LEGISLATIVE COUNCIL

Wednesday 22 March 1995

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

RETAIL SHOP LEASES BILL

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I move:

That the sitting of the Council be not suspended during the continuation of the conference.

Motion carried.

LEGISLATIVE REVIEW COMMITTEE

The Hon. R.D. LAWSON: I bring up the twenty-second report 1994-95 of the committee.

QUESTION TIME

SCHOOL MANAGEMENT

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

Leave granted.

The Hon. CAROLYN PICKLES: On 29 June last year, the Minister announced that, after gauging public response to the report of the Audit Commission, schools would be given greater control of their management. The Minister said that a program was planned for 1995 and that school councils would control spending in areas such as school maintenance; water, power and heating bills; and the hiring of teachers. My questions to the Minister are: has the program to transfer management responsibilities to school councils commenced and which schools are involved; what functions are being transferred to schools; and what are the new financing arrangements to apply to self-managing schools?

The Hon. R.I. LUCAS: I have never said that the power to hire and fire principals would be devolved to school councils. All that I have ever said as Minister in relation to the issue of the hiring—

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: If that comes from the *Advertiser*, then the *Advertiser* is wrong. I have announced on a number of occasions in the Parliament to the Hon. Ms Pickles and the Hon. Mr Sumner before her and others that the Government's position is that it wants to see principals having a greater say in the selection of staff. Some proposals which have been jointly developed with the Institute of Teachers and which have recently been released head down that path, but we do not support a position where the Government school system becomes 700 completely independent self-governing units which can hire and fire staff at their own discretion.

We believe that what we have is a Government school system. We have to move experienced and inexperienced teachers around the State. We have a responsibility to provide the best quality education that we can not only for the metropolitan area but also for remote and isolated schools. Therefore, as I said, the system has a responsibility to try to ensure the best quality education for not only metropolitan schools but schools in remote areas. If the honourable member is referring to a quote from a press report, it does not faithfully reflect the views that I have indicated on a good number of occasions, both publicly and within the Parliament, on that particular aspect of the issue.

It is correct to say that the Government's position has been that regarding areas such as maintenance and minor works expenditure shared responsibility might be brought into play, that is, that school communities have a greater say. The recent Government announcement of $12.5 million for schools under the Back to School Grants Scheme is an indication of the Government's saying to schools, 'We're happy for you to make decisions within certain guidelines as to how the $12.5 million will be spent on backlog maintenance and current maintenance of your school buildings and assets.'

The only other point that I can usefully add to my response is that the principals' associations have been very active in this area of shared responsibility, and put a proposition to me as Minister late last year that I provide some funding for one of their nominees, Miss Pat Thompson, to act as project officer to put together a package of propositions for the Government and the department in the area of shared responsibility. Pat did a fine body of work in preparing information for the department to consider in the area of shared responsibility. That particular document, I think, has been distributed for consultation to schools. If the honourable member does not have a copy of it—if it has been released publicly—I would be prepared to provide a copy of that document for the honourable member's consideration.

Without going through all the detail, because it is a very fulsome report, nevertheless the flavour of the document is very much one of the principals of South Australia wanting to work with the Government of South Australia in shared responsibility, that is, their taking increasing responsibility in a range of areas such as maintenance and minor works, and some other areas; raising some suggestions of a further piloting and testing of some of these propositions; and acknowledging that there needs to be further consultation. As a result, the Government is now considering that paper from the principals before it makes any final and conclusive decisions for all schools. We nevertheless continue with some small piloting of programs in some areas where school communities are already actioning greater responsibility in areas such as maintenance and minor works, and in some other small areas of responsibility as well.

ROAD TRAINS

The Hon. DIANA LAIDLAW (Minister for Transport): I seek leave to make a ministerial statement on the subject of road trains—Adelaide to Perth.

Leave granted.

The Hon. DIANA LAIDLAW: The Government has today approved the issuing of special permits to allow double road trains to operate out of the Adelaide Rail Freight Terminal at Regency Park to connect with the double road train route at Lochiel. This is a temporary measure to help clear the freight backlog which has built up as a result of the flood damage on the rail line in Western Australia. This initiative follows a request from the National Freight Forwarders' Association and has been endorsed by the National Rail Corporation. Although the transcontinental rail line was reopened to freight trains on Monday, it is estimated that the build-up of freight during the three week closure will take some time to clear.

The Hon. M.J. Elliott: How long?

The Hon. DIANA LAIDLAW: I will indicate in a moment. Permits will be issued to operators who hold existing South Australian road permits. This initiative will expire on 31 March 1995. So it ends at the end of this month: it is a temporary measure. As I indicated earlier, it has been requested by the National Rail Corporation. The special permits will be available only for freight which is destined for Western Australia and which is unable to moved by rail because of the backlog. To ensure their safe operation, the road trains will not be allowed to operate during morning and afternoon peak hours south of Virginia, and will have to follow a specific route. The Department of Transport has assessed a route using Regency Road, South Road, Grand Junction Road and Cavan Road to Port Wakefield Road as being the most feasible. The Government has taken this action, after some consideration, to ensure that the backlog of freight is moved as soon as possible and to help minimise the effects to South Australian businesses of the road and rail closures in Western Australia over the past three weeks.

FRUIT-FLY

The Hon. R.R. ROBERTS: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Primary Industries, a question about fruit-fly roadblocks.

Leave granted.

The Hon. R.R. ROBERTS: On 8 March last year I raised a question in this place in relation to the effectiveness of the Oodlawirra fruit-fly roadblock which operates between the hours of 6 a.m. and 10 p.m. for only nine months of each year. The response tabled in this place on 12 April basically stated that the roadblock hours would not be extended because the cost of a 24 hour a day roadblock service would be excessive. The numbers of fruit-fly intercepted at Oodlawirra in the preceding year had been below average and the number of fruit-fly outbreaks in Adelaide had been small. The answer also stated that activities were undertaken by the Department of Primary Industries, South Australia, other than roadblocks, which assist in the prevention of fruit-fly, and that is not disputed.

Members would be aware that in more recent times there has been an outbreak of fruit-fly at Victor Harbor. I have also been informed that there have been serious outbreaks of Queensland fruit-fly in Broken Hill, Menindie, Narrandera, Leeton, Griffith and Yenda in New South Wales and fruit-fly outbreaks at Shepparton and Benalla in Victoria.

It is generally recognised that such outbreaks can pose a serious threat to fruit growers in South Australia. I am informed that in the six months to the end of February this year there had been 24 detections of fruit-fly at Oodlawirra, as opposed to 19 detections for the full nine months of operation in 1993-94. I further understand that Oodlawirra has the highest ratio of infected fruit detected at all roadblocks in South Australia, yet it is open only for 16 hours per day. Given these circumstances, it is worrying that eight hours of traffic at night flows through the Oodlawirra roadblock unhindered into South Australia, and many of those vehicles may well emanate from infected areas interstate.

The enormous value to South Australia of the fruit industry is well known, and during inquires last year in respect of this matter enormous support was suggested to me by people in the Riverland areas. I am advised that if they found two or three outbreaks in the Riverland area it would decimate the fruit industry in South Australia. Therefore, will the Minister investigate the implementation of a 24 hour a day roadblock at Oodlawirra, particularly during the warm summer months when fruit fly can be a danger to South Australia and, if not, why not?

The Hon. K.T. GRIFFIN: I will refer the question to my colleague the Minister for Primary Industries in another place and bring back a reply.

TREES

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation prior to asking the Minister for Transport, representing the Minister for Environment and Natural Resources, a question about tree removal.

Leave granted.

The Hon. T.G. ROBERTS: One of the pleasant aspects of living in Adelaide is the tree-lined avenues and streets in the metropolitan and outlying areas. We have been faced with a growing problem of tree removal both in the metropolitan, outer metropolitan and regional areas. Many of the trees being removed are 300 year old river red gums, and there is consternation in those communities about whether those trees are suitable for preservation because in some cases they are dangerous, with falling limbs, which makes it dangerous for people and property. Inevitably there is a dispute in the community around whether a tree ought to be preserved, lopped down or trimmed. Will the Minister encourage local government to list all trees of local significance for preservation in the metropolitan and regional areas where identified as such?

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

LAW AND ORDER

The Hon. G. WEATHERILL: I seek leave to make a brief explanation before asking the Attorney-General a question about law and order.

