the field but from my observations I can say that even well-fed cats will stalk and, in some cases, will hunt out of just an instinct for pleasure. So, there is no way of eliminating the dangers completely, but certainly if people feed cats, keep them inside and look after them properly I am sure that the damage they do can be minimised.

The Hon. L.H. Davis: Even when you put bells on them.

The Hon. T.G. ROBERTS: The honourable member makes the comment that, even with a bell on the collar, cats can walk and stalk in such a way that birds just do not hear them.

An honourable member interjecting:

The Hon. T.G. ROBERTS: Other people are making gestures that everyone should have a collar and bell on them so that we can hear them coming and avoid them completely. That may be a good idea, but I will not give away who made the gesture. Cats Incorporated put a very strong case in relation to a program of least legislation and least resistance, and it argues that the main impact of cats in the metropolitan area and in the wild can be minimised by owner's control and responsibility. It agrees that de-sexing and minimising the number of cats is imperative, but it tends not to believe in any controls at all in relation to cats. Its argument is—and Christine Pierson puts it quite convincingly—that cats will take up territorial areas and defend them, and it does not matter what we do as legislators; it does not matter what the local council or State Government does; cats will still stalk out the territory, still declare ownership over it and still behave as cats have done historically by feeding themselves on whatever food is available. It argues that the best way to minimise the damage done by cats in national parks and sanctuaries is to leave older de-sexed cats in those areas so that, when you eliminate cats from those areas, the vacuum is not filled by younger, more aggressive cats that will do more harm and more damage to those areas.

Opposed to that argument are those people who believe you need to eliminate cats from those areas completely by trapping them and by putting them down. In some cases, people advocate the introduction of viruses, but I do not think that the community generally sees that as a solution yet. It may be that at a later date the figures relating to kills by cats in the wild and by domestic cats on native wildlife in the metropolitan area will indicate a need for such a method and will make it a more attractive proposition. I understand that more work is being done at a Federal level in looking at viruses to inhibit cats reproducing; that is, to have a virus that produces infertility against those cats that have not been inoculated. However, there is more work to be done and more debate at an academic level needs to take place before those findings can be made. That would require all domestic cats to be inoculated against the virus, and some people got early publicity by advocating a cat virus that wipes out all cats in the wild that have not been inoculated.

The argument that Cats Incorporated puts up against that is that, even though you would wipe out some cats by the virus, the voids would be filled again by domestic cats becoming feral, and we would have gained nothing. So, those arguments are still up in the air.

I do not believe that the legislation will do anything to satisfy the people from Cats Incorporated, who believe in the total freedom of the cat and the total right of the cat to exist in not only the metropolitan area but also the fringe and wild areas. The Bill itself tries to come to terms with educating people to take a responsible attitude to their ownership responsibilities. The understanding given to me by LGA representatives is that they will spend money on education programs relating to responsible cat ownership. I suspect that the same will be done with dogs. In relation to dogs, it is a matter of individuals showing some responsibility over the way in which they train, own and feed their own domestic animals so that they do not cause problems for neighbours.

In relation to cats, the major problem concerns the danger they pose to our wildlife. Some criticisms have been made of cats establishing territories in neighbours' yards, but there is not a lot one can do about that. The suggestion by those people who want to protect cats and maintain good neighbourly relations is that neighbours put out sand boxes for each others' cats so that they do not establish territories in areas where people do not want them to wander. I have indicated that I am moving some amendments. I apologise for not having them on record, but I have indicated their content and I will circulate those amendments, hopefully, tomorrow.

The Hon. L.H. DAVIS secured the adjournment of the debate.

SECOND-HAND VEHICLE DEALERS BILL

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

No. 1 *Clause 3, page 2, lines 16 and 17*—Leave out these lines.

No. 2 *Clause 10, page 5, line 27*—Leave out "Tribunal" and insert "Administrative Appeals Division of the District Court".

No. 3 *Clause 10, page 5, line 30*—Leave out "Tribunal" and insert "District Court".

No. 4 *Clause 10, page 6, line 5*—Leave out "Tribunal" (first occurring) and insert "District Court".

No. 5 *Clause 10, page 6, line 6*—Leave out "Tribunal" (twice occurring) and insert, in each case, "Court".

No. 6 *Clause 10, page 6, line 8*—Leave out "Tribunal" and insert "District Court".

No. 7 *Clause 10, page 6, line 10*—Leave out "Tribunal" and insert "Court".

No. 8 *Clause 12, page 7, lines 1 to 9*—Leave out these lines.

No. 9 *Clause 17, page 11, line 23*—Leave out this line.

No. 10 *Clause 17, page 12, lines 8 and 9*—Leave out "unless expressly provided for by this Act".

No. 11 *Clause 19, pages 13 and 14*—This clause will be opposed.

No. 12 *Clause 24, page 17, line 16*—Leave out "15" and insert "10".

No. 13 *Clause 24, page 17, line 18*—Leave out "200 000" and insert "160 000".

No. 14 *Clause 24, page 17, line 20*—Leave out "10" and insert "five".

No. 15 *Clause 24, page 17, line 22*—Leave out "60 000" and insert "30 000".

No. 16 *Clause 25, page 20, line 20*—Leave out "Tribunal" and insert "Magistrates Court".

No. 17 *Clause 25, page 20, line 30*—Leave out "Tribunal" and insert "Magistrates Court".

No. 18 *Clause 25, page 20, line 31*—Leave out "Tribunal" and insert "Court".

No. 19 *Clause 25, page 21, line 3*—Leave out "Tribunal" and insert "Magistrates Court".

No. 20 *Clause 25, page 21, line 23*—Leave out "Tribunal" and insert "Magistrates Court".

No. 21 *Clause 25, page 21, line 29*—Leave out "Tribunal" and insert "Magistrates Court".

No. 22 *Clause 25, page 21, after line 30*—Insert—

(10a) The *Magistrates Court Act 1991* applies to an application to the Magistrates Court under this section in the same way as it applies to a minor civil action referred to in section 3(2)*(b)* or *(c)* of that Act.

No. 23 *Clause 25, page 21, line 31*—Leave out "Tribunal" and insert "Magistrates Court".

No. 24 *Clause 27, page 22, line 26*—Leave out "Tribunal" and insert "District Court".

No. 25 *Clause 27, page 22, lines 31 to 35*—Leave out these lines.

No. 26 *Clause 28, page 23, line 8*—Leave out "Tribunal" and insert "District Court".

No. 27 *Clause 29, page 23, line 11*—Leave out "Tribunal" and insert "District Court".

No. 28 *Clause 29, page 23, line 14*—Leave out "Tribunal" (twice occurring) and insert, in each case, "Court".

No. 29 *Clause 29, page 23, line 19*—Leave out "Tribunal" and insert "Court".

No. 30 *Clause 30, page 23, line 21*—Leave out "Tribunal" and insert "District Court".

No. 31 *Clause 30, page 24, line 5*—Leave out "Tribunal" and insert "Court".

No. 32 *Clause 31, page 24, line 20*—Leave out "Tribunal" and insert "District Court".

No. 33 *Clause 31, page 24, line 26*—Leave out "Tribunal" and insert "District Court".

No. 34 *Clause 32, page 25, line 4*—Leave out "Except as expressly provided by this Act, a" and insert "A".

No. 35 *Clause 32, page 25, line 7*—Leave out "otherwise than as expressly provided by this Act".

No. 36 *Clause 33, page 25, lines 31 to 33 and page 26, lines 1 to 4*—Leave out these lines.

No. 37 *Clause 35, page 26, lines 14 and 15*—Leave out these lines and insert—

(c) with the Minister's consent, to another person.