Leave granted.

The Hon. G. WEATHERILL: As the Attorney-General is a very senior member of the Cabinet, will he advise the Council whether there is any truth in the speculation by the press and the electronic media that the Government will reduce the size of the Police Force?

The Hon. K.T. GRIFFIN: I am flattered by the honourable member's remarks, but flattery will get him nowhere.

An honourable member: It might get him an answer to his question.

The Hon. K.T. GRIFFIN: Well, it will get him an answer to the question, but it may not be the one for which he is fishing. Obviously, the Police Force is the responsibility of the Minister for Emergency Services. He made a statement, I think yesterday, in answer to the very speculation that the honourable member raises. I think the best thing I can do in relation to that particular issue is to refer the question to him and bring back a rely.

PENSIONER COUNCIL REBATES

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister representing the Minister for Housing, Urban Development and Local

Government Relations a question about pensioner council rebates.

Leave granted.

The Hon. M.J. ELLIOTT: I ask this question of a not so old member of the Government.

An honourable member interjecting:

The Hon. M.J. ELLIOTT: We will try a slightly different tack, George.

Members interjecting:

The PRESIDENT: Order!

The Hon. M.J. ELLIOTT: I received a letter from the Secretary of the South Australian Federation of Residents' and Ratepayers' Association some time back in relation to rates. I will read just the first couple of sentences of it because it explains the problem fairly clearly. It states:

> Our association would like to bring the following information to your attention:
>
> Pensioner rebates on council rates have not altered for 14 years, i.e. $150 or 60 per cent, whichever is the lowest. The percentage has gone from 60 per cent to 24.1 per cent in 1994, representing a decrease of 35.9 per cent. Meanwhile, the cost of living has increased by 122 per cent.

The letter then goes on to make comparisons with backbenchers' salaries and other things that I will not go into at this stage, but it suggests that they have increased significantly. It appears that this rebate was first struck when the Liberals were last in government. I ask the Minister whether or not the Government feels that the pensioner rebates that are now available on council rates are appropriate and have kept track with inflation.

The Hon. DIANA LAIDLAW: Mr President, I was very sorry when you bought the Council to order a while ago—

The Hon. Anne Levy: Are you criticising the Chair?

The Hon. DIANA LAIDLAW: No, I was not criticising: I was just indicating that I was sorry that the President brought the Council to order, because I think I moved from being not so old to younger, and I thought I was going to do even better.

The Hon. M.J. Elliott interjecting:

The Hon. DIANA LAIDLAW: Were you? Anyway, it was sounding better every time. This issue has been of concern to all groups who are more senior in age in our community. It has also been of concern to Governments of all persuasions. Generally, as I recall, the view of State Governments is that income support measures should be a Federal Government issue. I think that view has been maintained consistently for quite a number of years. However, for the latest and most accurate view, I will refer the honourable member's question to the Minister and bring back a reply.

CIRCUMCISION

The Hon. BARBARA WIESE: I seek leave to make a brief explanation before asking the Attorney-General a question about circumcision.

Leave granted.

The Hon. BARBARA WIESE: Yesterday in another place the member for Ridley, Mr Peter Lewis, in making a contribution on the legislation relating to female circumcision or female genital mutilation, made the point that he thought that male circumcision should be banned as part of the proposed new laws on female genital mutilation. Furthermore, he indicated that, in his view, the legislation was blatantly sexist and said:

> I can't begin to imagine what is going on in the minds of those nitwits who think it is appropriate to outlaw it for girls and not boys.

He went on to say that he believed that the Attorney-General had introduced the Bill as a result of pressure by 'trendy feminist nits' over the past decades.

Members interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: My questions to the Attorney are: does he agree with his House of Assembly colleague's comments? In particular, does he agree that he has fallen victim to the pressure of 'trendy feminist nits' in introducing the female genital mutilation legislation, and does he agree with the member for Ridley that legislation to ban male circumcision is (a) comparable to female genital mutilation, and (b) desirable?

The Hon. K.T. GRIFFIN: I have not read the remarks by the member for Ridley in another place so I do not intend to address those remarks in any detail. I have, in any event, heard a little of the remarks that were made. I do not agree that the legislation is blatantly sexist. In addressing this issue, I must say that I had an open mind on it. I was convinced both by discussions at the Standing Committee of Attorneys and other discussions, as well as by literature, that female genital mutilation was a practice that was cruel and abhorrent and that therefore the Government ought to be persuaded to take some action to outlaw it. That has been done in New South Wales. It is likely to be undertaken in other States. Whilst the Western Australian Attorney-General (Hon. Cheryl Edwardes) has indicated she believes their criminal law is sufficient to cover this, she, too, has an open mind on the issue and is prepared to give further consideration to the matter from the perspective of Western Australian law.

I do not see any comparability between female genital mutilation and male circumcision. Certainly the issue was raised with me before the Bill was agreed to by the Government. One can understand there are people who may wish to push that point of view, but certainly I have no intention to recommend to the Government that that be banned. It is an issue that does again invoke debate but there are different reasons as to why male circumcision is performed. The focus of the Bill which I introduced and which is now in the House of Assembly is on a practice which we believe ought to be the subject of some very strong signals from the Legislature and not from the Government, and those signals ought to quite clearly indicate that it is an unlawful and unacceptable practice in Australia.

It would necessarily follow from that answer that I certainly do not regard myself as having fallen victim to feminists. I try to have an open mind on all of these issues. Some people might think I do not on some occasions but that is a characteristic that all of us have from time to time, that we may not agree, for a variety of reasons, with points of view put up by male and female colleagues of the Parliament. One has to try to address these issues on their merits, as much as that is possible to do, and to accept that, if there is a commonsense approach that needs to be taken, that ought to be the approach that is followed.

I do not want to get into a public debate with the member for Ridley. He has some strong and passionately held views on a number of issues. He is entitled to express those views in the Parliament, as are any other members of particularly the Liberal Party and, I would like to think, the Labor Party and Australian Democrats too, on those issues upon which some have some very strong personal views. As I say, I do

not intend to embark upon extensive public debate with Mr Lewis on this issue. I do not want the remarks which I have made today to be taken as anything other than observations on the merits of the issue, rather than, as some may try to make it, some personality clash.

The Hon. R.R. Roberts: Who would do that?

The Hon. K.T. GRIFFIN: There are all sorts of mischief makers around. The public is entitled to know that the Government does have some very strong views on the desirability of outlawing the practice of female genital mutilation. I would hope that this legislation will pass through both houses of Parliament by Easter, when we rise for the next longer period of recess, and that we are able, over that period, to pursue the development of education programs in consultation with the Commonwealth.

JETTIES

The Hon. CAROLINE SCHAEFER: I seek leave to make a short explanation before asking the Minister for Transport a question about jetty maintenance.

Leave granted.

The Hon. CAROLINE SCHAEFER: A number of jetties throughout South Australia, particularly country South Australia, have been identified as having significant value to tourists and fishermen. Most of these jetties are in varying states of disrepair and need urgent attention. Can the Minister comment on what, if any, repairs and/or maintenance is under way? If so, which jetties are being attended to and how long will the others have to wait?

The Hon. DIANA LAIDLAW: The honourable member kindly gave me forewarning of her question, because a number of her constituents on the West Coast have asked her what is happening.

The Hon. R.R. Roberts interjecting:

The Hon. DIANA LAIDLAW: Well, she is a very hard working and respected member for the West Coast and other areas of the State. It may come as some surprise but there is not a jetty at Kimba. The honourable member has no personal interest in this matter other than on behalf of her constituents. Members will recall that this financial year, through the Local Government-State Reform Fund, we were able to find $1.8 million for jetty maintenance. That amount falls far short of the required amount to bring jetties to a 30 per cent average state of repair.

I recall making a ministerial statement last year about the general state of our jetties after a survey of all jetties had been undertaken. I am able to confirm, in terms of the distribution of the $1.8 million, that the Brighton jetty, which as all members know was destroyed, received a State contribution of $560 000. That design work has been approved and York Constructions will commence work shortly. The Largs Bay jetty received $95 000 for pile and deck repairs, and the deck repairs have been completed. The Semaphore jetty has received $32 903 to date for pile and deck repairs, and that work is near completion. The Edithburgh jetty received $109 212 for the replacement of 14 piles, and deck repairs have been deferred. At Wool Bay 11 piles are to be replaced, and the value of that work is $97 000.

Port Noarlunga jetty received $47 227—nine piles needed to be replaced, and that work has been completed. Rapid Bay jetty received $118 874 for decking, hand rail and safety repairs—this work is to be completed in the first week in April. The Victor Harbor causeway received $268 323—60 piles and 42 crossheads needed to be replaced, and that work has been completed. Port Victoria jetty received $28 213 for the manufacture of 16 piles in this financial year—other major works have been deferred, and there is a balance of $157 000 of work required on this project. Repairs are required to the Henley Beach jetty—they will be financed in the next financial year. Grange jetty has received $4 500 to date out of an estimated cost of $64 000. That amount of $4 500 has enabled two piles to be replaced and decking repairs have been completed.

We anticipate that repairs to the Milang and Tumby Bay jetties on Eyre Peninsula will be financed during the next financial year. With field surveys and other minor maintenance and council contributions, including the purchase of a floating platform, the Government will have spent $1.8 million by the end of this year, which is a massive increase in funding for these purposes. I mentioned that this program is under way. It is an important part of the Government's initiative to return the responsibility for ownership and maintenance of jetties to local government.

The Hon. T.G. Roberts interjecting:

The Hon. DIANA LAIDLAW: Well, it was a program of the former Government, but it had no success in achieving that initiative. We have decided that the only fair and reasonable way to do it is to return these jetties to a reasonable state of repair.

The Hon. T.G. Roberts interjecting:

The Hon. DIANA LAIDLAW: The Hon. Terry Roberts asks about any funding. I have just outlined the funds that we have spent on getting the jetties back to a reasonable state of repair. In all instances, negotiations are under way to transfer ownership to local government. As members will recall, when Brighton jetty is completely rebuilt it will be owned and maintained in future by the Brighton council.

FILM AND VIDEO CENTRE

The Hon. ANNE LEVY: I seek leave to make a brief explanation before asking the Minister for the Arts a question about the film and video centre.

Leave granted.

The Hon. ANNE LEVY: The Foundation SA newsletter, which was put out a couple of months ago, lists grants to be made by Foundation SA to many arts and cultural bodies in this 1994-95 financial year. There are 40 organisations listed, and the sums range from $125 000 for sponsorship of the Adelaide Festival down to $10 000 for radio 5UV, a similar sum for the Folk Federation of South Australia, and $10 000 for the SA Film and Video Centre. I was surprised to see this as the SA Film and Video Centre no longer exists. It was, of course, abolished in June last year before the 1994-95 financial year began. I ask the Minister:

1. Will she ascertain whether this $10 000 has been given in sponsorship by Foundation SA to the Film and Video Centre; and, if so, what is it using it for since it no longer exists?

2. If it has not been awarded to the Film and Video Centre, has Foundation SA awarded it to some other organisation that is no doubt readily deserving of it; and, if so, which organisation?

3. Can I expect a reply in the near future to my question asked on 8 February regarding fees previously paid for membership of the Film and Video Centre from which people were able to benefit for only a period of five months?

The Hon. DIANA LAIDLAW: In reply to the last question, my officers reminded me today that I have that file.

I apologise to the honourable member; it got caught up with other things, so I am the one at fault for not getting back to her with the answer before this. I will make sure that that matter is acted upon promptly. I understand that the reply was prepared some time ago.

Regarding Foundation SA grants, I will undertake to contact Foundation SA and ascertain the background for this grant. While the centre no longer exists, the collection is still in South Australia and essentially is available, albeit from a different location, for public viewing by schools, film clubs and the like. It may be that Foundation SA has donated some funds towards the collection rather than the centre's activities, but I am not sure about that. I will bring back an answer for the honourable member as soon as possible.

SOUTHERN CROSS HOMES

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister representing the Treasurer a question about the ASER complex.

Leave granted.

The Hon. T.G. CAMERON: The Treasurer announced yesterday that the State Government has taken control of a one-third shareholding in the Adelaide Casino from Southern Cross Homes. Southern Cross Homes is a charity which has 40 retirement centres throughout South Australia, assets worth more than $100 million, a turnover of $30 million per year, and it employs 650 people. I understand that Southern Cross Homes does a marvellous job in South Australia. However, apparently, Southern Cross Homes has outstanding loans of $30.2 million, of which about $25.5 million relates to its ill-fated Casino investment, and this money is owed to BankSA. Under its shareholding, Southern Cross Homes was entitled to what are best termed super profits from the Casino complex, and it was receiving no dividends. Apparently, the loan was placing a financial strain on Southern Cross Homes, and that impacted on its capacity to continue to provide quality aged care.

SAMCO, the work out unit of non-performing assets, bought back the $24 million stake through the Aser investment unit trust. I understand that SASFIT is looking at all its property investments, is being restructured, and was reported in the *Financial Review* as seeking to wind down its investment and possibly float the group in a reshaped form. My questions to the Treasurer are:

1. Was the decision taken to acquire the one-third holding in the Casino based on the need to bail out Southern Cross Homes, or did the acquisition of the shareholding maximise SASFIT's capacity to achieve a higher price for its shareholding?

2. What are the interest costs that the Government will incur from BankSA by taking over the loan?

3. At a time when the Government is trying desperately to reduce debt, why did it take action to incur more debt on a deal which could prove to be speculative?

4. If the deal was undertaken on purely commercial grounds, was it supported by SAMCO and SASFIT; and will the Treasurer release full details of any feasibility study which has been undertaken which would have to provide financial details of the holding costs and likely proceeds or profits which may arise from a possible float of the group in a reshaped form or from a trade sale?

The Hon. R.I. LUCAS: I will refer the honourable member's questions to the Treasurer and bring back a reply.

ADOPTIONS

The Hon. SANDRA KANCK: I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for Family and Community Services, a question about the review of the Adoption Act.

Leave granted.

The Hon. SANDRA KANCK: In December 1993 the Minister for Family and Community Services announced that a review of the Adoption Act would take place. The review was launched in January 1994 and submissions were received up until the end of July last year. I am informed that the review was completed by September, but the results of the review will not be made available to the public. Furthermore, I am informed that the Government has said that it would be making an announcement with respect to the matter—but no precise details were specified—in early March but, as far as I am aware, nothing has been announced. My questions to the Minister are:

1. What are the recommendations in the report?

2. What does the Minister plan to do with the findings in the report?

3. Will the Minister be introducing legislation arising out of the report?

4. Will the Minister make the report public? If not, how will informed decisions be able to be made on any consequent Government legislation?

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

MABO

The Hon. T. CROTHERS: I seek leave to make a brief explanation before asking the Attorney-General a question about the recent High Court decision on Mabo.

Leave granted.

The Hon. T. CROTHERS: Very recently the Australian High Court ruled against an action taken by the Court Government of Western Australia in respect of the Mabo case and the Federal Government's native title legislation. This decision was, in the main, upheld by all seven judges of the High Court. As the decision could very well have the potential for impact beyond the borders of Western Australia, I would seek to direct some questions to this State's Attorney-General, eminent and senior man that he is. He may already have made some public statements relative to the matter, but if he did I missed them. I therefore direct the following questions to the Attorney-General:

1. Is the recent Mabo decision of the High Court being looked at by officers of the Attorney's department; and, if not, why not?

2. Will the recent decision have any potential for impacting on this State's Native Title Act so recently dealt with by this Parliament or, for that matter, any other South Australian law and statute?

3. Is the Attorney-General of the view that this decision further clarifies the original decision in the Mabo case; and again, if not, why not?

The Hon. K.T. GRIFFIN: The answer to the first question is 'Yes.' Quite obviously the South Australian Government, along with every other Government in Australia, has a vital interest in the decision of the High Court, and particularly in this State because we did intervene in respect of some issues raised in the Western Australia

challenge and believed that it was of importance that different perspectives of matters be explored before the High Court. The judgment is a complex one. My officers are looking at it, including the Solicitor-General and the Crown Solicitor. There is no final advice yet available on the impact that it will have in respect of the South Australian approach to native title. But all through the consideration of the High Court decision in Mabo this State has adopted a position, which is that we will seek to ensure that our laws are not inconsistent with the Commonwealth Racial Discrimination Act of 1975 and that, where appropriate, it is consistent with the national Native Title Act.