No. 38 *Clause 36, page 27, lines 6 to 12*—Leave out these lines and insert—

(4) The Minister must, within six sitting days after the making of an agreement, cause a copy of the agreement to be laid before both Houses of Parliament.

No. 39 *Clause 39, page 27, line 30*—Leave out "Tribunal" and insert "District Court".

No. 40 *Clause 49, page 29, lines 29 to 31*—Leave out these lines.

No. 41 *Clause 52, page 30, after line 20*—Insert—

(ab) require dealers to lodge with the Commissioner certificates evidencing the dealers' insurance coverage as required under Part 2;.

No. 42 Page 32—insert new Schedule as follows:

SCHEDULE

Repeal and Transitional Provisions

Repeal

1. The *Second hand Motor Vehicles Act 1983* ("the repealed Act") is repealed.

Licensing

2. A person who held a licence as a dealer under the repealed Act immediately before the commencement of this Act will be taken to have been licensed as a dealer under this Act.

Registered premises

3. Premises registered in the name of a dealer under the repealed Act immediately before the commencement of this Act will be taken to have been registered in the dealer's name under this Act.

Duty to repair

4. A duty to repair that arose under Part IV of the repealed Act continues as if it were a duty to repair under this Act.

Disciplinary matters

5. Where an order or decision of the Commercial Tribunal is in force or continues to have effect under Division III or Part II of the repealed Act immediately before the commencement of this Act, the order or decision has effect as if it were an order of the District Court under Part 5 of this Act.

Second hand Motor Vehicles Fund continues

6. The *Second hand Vehicles Compensation Fund* continues and will continue to be administered by the Commissioner.

Claim against Fund

7. (1) This clause applies only to a claim

(a) arising out of or in connection with the sale or purchase of a second hand vehicle before the commencement of this Act; or

(b) arising out of or in connection with a transaction with a dealer that took place before the commencement of this Act.

(2) If the Magistrates Court, on application by a person who purchased a second hand vehicle from a dealer, is satisfied that

(a) the Commercial Tribunal or a court has made an order for the payment by the dealer of a sum of money to the purchaser; and

(b) either

(i) the dealer has failed to comply with the order within the time allowed; or

(ii) by reason of the death, disappearance or insolvency of the dealer, there is no reasonable prospect of the order being complied with,

the Court may authorise payment of the amount specified in the order to the purchaser of the Fund.

(3) If the Magistrates Court, on application of a person not being a dealer who has

(a) purchased a second hand vehicle from a dealer; or

(b) sold a second hand vehicle to a dealer; or

(c) left a second hand vehicle in a dealer's possession to be offered for sale by the dealer on behalf of that person,

is satisfied that

(d) the person has, apart from this Act, a valid unsatisfied claim against the dealer arising out of or in connection with the transaction; and

(e) by reason of the death, disappearance or insolvency of the dealer, there is no reasonable prospect of the claim being satisfied,

the Court may authorise payment of the amount of the claim to that person out of the Fund.

Management of Fund

8. (1) The following amounts will be paid into the Fund:

(a) contributions required to be paid under clause 9; and

(b) amounts recovered by the Commissioner under clause 10; and

(c) amounts paid from the Consolidated Account under subclause (3); and

(d) amounts derived from investment under subclause (5).

(2) The following amounts will be paid out of the Fund:

(a) an amount authorised by the Court under clause 7; and

(b) any expenses certified by the Treasurer as having been incurred in administering the Fund (including expenses incurred in insuring the Fund against possible claims); and

(c) any amount required to be paid into the Consolidated Account under subclause (4).

(3) Where the Fund is insufficient to meet an amount that may be authorised to be paid under clause 7, the Minister may, with the approval of the Treasurer, authorise the payment of an amount specified by the Minister out of the Consolidated Account which is appropriated by this clause to the necessary extent.

(4) The Minister may authorise payment from the Fund into the Consolidated Account of an amount paid into the Fund from the Consolidated Account if the Minister is satisfied that the balance remaining in the Fund will be sufficient to meet any amounts that may be authorised to be paid under clause 7.

(5) Any amounts standing to the credit of the Fund that are not immediately required for the purpose of this Act may be invested in a manner approved by the Minister.

Licensed dealers may be required to contribute to Fund

9. (1) Each licensed dealer who was a licensed dealer before the commencement of this Act must pay to the Commissioner for payment into the Fund such contribution as the licensee is required to pay under the regulations.

(2) If a licensee fails to pay a contribution within the time allowed for payment by the regulations, the licence is suspended until the contribution is paid.

(3) Contributions may only be required to make provision for insufficiency of the Fund.

Right of Commissioner where claim allowed

10. On payment out of the Fund of an amount authorised by the Magistrates Court, the Commissioner is subrogated to the rights of the person to whom the payment was made in respect of the order or claim in relation to which the payment was made.

Accounts and audit

11. (1) The Commissioner must cause proper accounts of receipts and payments to be kept in relation to the Fund.
(2) The Auditor General may at any time, and must at least once in every year, audit the accounts of the Fund.

Application of Fund at end of claims

12. When the Minister is satisfied that no more valid claims can be made which may require payment out of the Fund, any amount remaining to the credit of the Fund may
(a) be paid to an organisation representing the interests of dealers; or
(b) be otherwise dealt with,
as the Minister thinks fit.

The Hon. K.T. GRIFFIN: I thought it might be helpful to members if I were to outline some of the background to some further amendments which I have on file. We did not proceed with setting up a deadlock conference prior to Christmas because there were some issues which had been raised by members and which needed some further consideration, particularly in light of the fact that there had been a deadlock conference in relation to the real estate package of Bills, and some compromises reached, although compromises made on the basis that, from the Opposition's point of view, it would not commit itself to the Administrative and Disciplinary Division of the District Court as necessarily taking the place of the Commercial Tribunal, and wanted to reserve its position in relation to this particular Bill and also to the Consumer Credit (Credit Providers) Amendment Bill.

I felt that there would be some value in trying to work through some of the further issues and then pick the matter up again in this part of the session. In addition, there had been some further representations by the Motor Traders Association, and others, in respect of some matters with which they then had concerns. I understand that they had some discussions with members of the Opposition and the Australian Democrats. I had some further discussions with my officers in respect of matters which had been raised by the Motor Traders Association and other bodies. Since that time, some consultations have been occurring until finally I placed on file today further amendments in relation to those which had been proposed by the House of Assembly in its message.

I should say to members of the Council that I am conscious that this has finally come together in proposals which have been tabled only today. I recognise that time may not have been sufficient to enable members to consider it, but I thought that if I now were to outline some of the issues that we could then report progress, give members overnight to consider it, and then proceed with the Committee consideration tomorrow. If further consultations are to occur, then I am happy to participate in them without any commitment from anyone that that will finally resolve the issues.

But, if we have to go ultimately to a deadlock conference, I am certainly prepared to do that if members believe that that will be the best means by which we facilitate resolution of outstanding issues. I hope that members will be happy with the way in which I intend to approach it. If, after some further consultation tomorrow, it is not possible to reach any agreement on the outstanding matters, then we may well short circuit the process and go straight to a deadlock conference. There is, of course, the issue of which body should have the primary responsibility for dealing with disciplinary matters. The Government and I have taken the view that the Administrative and Disciplinary Division of the District Court, which was the final outcome of the deadlock conference in relation to the real estate package, is the most appropriate body to deal with that issue.

The administrative and disciplinary matters are important issues. There is, as a result of the real estate package, an Administrative and Disciplinary Division of the District Court established—formerly the Administrative Appeals Division of the District Court—and I am satisfied that it can provide effective justice for those who may have a complaint in relation to disciplinary matters.