We have, of course, in the Bill which is presently before us relating to mining—which will go to a deadlock conference—been concerned to try to clarify some provisions of the Commonwealth Act by an alternative scheme relating to the right to negotiate under what we have described as part 9B. We have certainly had a lot of consultations with the Commonwealth officers over the past six months in relation to South Australian legislation. It is not that we believe that we ought to be subject to their direction, but the consultation has meant that the Commonwealth officers themselves have been better able to understand the approach which this Government is taking and also been led to understand that there are different perspectives, as well as interpretations, of the Commonwealth Native Title Act and that our legislation, particularly the Mining (Native Title) Act, may well, except for one or two relatively minor areas, be approved by the Commonwealth. That, of course, is important because, if the Commonwealth approves our scheme, then it will give an alternative to both native title claimants as well as to developers, the State Government and others in relation to non-claimant applications.

The Hon. T. Crothers interjecting:

The Hon. K.T. GRIFFIN: And implementation, too. Among the criticisms we have made of the Commonwealth Native Title Act is that it is complex, that it is confusing and that it creates uncertainties. Certainly, it does not resolve a number of issues because there is an overlap between a State jurisdiction's decisions and the Commonwealth decisions in relation to whether or not native title exists. That is undesirable from the point of view of the whole community—Aborigines, ordinary citizens other than Aborigines, the mining, farming and pastoral industries, along with many others. It is important to try to have certainty in the law. The approach we have taken is to consult with the Commonwealth. I do not think anyone could criticise us for the way in which we have approached the task of consultation with the Commonwealth and consultation with all interests—the mining industry, the farming industry, the pastoral industry, the Aboriginal Legal Rights Movement and other Aboriginal representative groups in this State—because in the longer term (even in the short term) we have to be able to work together in getting a resolution to very contentious issues.

The Hon. T. Crothers: My question does not imply criticism.

The Hon. K.T. GRIFFIN: No. The fact is that the assessment we have made so far of the High Court decision is that it does not have any adverse impact on the course of action which we are taking but, of course, there is the Brandy case in the High Court which dealt with the Human Rights and Equal Opportunity Commission as a tribunal which resolved disputes about discrimination. The High Court decided that the Commonwealth approach was unconstitutional. I understand from one of the clippings I read a day or so ago that the Federal Attorney-General is looking to introduce legislation in the near future to deal with the problems which that creates for the Commonwealth.

It means that a lot of the issues will now have to be resolved in the Federal Court or, if there is an alternative jurisdiction such as a State court, then to resolve issues in a State court or tribunal. But that will have an impact in relation to the national Native Title Tribunal in relation to non-claimant applications, and in relation to applications by native title claimants. Therefore, there is a need to revamp that. We have made some proposals previously to the Commonwealth for amendments that we think would help to facilitate the determination of native title issues. We will be making further submissions to the Commonwealth in the hope that when the legislation does go back to the Federal Parliament—as it will—then we can play an important part in trying to achieve some clarity and certainty in the Commonwealth legislation and consistency of approach between the States and the Commonwealth.

STATE PAYMENTS

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services, representing the Treasurer, a question about the recurrent State payments.

Leave granted.

The Hon. R.D. LAWSON: In the *Government Gazette* of 2 March 1995 the Treasurer has published a comparative statement of the payments and receipts and borrowings on consolidated account for, amongst other things, the six months ended 31 December 1993 and 1994. Under the table prepared on a cash basis for payments, details are given of payments totalling some $3 000 million in the six months ended 31 December 1994. Of the $3 000 million there are substantial amounts—for example, $624 million to the Minister for Education and Children's Services. However, the largest single line on the table is for payments under 'Special Acts' of $744 million. There is a notation on the table to indicate that these payments of $744 million under special Acts are 'payments authorised under various Acts, for example, parliamentary salaries, superannuation and pension entitlements'.

The recurrent payments under various Acts, as detailed in the estimates of receipts and payments for 1994-95, which was included in the financial papers presented by the Treasurer, show that parliamentary salaries for the whole of the year 1994-95 will be $7.3 million and parliamentary superannuation payments some $3.6 million, making in total $10.9 million, of which one expects about one half would have been expended in the first six months of this financial year. My question to the Treasurer is as follows: given that parliamentary salaries represent an infinitesimal proportion of total payments made under special Acts, does he agree that the notation in the statement is inappropriate and will he agree to have the note amended in future statements?

The Hon. R.I. LUCAS: That is an excellent question, and I certainly would be very pleased to refer it to the Treasurer and bring back a reply. I am sure we will all be very interested to see what the other 99.9 per cent of the special payments under those Acts cover and indeed why the notation refers only to the salaries and superannuation of members of Parliament. It may well be the revenge of a particular officer of the Parliament. One can only wait with bated breath for the

response. I will be pleased to refer the honourable member's question to the Treasurer and bring back a reply.

WETLANDS

The Hon. M.S. FELEPPA: I seek leave to make a brief explanation prior to asking the Minister for Transport, representing the Minister for Environment and Natural Resources in another place, a question about wetlands.

Leave granted.

The Hon. M.S. FELEPPA: One of the most precious resources in South Australia is water, as we all realise. As well as ensuring that we have water to drink and in which to bathe, we are constantly concerned about whether our farmers have enough rain. There is another important function for water in South Australia, namely, as wetlands for many native and visiting birds. The Commonwealth of Australia is a signatory to the Ramsar Convention on the preservation of wetlands. Although the State Government is not a direct signatory, it has a moral obligation to fulfil the requirements of the treaty entered into by the Commonwealth of Australia, particularly because the State Government—not the Federal Government—has control over all wetlands in South Australia.

These areas of wilderness are particularly important for migratory birds which circle the earth in different seasons. Australia is also a signatory to three separate treaties specifically concerned with migratory birds. We have an international obligation, therefore, to maintain the necessary wetlands to host these special overseas visitors. Will the Minister advise what the Government is doing to fulfil Australia's obligation to preserve wetlands under the Ramsar Convention, and in what way would the Government respond to a threat to a declared Ramsar wetland?

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

HOSPITAL FUNDING

In reply to **Hon. T. CROTHERS** (3 November).

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

1. & 2. The Medical Board of South Australia publishes a list of all registered medical practitioners as at 31 March each year which gives full details of registered specialists according to their discipline. The register currently has 1 677 specialists who are registered in South Australia.

3. The South Australian Health Commission total expenditure for 1993-94 was $1 403 million. Total payments for medical salaries and wages were $114.7 million and $26.5 million for Fee for Service payments. Medical work force constitutes approximately 1 317 FTE excluding overtime and non-employees. Of this work force approximately 370 FTE were salaried specialists and 143 FTE (561 individuals) were visiting medical specialists/special visiting medical specialists. About 15 to 20 per cent of fee for service payments would be made to specialists.

4. Salaries or hourly rates are determined by the Industrial Commission or a Cabinet approved agreement between South Australian Salaried Medical Officers Association and the South Australian Health Commission. Information is not available on total income from all sources and it would be inappropriate to seek it. Income from private medical practice is only available through the Australian Taxation Office. The amount each specialist receives through Medicare benefits is known to the Health Insurance Commission. Patient moiety is set by the medical practitioner. Income from other sources, for example, investments is also included.

5. Recently published figures, which the honourable member quotes, are for the upper percentiles and represent gross income and, therefore, the figure of an average annual income for specialists of $400 000 is quite fallacious.

6. There is an apparent lack of specialists in a few specialties in SA including radiotherapy, otorhinolaryngology and to a lesser extent ophthalmology and dermatology. However, of more concern is maldistribution with few specialists in rural practice. There is also emerging some evidence that some specialties, for example, obstetrics and gynaecology have a relatively older population and may require additional numbers to be trained in the short term. There is also a reluctance by some specialties, for example, psychiatry to seek employment in the public sector.

7. There is little evidence that South Australia has not trained sufficient specialists. However, the combination of specialists seeking employment elsewhere, maldistribution between the metropolitan and country areas and between private and public creates apparent shortages.

ROAD TRAINS

The Hon. R.R. ROBERTS: I seek leave to make a brief explanation before asking the Minister for Transport a question about road trains.

Leave granted.

The Hon. R.R. ROBERTS: Late last year the Minister announced that there was to be a trial period for road trains travelling south as far as Lochiel. A package of arrangements was made with people at Port Augusta, including funding for bridges, lights and so on. One of the important components of the package was an announcement that passing lanes would be constructed for safety purposes at strategic positions between Port Augusta and Lochiel. My questions, in relation to that and the announcement today that permits had been given to allow road trains to travel from Port Adelaide with special freight under permit, are as follows:

1. How many passing bays have been made and where are they?

2. In respect of the issuing of the permits, will the Minister explain what was the methodology for providing those permits and under what Acts did this happen?

The Hon. DIANA LAIDLAW: The statement I made in relation to the road trains from Port Augusta to Lochiel operating from 1 December last was that immediately we would be undertaking surveys of passing bays, overtaking lanes or climbing lanes and that there would be community discussion and discussion with local councils. In particular our concern was the Lochiel to Port Wakefield section, as it is the more windy, hilly section of the road. I understand that that survey work has been undertaken. I am not aware that road work has been undertaken in the past four months, but I will obtain a quick reply for the honourable member.

In terms of road trains, the CEO of the Department of Transport (the Commissioner of Highways) has delegated authority to issue permits for B-doubles in terms of A-trains—the matter I addressed today. I have approved this measure, as I have power to do under the Road Traffic Act, and they will be implemented from today with respect to companies that seek such permits and comply with very defined conditions for the operation of road trains in this State.

I should indicate that in the past four weeks I have issued to two companies in South Australia very firm letters requiring answers to infringements, with the answers to be received by my office within seven days; otherwise, their permits to operate will be cancelled. The second of these letters was sent on Monday, so there is still some time for that company to respond.

The offences that have been brought to my attention relate mainly to speeding, and I have made it very clear to all

companies that operate road trains that this is a trial between Lochiel and Port Augusta. Again, they are on notice that if offences are occurring on a regular basis from Adelaide through to Port Augusta and the industry does not get its act together and get rid of these offences and offenders from the industry or bring them into line, it will be very difficult for me to justify the conduct of the trial or its extension on a permanent basis.

Therefore, the South Australian road transport industry is working very closely with me and officers within the Department of Transport to try to weed out these offenders. Certainly, we have put companies on notice to lift their game; otherwise, their permits will be cancelled. That is a very big penalty: it means the loss of their business if their permits are cancelled. I have given them one warning and they will not receive a second.

MATTERS OF INTEREST

The Hon. CAROLYN PICKLES: I was pleased that the Hon. Sandra Kanck today raised the review of the 1988 Adoption Act, which was undertaken last year, because I intend to address my remarks to that review today. I am beginning to get very concerned about the Minister's delay in releasing this report.

I understand that the review was initiated by the Minister for Family and Community Services and involved the publication of a discussion paper in about May 1994. Submissions were received by the review committee up to the end of July 1994. The committee was to report in September of that year, but I understand that the report was received by the Minister a few weeks after the original deadline. The point is that the Minister for Family and Community Services has now had at least four months in which to consider the report. I have received letters and phone calls from constituents who are very anxious about the Government's response to the report—

The Hon. Anne Levy: So have I.

The Hon. CAROLYN PICKLES: I understand that many members have received many letters and requests for some kind of response and information about whether or not the Minister is proposing legislative change. The impression I have received from people to whom I have spoken is that probably the most sensitive issue in the whole area relates to the circumstances and extent to which adopted people and their birth parents can have access to information about each other.

Research over the past few decades has increasingly recognised the anxiety and anguish suffered by people who are denied knowledge of their blood relatives, particularly their natural parents, sometimes called their birth parents. The term 'genealogical bewilderment' is commonly used to describe this state of anxiety. Many people experience it as a nagging feeling, a feeling of not belonging, a sense of being abandoned. Obviously, this can have a debilitating effect on an adopted person's sense of self esteem and, consequently, on their quality of life.

On the other side of the equation there is often a lingering sense of bereavement and guilt on the part of those women who relinquish children at birth or soon afterwards. These feelings are possibly more acutely felt by women who relinquished their children several decades ago when society's judgment of unmarried mothers was terribly harsh. There are many stories of women virtually coming out of the delivery room still on medication and being pressured to sign the necessary papers to give up the new-born baby.

During the passage of that legislation in 1988 I talked to many of these women, and the very introduction of the Bill into Parliament made them relive the anguish they suffered in giving up their baby for adoption and not knowing the fate of their child.

It has been accepted that it is difficult to legislate in this area because of the enormous emotional consequences of adoption, both for the relinquishing parent or parents and also for the adopted child. It is an area where views of extreme passion are held on both sides. Of course, it is an area where the State needs to strive to achieve justice and a reasonable balance in legislation that regulates the procedures for adopting children and the consequences that follow.

The 1988 legislation represented a considerable departure from previous laws and was, I believe, an Australian first. It was introduced by a former Health Minister, Dr John Cornwall, following a very lengthy select committee process. I am sure that any members who were on that select committee—and I am unsure whether any present members in this Chamber were—will recall the anxiety and anguish of the people who gave evidence.

It is about time that the Minister for Family and Community Services made the decision to make the report publicly available. I cannot really believe that it should be some kind of secret document. It is of very great importance, and the Minister needs to make the report freely available. The community should be allowed to take in any recommendations contained in the report, and I believe that the community has a right to see the contents of it.

I also understand that the Attorney-General has been asked to look into the implications of the report, I guess from any legal points of view, and this would imply that some legislative changes may be proposed. I think it is about time that the Minister for Family and Community Services got his act together and made this report publicly available at the very first opportunity so that these people who have been waiting for months can get some kind of peace.

The Hon. ANNE LEVY: I wish to use my time today to make some comments on some of the facts that have been released in a publication from the Australia Council entitled 'But what do you do for a living?', which is an economic study of Australian artists. Some information has been presented in the newspaper but, of course, that can only be a small sample of the wealth of information presented in this very valuable document.

The study showed that there were about 40 000 artists covering many different art forms in Australia. They were divided up by State and comparisons made between the proportion of artists in that State and the population in that State. It is certainly interesting to note that New South Wales and the ACT together had 44 per cent of the artists, whereas they have only 36 per cent of Australia's population.

Victoria has 26 per cent of the artists and 26 per cent of the population; in other words, they are on what would be expected on a per capita basis. South Australia has 9 per cent of the artists but only 8 per cent of the population, so we are ahead on a per capita basis, although not as far ahead as New South Wales. Queensland only has 8 per cent of the artists, whilst it has 17 per cent of the population of this country,

showing a marked deficit in artists in Queensland. It certainly suggests to me that artists, although they are frequently unemployed, do not go north for the warmth when they become unemployed. Western Australia also is under-represented, having only 7 per cent of the artists, whilst having 10 per cent of the population. We can be proud of the fact that South Australia is over represented on a per capita basis. These data refer to the 1992-93 year, and the Liberal Government can take no credit for them whatsoever.

Many of the findings relate to the earnings of the artists, and it is very sad when we see the low earnings which these artists receive, particularly as a survey of a very large number of artists showed that they are far better educated than the average person in the population. In fact, their educational qualifications compare more than favourably with those of managerial and professional occupations in society, while their incomes certainly do not match those. The incomes are presented mainly as median incomes rather than means. Some means are given, but because there are some extremes, the means are greatly inflated and give no idea of what the average artist is receiving. We can see that the median gross income for all artists is $20 000 a year which compares with managerial and professional people in society, whose median income is $37 500, nearly twice that of the artists with the same level of educational qualification.

Of course, the artists do not gain all that income from their creative work. In fact, their work is subdivided into their main creative activity, all arts related work which will include teaching in their art form, and their total income. For artists all around this country, the median income received for their prime creative work is $5 000 per year. Their total arts related income, which will include teaching and other arts related activity, is only $9 400. As I say, their total median income is only $20 000 per year. If we look at the data on women artists, it is even more depressing. The male/female ratio is approximately 50 per cent in the arts community, and their educational levels are similar. If anything, the women artists have more educational qualifications than their male counterparts. The survey shows they work as long as—

The PRESIDENT: Order! The honourable member's time has expired.

The Hon. SANDRA KANCK: Yesterday the Premier announced the allocation of $112 million of State money for the construction of a third arterial road. This glorified expressway he has renamed the Southern Expressway instead of the third arterial road. The Democrats are calling it the 'Darlington Chokeway'. It does raise the question of where the money comes from. Has it come from the health funding cutbacks? It is very interesting to consider that, in the past 12 months in health, $60 million has been lost, mainly to our hospitals, yet we can find $112 million to build a road. At the same time, some of our hospitals are looking at having to be amalgamated or privatised to survive.