In relation to other matters, particularly the duty to repair and warranty issues, of which there are not a large number, it has been the Government's position that the Magistrates Court is the appropriate forum for dealing with those matters. As I say, there are not a large number of them, and the framework within which that would occur is flexible. It does not necessarily require representation by lawyers. My discussions with the magistracy, including the Chief Magistrate, indicate that there are flexible approaches to a whole range of issues which are now within the jurisdiction of the Magistrates Court that will accommodate concerns of members in relation to the way in which that jurisdiction will deal with these sorts of matters.

I did give consideration to whether a separate division of the Magistrates Court should be established to deal with these sorts of issues, but have taken the view that the number of matters which are likely to go before the Magistrates Court will be very small, whether under this Act or any other Act such as builders licensing, and it does not therefore warrant the establishment of a separate division. That is different, of course, from what we see as necessary in relation to tenancies where there will be, if the Parliament agrees to establishing the tenancies tribunal in the Magistrates Court, sufficient work for at least one person full time. Because of that, it is, I think, appropriate to have a separate division within the Magistrates Court to deal with tenancy issues, but not so in relation to the duty to repair within the Magistrates Court.

I know that members of the Opposition, when they last dealt with this issue, were anxious to ensure there was a flexibility of approach and that there was some special expertise brought to bear on the resolution of these disputes, but I am satisfied that magistrates, because they do sit not only in one court in, say, Adelaide, Holden Hill or Christies Beach, but travel to rural areas of the State on circuit, do have sufficient capacity and ability to be able to deal with the issues that arise in relation to the duty to repair. Most of those would be relatively small claims, thousands of which are already dealt with by magistrates in the small claims or minor claims division of the Magistrates Court.

With respect to the Administrative and Disciplinary Division of the District Court, to which I referred earlier, I am proposing to follow what was established in the real estate package in relation to assessors and to provide for the establishment of a panel to assist the District Court if the particular judge sitting in this jurisdiction so wishes. So, there can be lay assessors, one group representing dealers and one group representing those who are not dealers, involved in appropriate circumstances.

In relation to the Magistrates Court, the only other point I want to make is that, by using that forum, everything will be done in the one jurisdiction relating to duty to repair. As I understand the present process, once the Commercial Tribunal has made an order, it is necessary then to transfer it into the appropriate civil jurisdiction and then the process

continues, whereas if everything is done in the magistrates jurisdiction, it is all within that environment and it is not necessary then to transfer from one jurisdiction to another in seeking to enforce the order of the court.

Concern has been raised with the Government in relation to the waiver provisions. In the present Act there is provision for a waiver by the Commissioner for Consumer Affairs after having counselled the person who wishes to have the warranty waived (ordinarily the customer), and then the waiver is made and the consumer enters into the agreement with the provider of the second-hand motor vehicle. When I did previously speak on this, my information was that over 2 000 of these were processed by the Commission for Consumer Affairs each year. Subsequent checking indicates that that information was correct in relation to the Adelaide office of the Office of Consumer and Business Affairs, but did not accurately reflect the facts as they are in the other offices of the Commissioner. I am informed that last year something over 6 000 waivers were granted by the Commissioner for Consumer Affairs. A considerable workload is involved in that from the office of the commissioner, for which no charge is made.

It is, of course, much more extensive than first I believed, but now in the light of the information which has been provided, the Government and I believe that we should seek with the support of the Parliament to reinstate the waiver provisions but in a different form. I am proposing that the waiver be recognised, and that it be upon terms and conditions and in accordance with processes recognised in the regulations. That may well involve a statutory declaration signed before an independent Justice of the Peace or proclaimed bank manager or commissioner for taking affidavits, but something which takes the workload from the Commissioner for Consumer Affairs. Nevertheless, it requires some independent declaration upon the provision of appropriate information to the consumer as to the consequences of the waiving of the warranty, recognising that the warranties provided in the legislation are fairly limited.

There are other warranties under the Sale of Goods Act and at common law, so we are only talking about a very small area of warranty waiver, but it is important to recognise that there have been extensive waivers in the past, much more than I had previously believed, and that that warranted reconsideration of the issue. There are some consequential provisions relating to waiver of warranty, and that is that there should be no advertising of a different price by virtue of the waiver of the warranty, in other words, no inducement for consumers to sign a warranty or to make any sale conditional upon the purchaser's waiving that warranty.

In relation to motor cycles, when the Government made a decision about the form of the Bill that was to be introduced, it was believed that there were a greater number of complaints about motor cycles than in fact now turns out to be the position. We introduced the concept that dealers in motor cycles should be required to be licensed and be bound by the duty to repair defects in motor cycles. The whole industry is relatively small. A relatively small number of motor cycles are sold at a relatively low price. My understanding is that, in the last year, no more than 10 complaints about motor cycles were made to the office of the commissioner (I think that is the correct figure), and that not all of those related to warranty-type issues. So, the proposal I would ask the Committee to consider concerns the licensing of dealers of motor cycles so that there is a surveillance responsibility, but we do not apply the warranty provisions to the sale of motor cycles.

In relation to the application of the legislation, I indicated when we introduced the legislation and dealt with it in Committee that we were concerned to reduce the period from 15 years to 10 years and introduce a kilometre rating beyond which warranties would not apply. There is a further issue relating to the cooling off period, and again we seek to remove the provisions for cooling off, because they are impracticable. Members opposite or the Australian Democrats may have some other information about the cooling off period and how it can be administered, but from all the advice which I have received—and I am endeavouring to look at it reasonably objectively—it seems to us that it cannot be supported, because it is impracticable and, even with a waiver provision in the amendments, that tends to suggest that it will not be used much.

In terms of the compensation issue and insurance, since we have been wrestling with the insurance issue on a technical basis it has been drawn to my attention that, if for some reason insurance cannot be obtained or it becomes exorbitant in the cost of the premium, there is then no fall-back position, and I seek to persuade the Committee to support a reinstatement of aspects of the Second-hand Vehicles Compensation Fund as a fall-back provision in the event that insurance is either not achievable or achievable only at an exorbitant price, so that there will be a fall-back provision.

I think that that deals with most of the issues that I seek to have the Committee consider. I said at the outset that I took the view that it was better to try to work through these issues and at least give members the opportunity to consider them before we moved down the final course of a deadlock conference. I repeat that, if that is a course which the majority of the Committee believes is the most appropriate way to resolve these outstanding issues, who am I to argue with them? But, at least on the part of the Government, there is a genuine intention to endeavour to work through some of these issues and reach a satisfactory solution which will protect the public, be efficient from the point of view of the industry and the administration and be sensible and workable. That is the position from which we come. I would be happy to hear what other members have to say about the way in which we ought to handle this and the issues which I have raised.

The Hon. ANNE LEVY: I thank the Attorney-General for his explanation and I thank him also for his intimation that, given that his amendments to the amendments landed on the desk only this afternoon, he is happy to report progress and give us an opportunity to examine them in detail. Without having looked at them in any detail, I think I can say that the Opposition may well be very happy to accept some of them, but others will not be acceptable to us—nor, I very much hope, to the Democrats also—in which situation I think it is probably up to the Government to decide how it wishes to proceed. If there is a deadlock, even if it is on only one issue, it will mean that a deadlock conference has to be held. In terms of Parliament's time it may be more efficient for all these matters to go to the deadlock conference rather than for us to deal with some of them tomorrow and then still need a deadlock conference on some matters.

I may say that, while I certainly wish to look further at what the Attorney has said in *Hansard*, I am not convinced by his comments relating to the Magistrates Court. While completely supporting his proposals regarding all disciplinary matters going to the Administrative and Disciplinary Division

of the District Court, that seems to follow very logically from the compromise which was worked out on the Land Agents, Conveyancers and Valuers Bills late last year.

I thank the Attorney for providing the opportunity for me also to have a discussion with the Chief Magistrate, who very properly did not wish to comment on any matters of policy but who was quite happy to comment on administrative implications of various proposals, both those which the Attorney had put to him and those which I was putting to him. He indicated that there are no administrative problems with having divisions of the Magistrates Court which deal with certain matters, whatever particular aspects are put into that division. He indicated that that is administratively feasible, but he certainly did not wish to comment one way or another on policy issues—quite correctly, of course—indicating that policy is a matter for Parliament, not for a judicial officer to adjudicate on.

So, I indicate that at this instant I am certainly not in favour of sticking to the Magistrates Court as originally proposed and as appears in the amendments from the House of Assembly which we will be considering, and I regret that the Attorney does not seem to have given further consideration to a proposal which arose in discussions that I had with him during the Christmas break regarding a division of the Magistrates Court which could deal with many of the matters which currently go to the Commercial Tribunal, including the warranty matters in the Second-hand Vehicle Dealers Bill, plus a lot of other matters which are currently dealt with by the Commercial Tribunal and which will doubtless form part of Bills yet to appear, following on the review of all the consumer protection legislation.

In summary, I am happy to go through amendment by amendment tomorrow if the Attorney wishes, but I feel that there are likely to be some issues which will have to go to a deadlock conference. It will be for the Government to decide whether we send the lot and thrash the matter out there or take up the time of the Parliament tomorrow to agree on some of them.

The Hon. SANDRA KANCK: When I arrived at the beginning of today's session and saw the amendments, I proceeded to scurry through them as best I could to try to work out what I was going to do, particularly in the light of the information that I had been given by the Government Whip that the Attorney wished to proceed with this matter today. Without having discussed any of the matters with the Opposition to be clear on which matters we may or may not have agreement, from what I have seen of them so far I think there will still be some fundamental disagreements at the end.

Like the Hon. Ms Levy, I think it might be a better use of our time to go to a conference rather than to go through the process clause by clause, as we would have to do. In terms of time saving and of the communication that will have to go on, I think it would be a whole lot better to go straight into a conference. If we go down the path of going through it clause by clause, I do not think I would be able to deal with it until Thursday at the earliest, because Wednesday morning is always set aside for committees, and I would have no time to look at this in any detail or discuss it with anyone. My preferred option is still to go to a conference.

The Hon. K.T. GRIFFIN: I thank honourable members for their indication as to where they may prefer to go. I will give consideration to it overnight and make a decision tomorrow. From the Government's point of view, after all the consultations with everybody, not just members of the Council, there is a framework within which we can have some discussions and which may, if we get to a deadlock conference, facilitate consideration of the issues.

The Hon. Anne Levy mentioned a special division in the Magistrates Court to deal with issues arising under this Bill and maybe other Bills in future. I have considered this matter and it is something about which we can have further discussions with regard to the conference. My immediate and considered response to the issue is that, whilst administratively there is no reason why it should not be done, there is a view that, if one sets up separate divisions without providing a great deal of flexibility as to who should sit in those divisions, it becomes a problem in managing the resources of the court. That has always been a concern when appointing one person to be the member of the Commercial Tribunal.

Whilst I acknowledge that that could have been collocated with the mainstream courts, there is still a difficulty in the Chief Judicial Officer properly allocating responsibilities to that officer and other judicial officers and ensuring that they are adequately fulfilling their work obligations. It may be that if there is no such limitation on who may sit in a particular division we can give some further consideration to that point. I think that whatever finally comes out of it, if these sorts of issues, which are relatively minor in most instances under warranty, can be dealt with at the lower end of the judicial hierarchy in the Magistrates Court, which is on circuit dealing with these issues right across the State in a different context—assessment of damages cases, civil claims, small claims and larger claims—it provides a more efficient as well as a more effective delivery of justice to the people of South Australia. The Hon. Anne Levy raised the issue with me informally, and I thank her for doing that. It is a matter that we can discuss further.

Progress reported; Committee to sit again.

MAGISTRATES COURT (TENANCIES DIVISION) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 30 November. Page 1014.)

The Hon. ANNE LEVY: The Opposition opposes the second reading of this Bill, not because of the content of the Bill but because of what is implied by setting up this special tenancies division within the Magistrates Court. It is a forerunner to abolishing not only the Commercial Tribunal, which currently deals with commercial tenancies, but also and particularly the Residential Tenancies Tribunal, which deals with residential tenancies.

Essentially, there are two bases for our rejection of the second reading of this Bill. The first and most important is that the Residential Tenancies Tribunal has been doing an excellent job of resolving residential tenancy disputes over the past 16 years or so. If it ain't broke, don't fix it! The Residential Tenancies Tribunal has been most cost efficient and has provided access to justice to thousands who would not have had that access in practical terms in the court system. The tribunal and its members have grown to be respected by a majority of the landlords and tenants who have had occasion to use the tribunal, while recognising that there will always be a few grumbles because there will always be some people on the losing end of tribunal decisions.

The second basis for rejecting this Bill applies in relation to commercial tenancy disputes. As we have stated several times in recent months, the ALP is opposed to the abolition of the Commercial Tribunal. It has provided an inexpensive

and expedient forum for resolving specialist disputes, often of a technical nature and often involving ordinary consumers. It appears that a substantial part of the Commercial Tribunal's work has been the resolution of commercial tenancy disputes. Consumer complaints about builders have also occupied much of the Commercial Tribunal's time.

A third, significant part of the Commercial Tribunal's jurisdiction has been the resolution of consumer complaints in relation to second-hand car warranties. The common thread running through these various types of matters is that a quick and just resolution of disputes is usually assisted by the industry knowledge or technical expertise of the assessors who sit with the Chair of the Tribunal. The Opposition's attitude to the Commercial Tribunal is essentially this: while the Commercial Tribunal itself is not necessarily sacred it does possess several key characteristics which have been the hallmark of its accessibility and good service to the many consumers, tradespeople and small business proprietors who have been involved in disputes heard at the tribunal.

We see these vital characteristics as being, first, the fact that assessors sit with the Chair of the tribunal, and the parties are aware that one of the assessors has a background which gives a particular understanding of that particular party's point of view, and the other assessor similarly has a background which provides a perspective from the other party's point of view. For example, one member of the panel might be a lawyer or an academic who has been closely involved with consumer disputes and issues. The other assessor might be someone from the Housing Industry Association, the Building Owners and Managers Association or the Motor Trades Association, depending on which type of dispute it is.

The main advantage of these assessors is that the parties do not need to obtain a number of expert reports to bolster their cause because there are people hearing the case who have first-hand knowledge of the relevant industry and some familiarity with the technical problems which arise in that industry.

Secondly, over time both the Chair of the tribunal and the assessors develop specialist knowledge of the industries covered by the jurisdiction of the tribunal. This involves knowledge of the general standard of work or the types of agreements that are commonly entered into in that industry. This in turn leads to better and quicker decision making. Thirdly, for the Commercial Tribunal there are no filing fees. Because no pleadings are required, unlike the court system, combined with the impartial guidance of the tribunal where necessary, it is possible for consumers or small business people to bring cases in the Commercial Tribunal without legal representation. The combination of these factors means that there is ready access to justice. Parties are not discouraged from seeking a just result in the tribunal, even if the subject matter is a couple of hundred dollars worth of repairs to a second-hand car.

Fourthly, most matters which proceed to hearing in the Commercial Tribunal are the subject of one directions hearing and then the hearing itself. The directions hearing in practice is used as an opportunity by the tribunal to see whether there is scope for settling the matter or else confining the issues to be disputed at the full hearing. This process closely resembles the compulsory conference which takes place in the Magistrates Court or District Court. The difference between the Commercial Tribunal and the courts is that, because no elaborate pleadings are required, there are fewer opportunities for lawyers to drag out the pretrial process.