The reality of this decision is that it is about short term advantage for a few Liberal MPs in marginal seats in the south. That is the up side for them. What about the down side? On Friday, I was driving through the Sydney Harbor tunnel with some people, and I asked them how the tunnel was working. They said, 'Once you manage to get into the tunnel during the daytime, it worked well. But in peak hours, travelling southwards in the morning, there is a one kilometre queue to get into the tunnel, and the reverse applies on the way out in the afternoon.' The reality of road funding and building freeways is that the more roads you provide, the more cars use them. The space is always used up. That has been shown not just in Sydney but in the international experience.

The Democrats predict that the 'Darlington Chokeway' will create extra health costs in terms of extra accidents that will have to be dealt with and the impact this will make on our hospitals. It will mean more cases of asthma and emphysema in the suburbs along the South Road, particularly those suburbs north of Darlington. There will be environmental effects. Once this is built, we are talking about another 7 000 cars per day. There will be more CO_2 going into the atmosphere. As well, there will be more traffic jams once people get onto South Road at Darlington, which will in turn create more CO_2.

The Premier said yesterday that he was improving State transport infrastructure, when the Government has not even considered the most efficient method of transport—and when I say 'efficient', I mean energy wise, environmentally and socially—that should be considered for the south, and that would be the construction of a light rail system to Seaford. Such a system would be virtually self funding. The Government should not be taking decisions that make us more car dependent. This is living in the past and is reminiscent of the thinking of the 1960's. Building freeways is a high financial input project which will result in more cuts to other services in this State such as health and education. It is therefore a socially irresponsible act. The decision to build and fund this freeway is just plain stupid.

The Hon. J.F. STEFANI: Today I would like to speak about the Football Park and Adelaide Oval issue which has recently received considerable publicity in the media. In the words of Mr Max Basheer, President of the South Australian National Football League (SANFL) and Chairman of the South Australian Football Commission, this issue has been an unwarranted and unnecessary distraction to the SANFL. In spite of the very public campaign, the SANFL has studied the proposal of the South Australian Cricket Association (SACA) on a number of occasions. The South Australian Football Commission discussed the issue again on 2 February 1995 and a meeting of the SANFL the same day unanimously accepted the commission's recommendations that no AFL football be played at the Adelaide Oval. The AFL Commission fully endorsed that decision.

As far as the South Australian Football Commission, the SANFL and the AFL Commission are concerned, the issue is now over. No AFL football club will be based at the Adelaide Oval and no AFL football will be played there. There has been an emotional publicity campaign that does not stand up to critical analysis. It is fair to say that the SACA was attempting to have football fund its expansion plans at the Adelaide Oval. Despite its claims to be acting in the best interests of the football and the football public, the association has attempted to override the SANFL. Nobody disputes that the Adelaide Oval is an attractive location or that football followers would like to see AFL football played there, but the cost is simply too high.

The SACA best offer falls $17 million short of the revenue that will be generated for football over the next 10 years by playing AFL football at Football Park. South Australia's nine league football clubs should not be expected to forgo close to $2 million a year to finance the redevelopment of the Adelaide Oval. In addition, the prospect of two major sporting stadiums in a city the size of Adelaide is totally unrealistic. Commercial commonsense dictates that there are

simply not enough funds in this State for sponsors, advertisers and supporters to commit themselves to supporting one AFL team at Football Park and another at Adelaide Oval. Even a city the size of Melbourne, with three times Adelaide's population, cannot support football at the MCG and Waverley Park. The AFL has confirmed that the redevelopment of the MCG has had a critical financial impact on Waverley Park membership, advertising and corporate support. Despite the comments from the South Australian Cricket Association, it has only one reason for wanting football at the Adelaide Oval—a push for funds for the expansion of its plans and for the interest of cricket and not football.

Against that single reason, South Australian football has a host of reasons for continuing to play all AFL matches at Football Park. I would like to incorporate into the record a few comments made by some football identities. Bob Hank says:

> Undoubtedly Football Park is the Mecca of football in Adelaide and has earned the title of one, if not the best, of the best ground surfaces and stadiums in the whole of Australia. I can understand the wishes of some Adelaide citizens in suggesting sharing the spoils of AFL games, but this is entirely contrary to the philosophy of having Football Park as a viable and self-supporting venue.

Michael Taylor says:

> Football Park is the home of football in South Australia. It is known as one of the best stadiums to play football on in Australia and is the envy of sporting organisations.

Neil Kerley says:

> As a player and coach with over 40 years' experience, I have played and watched football on every main football ground in Australia. Our own Football Park has without question the best playing surface and spectator accommodation in Australian football. Tremendous foresight and planning has ensured that all money earned by the magnificent facility is distributed to all levels of football in South Australia.

Finally, Graham Cornes says:

> The SANFL and South Australian football public by themselves have made Football Park the finest football stadium in Australia. All areas of football benefit directly from the success of the complex after what was, for some, a very traumatic and doubtful period in its development. The long-term future of—

The PRESIDENT: Order! The honourable member's time has expired.

The Hon. L.H. DAVIS: I want to reflect on the development of the financial markets post war in Australia. In the burgeoning economy that inevitably accompanied post-war economic growth in Australia, the banks were not the only people offering finance. In the 1950s and 1960s, through a quirk of a High Court decision, finance companies came into operation. Through the 1960s and 1970s in particular, finance companies, often subsidiaries of the major banks, were major providers of finance.

The building societies were long established, going back 100 years, but nevertheless in the late 1960s were very small institutions. The Co-op Building Society in 1971, little more than two decades ago, had a capitalisation of nearly $17 million. Today it has converted into a bank and has a capitalisation of over $2 billion. Credit unions are moving in to fill the vacuum created by the building societies that have converted to banks. We have had an emergence of regional banks around Australia to complement the major banks—the ANZ, National Bank, Westpac and the Commonwealth Bank. We have seen in Western Australia the Challenge Bank; in Melbourne, the Bank of Melbourne; in Queensland, the Bank of Queensland and Metway; in New South Wales, St George and Advance Bank; and here in South Australia, the Adelaide Bank (formerly the Co-op Building Society).

The State banks, instrumentalities of State Governments in all mainland capitals, either have been merged or are in the course of being privatised. We have seen a remarkable transformation in banking services. Not so long ago banks could not offer clients money at call facilities: you could not invest in a bank on a daily basis and withdraw money in large licks. That change in services has been accompanied by increasing fees as banks seek to maximise profits for shareholders.

The other way in which money has been brought into the system is through the share market. A decade ago, less than 6 per cent of all Australians owned shares; today that figure has increased quite dramatically to nearly 20 per cent, and that has been brought about by the privatisation of the Commonwealth Bank, the Commonwealth Serum Laboratories and the refloating of Woolworths, and the forthcoming float of Qantas will also encourage first-time shareholders to invest in their country.

It is a pleasing trend to see, for example, in a major company such as Coles, that there has been a doubling in the number of shareholders; that in 1992 Coles had 52 000 shareholders and today it has over 102 000 shareholders, largely, I suspect, because not only is it seen as a solid company to invest in, because retailing is a relatively safe industry to be in, but also because shareholders who are keen shoppers can get 5 per cent, 7½ per cent or 10 per cent off their grocery bills by shopping at Coles-Myer and its related stores such as Target, Katies and Liquorland.

I am pleased to see, in this changing financial sector in Australia, that people have recognised that investing in shares has helped the economy to grow and also has proved to be an excellent investment for many shareholders. In South Australia we are about to see the sale of the Bank of South Australia. That has been receiving headlines in recent times. It does appear that it will be a trade sale rather than a float, and it does appear that a major bank, either an Australian bank or a major off-shore bank, will be the holder of the Bank of South Australia in future. However, I was pleased to note that the Federal Government recently agreed to allow the name 'Bank of South Australia' to remain in the event of a takeover; in other words, the franchise, the badge, will remain even though the ownership will change. The changing financial markets in Australia over the past three decades—

The PRESIDENT: Order! The honourable member's time has expired.

The Hon. BARBARA WIESE: Today I would like to talk about the education of boys and the campaign that is now mounting to find ways to improve education outcomes for boys. I have been watching the debate developing in the media for some time, and comments made recently by the Minister for Education and Children's Services prompt me to raise the issue here.