Accordingly, the Opposition is not being obstinate and saying that we must retain the Commercial Tribunal, although that is our preferred option. We have considered all the arguments the Attorney has used for what he calls 'streamlining', and we do not disagree with the idea that the Commercial Tribunal should be brought under the Courts Administration Authority umbrella. If that will help with accountability then we are all for it. It can, of course, be done by regulation.

Given the Attorney-General's concerns, we have taken the initiative and, as I mentioned in the previous debate, have put to him a proposal that would involve the creation of a division of the Magistrates Court in much the same way as the Attorney is in this Bill proposing a Tenancies Division of the Magistrates Court. The proposal that we put forward would involve a magistrate sitting with assessors as is currently the practice in the Commercial Tribunal. We would also want the present costs and procedural rules of the Commercial Tribunal to apply to this new division. We are not fussy about what name is given to this proposed division of the Magistrates Court—whether it is called a Commercial Tribunal, a Technical Division, or whatever. The point is that the forum would remain friendly and accessible to ordinary consumers, tradespeople and small business people who do not normally have access to top dollar legal advice.

As I indicated earlier, the Attorney kindly arranged for me to meet with the Chief Magistrate, Mr Cramond, in relation to these matters. As I understood, Mr Cramond was not opposed to a separate division in the Magistrates Court being created as such. He did have a couple of objections, and I am happy to deal with those at this point. In respect of filing fees, Mr Cramond queried why some litigants, or litigants with particular types of problems, would have the benefit of paying no filing fees while the run-of-the-mill litigants must pay substantial filing fees ranging from $45 in the small claims jurisdiction up to about $400 in the Supreme Court.

The answer to that is that we should be looking at reducing filing fees across the board rather than increasing or introducing them wherever possible. Court filing fees are a good example of where the principle of user-pays can lead to injustice. In this case, the imposition of an initial hurdle to access to the courts system can lead to a denial of justice.

Unfortunately, there are no figures which tell us how many people decide not to proceed with a reasonable claim against another person on the basis that the totality of filing fees, together with the cost of expert reports and other legal costs, discourages that person from ever making what would be a justified and reasonable claim. If you talk to a lawyer from any practice which is plaintiff oriented you will find that there are many people who do not proceed with claims for these reasons. They speak to a lawyer and decide that the costs involved mean that they cannot proceed. I agree that the evidence here is anecdotal but it is widespread. My conclusion on this point is that, unless there is a very good reason, we should resist the introduction of court filing fees for these sorts of matters which often involve small consumers and small business people.

The other issue raised by the Chief Magistrate in my meeting with him was the need for assessors. Magistrates in South Australia (and most, if not all, common law jurisdictions around the world) are and have historically been accustomed to sitting by themselves. In other words, they have never had assessors, even though there are divisions of the District Court which use assessors. The real issue here is how expert knowledge is brought to the attention of the court

or tribunal. In the court system, the usual practice is for each of the parties to arrange for their own expert reports. Most of those reports would cost between $100 and $500 each, depending on the type and complexity of the matter at hand. Each party might feel it necessary to have one, two or even three expert reports. Usually the experts who prepare these reports will be called along to the court so that they can be cross-examined by the other party or parties. This obviously involves considerable expense to both parties appearing.

Under the existing court system magistrates do have the option of arranging an expert report themselves. The cost basis is that initially the cost will be shared equally by the two parties with the loser ultimately paying all of the costs of the report obtained. The provision set out in section 29 of the Magistrates Courts Act is rarely used. If we look at the practice in the Commercial Tribunal, the parties will sometimes arrange expert reports for themselves, particularly if there are technically complex issues arising out of a home, say, that a builder has built or it is alleged that he has badly built for a consumer.

But whether there is an expert report presented to the tribunal or not, expertise is certainly available to the tribunal by virtue of the industry member and also because the tribunal develops expertise by virtue of hearing the same type of cases over and over again. After giving the matter due consideration I came to the view that it is actually very efficient to have assessors sitting on the tribunal, or an assessor sitting with a magistrate in a division of the court, if that should come to pass.

I am convinced that having an assessor leads to savings in court hearing times. It has the added advantage that a certain amount of technical expertise and understanding of the relevant industry informs the decision making of the tribunal, leading to better quality decisions. We have put forward what I think is a very reasonable and workable compromise in respect of the Commercial Tribunal jurisdiction. The creation of a division of the Magistrates Court specifically for that, as I have suggested, would resolve the problem of commercial tenancy disputes.

I should mention that, from the many submissions we have received, it is not only consumers who desire the Commercial Tribunal or something like it to continue in existence. Many landlords and small business proprietors have supported the continued existence of the tribunal or at least some version of it. Ultimately, the question of where commercial tenancy disputes will be resolved is an issue on which we are willing to be flexible and that question has not finally been resolved. In the context of the debate on this Bill the point is that the rejection of the Bill before us will not lead to insurmountable problems. It will simply mean that the Attorney will need to take a fresh look at the issue of where commercial tenancy disputes will fit into the court and tribunal system.

I now want to refer to the major objection that we have to the Bill, that is, that it is a forerunner to the abolition of the Residential Tenancies Tribunal. We believe it would be a terrible thing if South Australia were to lose the Residential Tenancies Tribunal in its present form, and there are many reasons for this. The first and most obvious question is why we should tamper with the forum for dispensation of justice which has been serving landlords and tenants extremely well for 15 years or so. It is presided over by a chairperson and tribunal members all of whom have each developed special knowledge in residential tenancy issues, as well as a sense of the special nature of residential tenancy disputes. A considerable body of knowledge and precedent has been built up within the tribunal, a process which has been greatly assisted by the collegiate nature of the tribunal membership.

Members are able to discuss important issues and compare decisions with each other on a weekly basis. The specialist nature of the tribunal promotes consistency in terms of the decisions made by tribunal members. The process of bringing an application up to and including a hearing is highly expeditious. The application itself, whether it be from landlord or tenant, is simple. Usually only one attendance is required at the tribunal, thus minimising the cost to landlord and tenant in respect of time lost from work and, in the case of landlords, the cost of paying property managers to attend the tribunal on their behalf.

Most hearings are conducted efficiently and speedily. The vast majority of hearings are completed in less than an hour, usually with written reasons provided soon after the hearing. The fact that written reasons are provided in regard to every application before the tribunal is important for landlords and tenants, not only in terms of people being able to understand the decision which has immediately affected them but also in terms of giving the public ready access to residential tenancy law.

Most property managers around the city have files of Residential Tenancies Tribunal decisions that they use every day as a background to advising landlords or in negotiating with tenants. It means that the laws are well known to all landlords and tenants in South Australia. There is no cost to the landlord or tenant in bringing an application. This is an important factor because, although feelings can run high in regard to disputed issues, the actual financial dispute may involve only a few hundred dollars. Nonetheless, it is vital that the State provide an avenue for those issues to be resolved judiciously if we want to avoid landlords and tenants deciding to take matters into their own hands contrary to the laws of the State.

Officers of the Office of Consumer and Business Affairs attend to the parties in dispute at an early stage to encourage resolution wherever possible. They have a success rate of just over 10 per cent. These conferences are conducted by officers who are not particularly trained in conciliation or mediation, but they have built up considerable experience in the area and so the pre-hearing clear-up rate of 10 per cent is not a bad rate considering the lack of resources provided for pre-hearing dispute resolution and considering the nature of most residential tenancy disputes. This is an important point.

There are some important distinguishing factors about residential tenancy disputes. There is no doubt that feelings run high in these disputes because the issues involved are often regarded as matters of principle, of the utmost personal importance to both sides. Since most landlords in the residential sector are people with one or two houses or perhaps a block of flats, they are often dealing with their single most valuable investment and it is most understandable that any damage to property is taken personally by landlords.