I am sure that all of us would agree that if boys are underachieving in various areas of education steps should be taken to address their problems. What concerns me, however, is the way in which this issue has been raised by various people, including the Minister, and what the implications might be of a campaign based on the views being expressed. What do I mean by this? If you listen to many of the proponents of new programs for boys, what they are essentially saying is: first, girls are now doing better than boys therefore

we can switch attention back to boys; secondly, the reason why many boys are slipping educationally is the fault of feminist bureaucrats and teachers in the education system who have given preference to girls; and, thirdly, the reason nothing is being done for boys is because the 'gender equity police' (and those words were used by the Minister here last week)—that is, women—are not taking up the cause to make it happen.

Frankly, after all these years of debate on gender equity issues these sentiments make me despair. There is no doubt that the changes in the education system that have led to better performance among girls are largely due to the efforts of women in the education system and women as parents. They saw what was wrong, they worked long and hard to get these issues on the education agenda, and they have had to work equally hard to keep them there because despite the lip service from the mostly male education leaders they have never really embraced these issues. They have tolerated them because it is 'small p' politically difficult for them to do anything else. So, yes, it is women who largely have achieved better results for girls. Whether the results are yet as outstanding as they should be is arguable. Those women have had to fight within the system. They have had to question themselves professionally and as women. They have had to go to the very heart of what it is to be a woman and to re-examine notions of femininity, sex role stereotyping and the effect of socialisation on us all. It has been hard and painful, both professionally and personally, for many who have committed themselves to this struggle, but they did it because it was right and it needed doing. At the end of the day only women could really address those problems.

So, to have men like the Minister now saying, in effect, 'women did it for girls, now come and do it for us' demonstrates a complete misunderstanding of what it has all been about. The fact is that research on boys' education shows that the problems for boys are not just sex role stereotyping, as the Minister tried to suggest by lambasting women who do not complain about advertisements that demean men; the real problem lies with the community, that is, with men's ideas about what is necessary to be masculine. Crudely put, research shows that macho-aggressive behaviour is what it is all about, that communication and learning how to deal with people do not fit the image. These characteristics are disastrous in a learning environment. That is a male problem, and it will change only if men are prepared to do the hard work on behalf of themselves and boys. Taking on and examining why current attitudes on masculinity are destructive and damaging for boys is what it is about. Men have to do that just as women had to do it to change the circumstances for girls. If men do address those issues, the rewards for all, whether men or women, will be enormous. These issues need to be tackled properly and in a way that does not simply redirect resources from girls to boys but adds a new dimension to education. That is what I would like to see the Minister for Education and Children's Services talking about and doing something about.

The Hon. CAROLINE SCHAEFER: As we all know, the business of campaigning before an election is an expensive exercise for all political Parties. Most of us have been involved at some time with trying to raise much needed funds. The Liberal Party is dependent upon funds raised by its members and voluntary donors. In the past few weeks, some loopholes in the Federal legislation requiring disclosure of donors have been found and acted upon. There are always accusations and counter-accusations of 'hands in pockets' when such disclosures are made. Under these circumstances, I thought it may be of interest to members today to hear something about how the Federal Labor Government raises its funds. I have a table of donations made to the Labor Party in 1992-93 by certain unions and, as chance would have it, grants received from the Federal Labor Government by those same unions. It makes interesting reading.

The following is a list of some of these unions, their donations to the ALP and the grants those same unions received in the financial years 1991-92 and 1992-93: the Liquor and Hospitality Workers' Union—donation $254 151, grants $222 169 (1991-92) and $575 048 (1992-93); the Australasian Meat Industry Employees' Union—donation $10 040, grants $57 000 and $122 163; the Australia Rail, Tram and Bus Industry Union—donation $38 500, grants $170 000 and $40 499; the Electrical, Electronic, Plumbing and Allied Workers Union—donation $140 648, grants $8 869 and $100 000; the Construction, Forestry and Mining Energy Union—donation $314 150, grants $541 774 and $1 163 682; the Automotive Metals and Engineering Union—donation $306 764, grants $1 070 759 and $683 713; the Printing and Kindred Industries Union—donation $44 000, grants $75 000 and $100 000; the National Union of Workers—donation $266 598, grants $558 928 and $1 219 518; the Shop, Distributive and Allied Employees' Union—donation $446 760, grants $25 000 and $65 000; the Transport Workers' Union—donation $76 200, grant $67 681; the Finance Sector Union—donation $8 575 (they were a bit mean), grant $100 000; the Australian Workers' Union—donation $56 061, grants $325 919 and $270 000; the Australian Municipal Transport and Energy, Water, Ports, Community and Information Services Union—donation $83 875, grants $320 000 and $470 000; the Health Services Union—donation $45 912, grants $46 500 and $50 000; the Musicians' Union—donation $84 850, grant $140 000; the Tasmanian Trades and Labour Council—donation $30 000, grants $135 130 and $225 548; and other donations of $4 000, making the total donations by this group of unions in the 1992-93 financial year $2 211 084, and for this they received grants totalling $8 949 900 for the financial years 1991-92 and 1992-93. My only comment is that the Labor Party certainly looks after its own.

SELECT COMMITTEE ON THE REDEVELOPMENT OF THE MARINELAND COMPLEX AND RELATED MATTERS

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I move:

That the time for bringing up the committee's report be extended until Wednesday 31 May 1995.

Motion carried.

SELECT COMMITTEE ON THE CONTROL AND ILLEGAL USE OF DRUGS OF DEPENDENCE

The Hon. R.I. Lucas, for the Hon. BERNICE PFITZNER: I move:

That the time for bringing up the committee's report be extended until Wednesday 31 May 1995.

Motion carried.

SELECT COMMITTEE ON THE PROPOSED PRIVATISATION OF MODBURY HOSPITAL

The Hon. BERNICE PFITZNER: I move:

That the time for bringing up the committee's report be extended until Wednesday 31 May 1995.

Motion carried.

SELECT COMMITTEE ON ALTERING THE TIME ZONE FOR SOUTH AUSTRALIA

The Hon. CAROLINE SCHAEFER: I move:

That the time for bringing up the committee's report be extended until Wednesday 31 May 1995.

Motion carried.

SOCIAL DEVELOPMENT COMMITTEE: UNEMPLOYMENT

Adjourned debate on motion of Hon. Bernice Pfitzner:

That the report of the Social Development Committee on long-term unemployment and the adequacy of income support measures be noted.

(Continued from 15 March. Page 1523.)

The Hon. BERNICE PFITZNER: In closing the debate I note that, in fact, there have been no contributions from other members, so they must agree with all the things that are being put into the report. As I have not had the opportunity to thank any of the contributors, I thank the Social Development Committee staff who have put in a lot of time and energy, and in particular the research worker who put in the most work and time. The topic of unemployment has been with us for a long time and, I guess, we have discussed it *ad infinitum* in private. As I have said, this particular report is an overview of the Federal and State initiatives to try to address the issue of unemployment.

The Federal Government resources, as I have said, are far greater than we have in this State and I hope, therefore, that the Federal Government will address this issue of unemployment with great fervour because, in particular, it will affect our next generation—our youth of tomorrow, our adults of tomorrow. I hope that the Federal Government will try to reduce the levels of unemployment from the persisting level of the current time of 9.8 per cent to perhaps 2 per cent which we see in the South-East Asian nations around us. Therefore, I urge members to note and read this report.

Motion carried.

SOCIAL DEVELOPMENT COMMITTEE: EMERGENCY CARE DEPENDANTS

Adjourned debate on motion of Hon. Bernice Pfitzner:

That the report of the Social Development committee on emergency care of dependants be noted.

(Continued from 15 February. Page 1170.)

The Hon. DIANA LAIDLAW (Minister for Transport): I make a brief contribution to this important report prepared by the Social Development Committee when it addressed the subject of emergency care of dependants. I recall supporting this motion at a time when the Government of the day in November 1992 was addressing the Industrial Relations (Miscellaneous Provisions) Amendment Bill. That Bill addressed a whole lot of issues, including the vexed question of outworkers, and at the time it was considered that we should be seeking by amendment to address the question of emergency care of dependants. I have held the view for many years that we should have family-friendly workplaces, and in more recent times we have seen managers begin to understand that people in the work force are also members of families and can often have things on their mind other than solely the workplace.