On the other hand, tenants are dealing with the vital issue of whether or not they will have a roof over their heads for themselves and their families, and suggestions that property has been wilfully damaged or left in a disgraceful or unclean state are bound to be taken personally by most tenants. These are the sorts of reasons why there is considerable acrimony in these types of disputes and why often highly offensive remarks are thrown back and forth between landlord and tenant before the matter is brought on for hearing. Because of the nature of the relationship between landlords and tenants and because of the relatively small sums often

involved, in many cases they deal directly with each other and turn up personally to the tribunal hearing.

Also, there are many cases where real estate agents are acting as intermediaries but where they are perceived to be acting purely in accordance with the wishes of the landlord. Therefore, whether or not property managers are involved, often both parties have insufficient objectivity to handle the dispute in a calm and rational way. These types of factors seem to have been ignored completely by the Attorney-General's legislative review team. They are the sorts of factors that distinguish these types of tenancy disputes from the commercial tenancy disputes. It is easy for lawyers to look at the two types of disputes and say, 'There is a commercial tenancy agreement, and there is a residential tenancy agreement; both are just leases; even the wording of various clauses may be similar, so we can lump them together.' The Opposition does not look at the issue that way, and its view is supported by the Tenancy Alliance, which is a coalition of organisations formed to consider and make representations on current residential tenancy issues.

For those who may not be familiar with it, the Tenancy Alliance includes such associations as Shelter; the Consumers Association; SACOSS; SAUGA, representing unemployed people; the Bowden-Brompton Community Legal Service; the Youth Affairs Council; the Welfare Rights Service; the Citizens' Advice Bureau; the Parks Community Legal Service; the Housing and Disability Alliance; the Aboriginal Legal Rights Movement; the Ethnic Communities Council of South Australia; Spark Resource Centre; the Schizophrenia Fellowship; the Norwood Community Legal Service; the Para Districts Community Legal Service; the Trust Tenants Advisory Council; the Public Tenants Association; the Marion Community Legal Service; the Uniting Church; the Democrats; the Law Society of South Australia; the Community Housing Assistance Service of South Australia; the UTLC; the Sole Parent Coalition Incorporated; and others. The Tenancy Alliance, which represents all these organisations, agrees with the Opposition that the Residential Tenancies Tribunal should not be abolished.

Obviously, members of the Opposition are not opposed to conciliation of disputes; generally, it is a very good thing if it can occur. However, we must look at what is happening in the Residential Tenancies Tribunal at the moment. As I have said, usually in the case where both parties turn up they need to attend the tribunal only once for the hearing, and then they get a written decision explaining why the tribunal has decided one way or the other. At the outset of hearings in any case, it is the practice of most tribunal members to try to determine just what are the issues and whether they are intractable in terms of an agreed solution. Most Residential Tenancies Tribunal matters are not amenable to settlement by resolutions agreed between the parties because of the intense feelings to which I have referred earlier.

So, I am quite sure that the Attorney's estimates of greatly reduced numbers of hearings are considerably overstated. In turn, that will affect the question of cost, to which I will return in a moment. The fact is that, to conciliate these matters properly, would require trained and experienced conciliators who were able to spend an hour or so to tease out all the details of facts which are asserted by both parties, and then to toss around possible compromise arrangements which might be acceptable to both of them. In other words, the proposed conciliation process would take just as long as most cases take to be heard and finalised by the tribunal itself. That would not be an efficient way of doing things in respect of those disputes.

Conversely, if there is only a small amount of time and resources provided for the conciliation which is proposed by the Attorney, I doubt whether we will see success rates that are any greater than those which are currently achieved by officers of the Office of Consumer and Business Affairs. In other words, unless adequate training is given to registrars or conciliation officers who are then able to spend an hour or so with the parties, the whole conciliation exercise would be a waste of time and money. I am certainly not putting that forward as a proposition that applies to all disputes generally, but I am certain that it applies to the disputes with which we are dealing here.

The New Zealand experience offers a very interesting comparison. A very well-resourced mediation process is undertaken in New Zealand before matters go on to a full hearing in the New Zealand Residential Tenancies Tribunal. The success rate of this mediation is between a half and a third of all the applications. However, two distinctions must be made in comparing New Zealand with South Australia. First, people with experience of both the residential tenancy jurisdictions have suggested that local cultural conditions are conducive to conciliated settlement in New Zealand. I am not sure why that should be, but it is an observation that has been made by more than one person from whom we have had submissions. Secondly, and very importantly, considerable resources are directed towards the mediation part of the process. In the whole of New Zealand, we are talking about a jurisdiction where there are about 20 000 applications each year. If we exclude the undisputed applications for return of bond money in our own tribunal, we are left with about 6 000 applications a year. So, the New Zealand tribunal has about three times the workload that ours has. New Zealand spends $12 million a year just on the mediation service; that is $NZ12 million, which equates to about $AU10 million a year. In other words, if we are going to have a mediation service as extensive and of the same quality as New Zealand has, we would be spending over $3 million a year on the mediation service alone, and then achieving a conciliation rate of between a third and a half of all cases.

By contrast, perhaps we could consider that the total cost of operating our Residential Tenancies Tribunal in 1993-94 was $846 000. The contrast is really astounding; $846 000 for what we have: $3 million if we are to have mediation of the type and quality that they have in New Zealand. Certainly it illustrates what value for money we are getting from our Residential Tenancies Tribunal. Moreover, our Residential Tenancies Tribunal is currently self-funding. It is paid for by the interest on bond moneys lodged with the tribunal. We do not particularly care whether the bond moneys are lodged with the Office of Consumer and Business Affairs or lodged with the tribunal; it does not matter where they are going to be lodged. However, certainly it is gratifying to me, particularly as one who was once a Minister of Consumer Affairs, that we have set up a system whereby the users of the system pay for the tribunal in a pretty painless way.

On this point, I note that the consumer and tenant groups were initially very pleased with the proposal from the Attorney on the residential tenancies legislation that interest on bond money was to be returned to the tenant. But the shine wore off that revelation somewhat when we tried to work out just how much the average tenant would get back. It worked out to be somewhere between $10 and $20 for most tenants—certainly not even a filing fee in the Magistrates Court. This

is quite insignificant when compared with the access for justice which would be lost by tenants and landlords if the Residential Tenancies Tribunal were to be abolished.

There is no way in the world that it will be less expensive if magistrates are brought in to preside over the tribunal. The existing tribunal members are paid about $40 an hour on a casual basis with no holiday pay, sick pay or long service leave to be added on to that. It is casual work. By way of contrast, magistrates earn about $100 000 a year with the usual add-on costs. A quick calculation will show magistrates to be far more expensive to use to resolve these disputes compared with the existing Residential Tenancies Tribunal system. That is not even taking into account the fact that people employed on an hourly basis are likely to be used more efficiently, even if there are magistrates sitting on the tribunal who can otherwise be employed in the Magistrates Court when things are not too busy.

The Government's reform proposals on residential tenancies have been around now for about six months, and the issue of cost savings has been raised before now. I would point out that, in all that time, the Attorney-General has not been able to provide any definite figures suggesting that savings will be made if residential tenancies disputes are transferred to the Magistrates Court, as he is proposing. I maintain it is far cheaper to retain it in the Residential Tenancies Tribunal, and so on the question of cost alone, even if we left aside all the other issues of access to justice, it would be irresponsible to support the Bill before us.

I do not want to make too much of the more limited access to justice in the Magistrates Court arena—much of this, I agree, is due to public perception. But all the submissions we have received from a large number of people clearly indicate a preference for the informality of the Residential Tenancies Tribunal compared with the far more intimidating venue of a courtroom. Partly, this is due to the attitude of magistrates, which may in turn be due to the workload they have to carry. Even in the small claims court, when a half a dozen cases are listed for hearing before a magistrate on any particular morning, it is quite obvious to every one that not all those matters will be heard in full by the magistrate who has been assigned to them.

So the parties concerned are left waiting around outside the courts on the sixteenth floor of Education House. The magistrates apply as much pressure as possible when some minor civil action matters are called on, trying to get the parties to reach an arrangement, if possible. It is not a situation where calmed and reasoned mediation takes place. It is much more commonly an experience of being pressured and then waiting around while other matters are being heard. In conclusion, I am convinced that the Residential Tenancies Tribunal offers ready access to justice in a way that will not be possible in the Magistrates Court. Both landlords and tenants will be better served by retaining their existing tribunal.

We must make mention, too, of the provision of services to country landlords and tenants. In the 1993-94 financial year, 323 country hearings were held by the Residential Tenancies Tribunal. The tribunal has members based in country areas, such as Mount Gambier and the Riverland. In addition, about half of these country hearings were heard by tribunal members who are normally based in Adelaide but who went on circuits to country areas as required. So, it is nonsense to suggest that better service will be provided to landlords and tenants in the country by the Magistrates Court system, even though there are Magistrate Court facilities dotted around the State. In terms of geographical access to the Residential Tenancies Tribunal or the Magistrates Court, there would be very little practical difference between the two. The requirements of country landlords and tenants do not therefore loom large in the argument for or against change to the existing system.

I also want to mention the issue of jurisdiction for retirement village disputes, for Housing Trust disputes, particularly evictions, and strata title disputes. In my view, most of the disputes in relation to these matters have a great deal in common, particularly taking into account the nature of the disputes and the people concerned. The law might be different in respect of each of these types of problems, but in each of these cases there are many disputes which would be amenable to an informal tribunal style of hearing. The Attorney might well consider expanding the Residential Tenancies Tribunal to become perhaps something called a Residential Premises Tribunal, which could incorporate matters such as retirement villages and strata titles.

I am not saying this is something that everyone has set their heart on; it is just an idea that I am floating. But, at the very least, the Government should proclaim the amendments which we put through Parliament in 1993, whereby aspects of Housing Trust tenancies fell under the jurisdiction of the Residential Tenancies Tribunal. There is no doubt in my mind that the Residential Tenancies Tribunal would be the most cost effective and convenient mechanism for effecting evictions on Housing Trust tenants when the need arises. I hope the Attorney and the Government appreciate that the ALP is not being difficult or reactionary in relation to this issue. We are trying to be constructive. As I have indicated, we have the very strong support of a number of community organisations directly concerned with consumer and tenancies issues who all support our stand in relation to the Residential Tenancies Tribunal.

I would also like to refer to the ACT Law Reform Commission Report, which was released only a few days ago in relation to private tenancies. Until now, the ACT has dealt with residential tenancy disputes in the general court system, as the Attorney is proposing for South Australia, but its Law Reform Commission Report recommends setting up a specialist tribunal to deal with these disputes, such as we presently have in South Australia with the Residential Tenancies Tribunal. The South Australian system is specifically mentioned as an example of a system which works very well in dealing with these types of dispute. I quote from the ACT Community Law Reform Committee:

> The committee considers that the coordination of tenancy services in South Australia and in New Zealand makes each service more efficient and effective. The combination also appears to give the Adelaide centre a high profile in the Adelaide community as the place to go with tenancy difficulties. It is noteworthy that the South Australian Tribunal is made use of by large numbers of both lessors and tenants.

The report further states:

> The South Australian tribunal appeared to: hear matters promptly, that is, within two weeks of application; conduct hearings in a helpful, clear but not overly formal manner during which the tribunal member actively sought information from the parties and assisted them where possible; operates with a high degree of efficiency, ensuring that each party was satisfied that all their arguments had been listened to and understood.

There is nothing but the highest praise for our Residential Tenancies Tribunal in this report, yet the Attorney is proposing to abolish it and establish the Tenancies Division as set out in this Bill.

The principles which I am upholding in voting against the second reading of this Bill are certainly not new ones. It is all too easy to forget history in this place. The Residential Tenancies Bill was introduced in the House of Assembly by the then member for Elizabeth, Peter Duncan, as the Attorney-General in the Dunstan Government in 1977. That is over 17 years ago; one could say, almost a generation ago. When you think of all the bureaucrats and politicians who have moved on since that time, it is over a generation ago. I will quote what the then Attorney said when introducing the Bill on 2 November 1977:

> It is the first attempt in Australia to legislate comprehensively for reform of the residential landlord and tenant relationship. It is the result of over two years work, involving the close study of similar Canadian legislation and overseas and Australian reports calling for long overdue reform in this area and consultation with both landlords and tenants. The Government especially appreciates the cooperation and support of the Real Estate Institute in the preparation of the Bill. In particular, the Bill relies on the recommendations of the report of A.J. Bradbrook entitled 'Poverty and the Residential Landlord Tenant Relationship,' prepared for the Australian Commission of Inquiry into Poverty, and the Law Reform Committee of South Australia, in its 35th report relating to standard terms and tenancy agreements. Conversely, it is significant that British Colombia has just passed a Residential Tenancy Act which relies heavily on our work done in preparing this Bill.

So, it is clear to me that this Bill before us is a retrograde step in preparing to abolish the Residential Tenancies Tribunal. It is retrograde in terms of access to justice. It is retrograde in terms of efficiency, and it flies in the face of experience, both here, overseas and interstate.

I would also point out to the Council that, prior to the last election, a questionnaire was sent by the Consumers Association of South Australia to all political Parties contesting the election. One of the questions asked of all the Parties was:

> Is your Party committed to maintaining and resourcing adequately the Commercial Tribunal and the Residential Tenancies Tribunal as specialist bodies with expertise in balancing consumer and business interests?

The replies were as follows: from the Australian Democrats, yes; from the ALP, yes; from the Liberal Party of Australia, yes. I think the Attorney has forgotten the answer he supplied only 15 months ago to that question.

In conclusion, I would return to the Attorney's goals as stated in the report which accompanied his short-lived Tenancies Tribunal Bill in 1994. He stated then that the Government's aim was to:

> . . . make any changes that are appropriate to improve dispute resolution processes in this area, to ensure that members of the public are provided with quick and fair means of resolving tenancy disputes.

This quotation underscores our objection to the Bill before us. The fact is that the public of South Australia already has a quick, fair and efficient means of resolving tenancy disputes, particularly residential tenancy disputes. So, we are completely opposed to any move to abolish the Residential Tenancies Tribunal which could follow if the Bill before us became law. I oppose the second reading.

The Hon. L.H. DAVIS secured the adjournment of the debate.

REAL PROPERTY (WITNESSING AND LAND GRANTS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 9 February. Page 1124.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): The Opposition supports the second reading. This Bill deals primarily with the issue of how Lands Titles Office documents are to be witnessed. It is true that many people have found the existing requirements of the Real Property Act are inconvenient. Many people in the community are not well known to either lawyers, bank managers or Justices of the Peace. At present, these people are required to go through a two stage process whereby they have their signature witnessed by someone who knows them well. Then that witness must appear before one of the authorised functionaries, someone by whom they in turn are well known, for the witness's signature to be witnessed. This is known as the long form of proof.

Problems could also arise when a client would come into see a solicitor or a workmate would front up to a colleague known to be a J.P., and in many cases the authorised functionary would be in a dilemma, whether to witness a signature despite there being some doubt as to how well known the client or workmate was or, on the other hand, risking offence to the client or workmate by explaining that it would be wrong to witness a document because the lawyer or J.P. had only had a brief acquaintance with the person and really only had their word for it that they were John Smith or Jane Smith or whatever. Members who are Justices of the Peace, both in this Chamber and another place, would know this problem well.

The passage of this Bill will certainly make life easier for vendors in property deals. I believe that most lawyers, bank managers and JPs will be happy enough to see the Bill pass. Furthermore, I accept what the Attorney has to say about moves interstate to simplify the witnessing procedure in respect of land documents. This is not one of those areas, like education or workers compensation, where the Government relies on inferior standards in other States to justify antisocial budget cuts to the quality of life hitherto enjoyed by South Australians. I presume the Attorney has properly examined the circumstances interstate where witnessing requirements have been loosened up.

The Attorney has informed us in his second reading speech that, in New South Wales and Victoria, cases of forgery or fraud are not of any greater number than in our own experience. This is an important point because the proposed amendments to witnessing requirements arguably make it easier for unscrupulous people to persuade friends or relatives to transfer or mortgage real estate against their own interests. At present most people dealing with real estate would have their signatures witnessed by land brokers, solicitors or bank managers, and these witnesses would often be likely to inquire about the reasons for the proposed transaction and to express concern if there was any suggestion of forgery or undue influence.

Witnesses can now be any adult other than parties to the proposed transaction. So, we might see a certain amount of witnessing of real estate documents going on over the back fence or down at the local pub. I believe that the Attorney will need to monitor the situation carefully to see that the relaxation of witnessing requirements does not in fact lead to increased incidence of fraud and forgery. On the whole, we support the Bill by the convenience argument and the desire for uniformity among the Australian States on technical matters such as this. I support the second reading.

The Hon. R.D. LAWSON: I, too, support the second reading of this measure, and I rise merely to record the fact

that this Bill will remove from the Real Property Act provisions which have been in that Act since its first enactment in 1857. The Real Property Act was the brainchild of Robert Richard Torrens, who himself was one of the members of this Legislative Council when it first met as an elected body in 1851. The Real Property Act 1857-58 contained provisions dealing with the mode of proving instruments, which provisions were largely the same as those which have continued to this day. That Act actually specified in section 113 a series of questions to be posed to a person executing an instrument for registration at the Lands Titles Office. The witness was required to answer in the affirmative the questions: 'Are you the witness who attested the signing of this instrument, and is the name or mark purporting to be your name or mark such as attesting witness in your own handwriting; do you know the person signing the instrument and whose signature you attested; is the name purporting to be his signature his own handwriting; is he of sound mind; and did he freely and voluntarily sign the same?' That form, which ultimately found its way into the long form of proof, will be no more after the passage of this amendment.

In my experience it is true that, as the Attorney has said in his second reading speech, witnessing procedures do not appear to have diminished the incidence of fraud or forgery in this State. Indeed, in recent years there have been quite a number of significant cases in which real estate instruments were forged, and usually the attestation by witnesses to such instruments has also been forged. In the case of *Wicklow v Doysell* in 1986, a false identity was used and a memorandum of transfer forged. These documents were duly attested in accordance with the Act and were registered. In *Daniell v Paradiso* in 1991, a young man had signed blank pages which, unknown to him, were actually a mortgage. He handed over the certificate of title with those papers to a fraudster, who registered a mortgage and obtained the proceeds of it. Once again, the signature of the witness appears to have been forged.

Again, in *Arcadi v Whittem* in 1992, a person who was not born in this country and who did not have great familiarity with the English language signed blank forms and handed over a duplicate certificate of title. The papers were later altered and witnesses' signatures were fictitious. Again, there was extensive litigation. In that case, the mortgagee who had advanced moneys on the strength of the mortgage would have been entitled to protection under the Real Property Act, his title as mortgagee indefeasible by reason of the fact that the moneys were paid over *bona fide* and without notice.

Those cases indicate that there have been a number of cases of forgeries and fraud, notwithstanding the rather extensive provisions which we have in sections 267, 268 and 269 of the current Act. I am reassured by the experience elsewhere, where special witnessing requirements have been dispensed with, and accept the Attorney's assurance that there has been no greater incidence of fraud or forgery in those States since the relaxation of witnessing requirements. I support the second reading.

The Hon. K.T. GRIFFIN (Attorney-General): I thank members for their contribution to the Bill and for their indications of support. Notwithstanding that it relates to the question of witnessing, the Bill is nevertheless an important piece of legislation which needs to pass, and I commend it to the Council.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—'Lodgment of land grant.'

The Hon. R.D. LAWSON: Clause 4 inserts section 66(A), which provides that if a grant of Crown land is lodged in the LTO the Registrar-General must register title to the land. The explanatory clauses do not appear satisfactorily to explain why this requirement, namely, the mandatory requirement on the Registrar General to register the title, is being inserted. Perhaps the Attorney-General could enlighten me.

The Hon. K.T. GRIFFIN: The only answer I can give at the moment is that I understand that it was necessary to provide that the Registrar must do this for the purpose of facilitating electronic registration. If the honourable member is happy, I will obtain more informative information for him and let him have the reply before the Bill goes through the House of Assembly.

Clause passed.

Remaining clauses (5 to 7) and title passed.

Bill read a third time and passed.

STATE GOVERNMENT INSURANCE COMMISSION (PREPARATION FOR RESTRUCTURING) AMENDMENT BILL

(Adjourned debate on second reading.)

(Continued from 15 February. Page 1192.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): As indicated in another place, the Opposition is not opposed to this Bill, which sets the groundwork for the sale by giving a green light to the board of SGIC to commence the initial evaluation and packaging process with accompanying statutory protection for the individual board members carrying out that process. In this place, however, I wish to reinforce the Opposition's concern about some issues which arise from the proposal to sell off SGIC.

This Government is developing a reputation for charging ahead with all sorts of changes without adequate consultation. This Bill, although it is only a preliminary piece of legislation in relation to the eventual sale of SGIC, is significant because of the very issue of selling off public assets. The State Government Insurance Commission, like many other public institutions in South Australia and nationally, has served hundreds of thousands of South Australians well over many years.

In relation to the sale of any major public asset, we must be very careful about why and how the asset is being sold off. We will not accept the ideology put about by some within the Government's ranks that the minimisation of the public sector is inherently a good thing. We should also be very wary of the reasoning that the institution concerned has been going through a rough patch, in managerial or financial terms, and, because a quick cash grab is needed, it will be sold off, because it is far easier to sell off these major public assets than it is to set them up. However, in principle, as I indicated, we are not opposed to this legislation.

One issue that obviously arises in this situation is Parliament's scrutiny of SGIC during this critical period. I presume that both Government and non-government members of the Statutory Authorities Review Committee, the Economic and Finance Committee and the Industries Development Committee will be actively involved in relevant aspects of the preparation and sale process. Furthermore, I presume that the Government will do all it can to ensure that Adelaide will

remain the head office, or at least a substantial branch office, of the eventual purchaser of SGIC. It is up to the Government to ensure minimum loss of employment in South Australia as a result of the sale.

A further issue arises in relation to the superannuation implications for SGIC employees. Many of those employed by SGIC will have taken up or continued with employment there at least partly on the basis of the superannuation benefits made available to them. In this regard, I advise honourable members that the Opposition has discussed this issue with the relevant union, the FSU, and it appears that the union was satisfied that satisfactory arrangements could be put in place. Despite the reservations that I have briefly mentioned, we support the second reading of the Bill.

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

CONSENT TO MEDICAL TREATMENT AND PALLIATIVE CARE BILL

Returned from the House of Assembly with amendments.

ADJOURNMENT

At 5.56 p.m. the Council adjourned until Wednesday 22 February at 2.15 p.m.