While I would not want to condone any thought that when one is at work they should not be doing the best by their employer and their other workmates, it is true that we are not born and do not live simply for work. Although, as a member of Parliament, I sometimes think that a job has become a life, that is not the case for the majority and should not necessarily be for members of Parliament. Although the hours we spend at work are a relatively small part of our waking and sleeping hours each day of the week, it is amazing how the workplace has moulded family life and how the inflexibilities within the award structure have also made it extremely difficult for people to accommodate both a family life and a work life in a rewarding manner. Certainly that is the case for many women, and married women with children, as we know, have been increasingly entering the workplace in recent times.

I understand that the report highlights the great increase of women in the workplace, especially married women, from 8 per cent in 1947 to 53 per cent in 1994 and this does lead to increasing problems of managing work responsibilities with the care of dependants, particularly the emergency care of dependants. This will continue to be a problem in the workplace while women continue to be the people who generally bear the majority of responsibility for families and home duties. As other speakers have noted in this debate, it is true that women in the work force have often been referred to as bearing double burdens—the burdens of the workplace and the burdens of home. For most women, however, they would wish both of those activities to be a joy, not a burden, and it is possible to ensure that that is so if we find that there is greater flexibility in the way we operate our work force without diminishing for a moment the commitment that should be made to that work force.

In terms of management practices, study after study has proved that when the workplace, and management in particular, begin to understand the realities of life for employees—that they do have other responsibilities, that they may have children and those children may become ill or an older family relative or parent may need attention from time to time—the workplace does work much more effectively in terms of performance and productivity and then profit.

I know of work done by the Australian Institute of Family Studies—an Institute established by Malcolm Fraser when Prime Minister two decades ago—which showed the number of people who seek to use their sick pay not for their own benefit or because they are sick but simply because they have a child or older family member who is ill or requires attention. It has been reported that this form of absenteeism is condoned by many managers in the workplace, yet that is a poor way of managing the real issues, namely, by condoning a practice about which we should be more honest and address up front. The provisions in awards, enterprise bargaining and general work practices are not flexible enough to deal with all the factors that influence our responsibilities.

The Government's view is that changes have to be made, including encouraging access to special leave for caring for

sick dependants. I note that the Social Development Committee does not recommend that special leave should be legislated but that it should be dealt with at the enterprise level, which is essentially a recommendation that I would support.

Freeing up the industrial relations system, decentralising decision making and encouraging employers and employees to negotiate more flexible work arrangements that suit all purposes and suit the ultimate objective of profitability can certainly be achieved. We have seen that being effective in a number of State and Federal enterprise bargains that have been struck in recent years. Certainly the industrial relations legislation that we passed through this Parliament last year highlighted the importance of inserting in enterprise bargains the issue of special leave. That was a breakthrough in terms of this or any Parliament's recognition of this important issue.

Workplaces have traditionally been designed for men who were not expected to have family responsibilities, just as the average wage was essentially designed for men after the Harvester judgment back in 1907 which assumed that all men in the work force had a dependent wife and children. As I indicated a moment ago, that does not reflect the practice today when 53 per cent of married women are in the work force either in full-time or part-time work.

So, there is a need for cultural and workplace change in our communities, and employers are beginning to recognise this fact. Certainly, some have started recognising the value of having family friendly workplaces, and workers who find that they do not have to lie, cheat or tell untruths, which adds an element of worry and deceit, ensures that the workplace is a much more comfortable environment in which to work and adds to the degree of honesty and confidence required between managers, employers and employees within that workplace. We still have a long way to go.

This report is an important one in highlighting a number of the issues involved, and I congratulate everybody on the committee for the quality of the report. The report has highlighted the need for services for mildly sick children in home care as well as flexibility in work arrangements for workers who are responsible for sick dependants. It is a comprehensive report which I hope will encourage the debate on this important issue in our community and which will lead to effective workplace change, so enabling all employees to have a more rewarding relationship with their families and workplace and ultimately one that will encourage a more profitable workplace as performance is high because everybody is being mature about the multiple responsibilities that we have as human beings both to the workplace and to the family.

I commend all who have contributed to this report and debate and I look forward to an update on this matter in a few years time from the Social Development Committee, because it will be interesting for us to note in this place the effectiveness of the Government's industrial relations legislation in terms of the family leave arrangements as negotiated through enterprise bargains. I commend the committee for its report to date.

The Hon. BERNICE PFITZNER: In closing the debate, I thank my parliamentary colleagues in this place for their contribution, namely, the Hons Sandra Kanck, Terry Roberts and Diana Laidlaw. In noting the fifth report of the Social Development Committee on family leave provisions for the emergency care of dependants, we reflect on the importance of recognising the needs of employees to care for their sick dependants and the needs of employers to be able to run efficient and profitable enterprises. Taking into account some of the comments of the members, it is observed that on the one hand some of the recommendations were deemed to be too prescriptive, whilst on the other it was lamented that standards were not recommended which could also be seen to be prescriptive.

The suggestion that we follow up private companies where enterprise agreements appear to be working is a good idea and, as the Hon. Ms Laidlaw suggests, the Social Development Committee should update and follow up some of these ideas. It is always very disappointing that, when a report has taken a lot of time, effort and research, and culminates in an article of high calibre (thanks mainly to the efforts of staff), not more media coverage is given so that more people will be cognisant of it is contents. However, if it had been about dollars and cents issues it would be considered more important. It never ceases to amaze me how the media constantly considers economic and financial issues to be more important and more powerful than social issues that can and will permeate the fabric of our daily lives.

The care of a sick child or sick aged relative in times of emergency is something of which surely everybody must have had experience and must be able to identify with the difficulties invoked and involved. The final three recommendations—11, 12 and 13—deserve a little more attention, as they are proactive, rather than reactive, recommendations. I will quickly enumerate and describe them. Recommendation 11 states:

> The committee recommends that there be an investigation of funding options available to pilot the care of sick children in their own homes.

Recommendation 12 is as follows:

> The committee recommends that further consideration should be given to the ongoing provision of facilities in child-care centres for the care of mildly ill children.

Recommendation 13 states:

> The committee recommends that there should be a further exploration of other service models for providing emergency care.

Further information indicates that preferred service options were a facility in a child-care centre, a facility in family day care—usually it would be at the family day care that the child is already attending—and in-home care, that is, in the child's home. As this issue covers many Government departments, this report has been sent to the Minister for Industrial Affairs, the Minister for Education and Children's Services and the Minister for Family and Community Services and for the Ageing. We suggest that the various Ministers take up some, if not all, of the 13 recommendations and implement them in the workplace so as to achieve a better attitude for the workplace and in the family home. Again, I commend the report to members.

Motion carried.

LIQUOR LICENSING (MISCELLANEOUS) AMENDMENT BILL

The Hon. Diana Laidlaw, for the Hon. K.T. GRIFFIN (Attorney-General), obtained leave and introduced a Bill for an Act to amend the Liquor Licensing Act 1985. Read a first time.

The Hon. DIANA LAIDLAW: I move:

That this Bill be now read a second time.

This Bill seeks to make a number of miscellaneous amendments to the Liquor Licensing Act 1985, among other things, to grant licensees the power to bar patrons from licensed

premises, on reasonable grounds, for a period of up to three months. If a licensee bars a patron for a shorter period, that is, up to a month, a review of the order will not be necessary. However, if the barring is for a period up to three months or the patron has been barred from the licensed premises for a total period of one month or more during the preceding three months, then the Bill provides that the Liquor Licensing Commissioner may review the order. The Commissioner may confirm, vary or revoke the order and his decision is not reviewable. This matter will be examined in closer detail later.

This Bill also makes it an offence for certain persons to sell or supply liquor to an intoxicated person and rectifies an existing deficiency in the Act by making provision for service of notices or other documents on persons who are not licensees but are covered in the existing legislation. Further, there are also a number of other amendments, including to prohibit minors from entering certain licensed premises after midnight, and that a person's knowledge, experience and skills be taken into account by the licensing authority when determining whether a person is fit and proper to hold a licence or to be approved under the Act. The Bill also makes provision for the licensing authority to direct as a condition of the grant of the licence that the person undergo approved training within a period specified by the authority. This latter amendment has arisen as a result of an approach by Tourism Hospitality Training SA to have the Act amended to provide for compulsory training of all new licensees. The concept of compulsory training for those persons who cannot demonstrate appropriate knowledge, skill and experience is supported by the Hotel and Hospitality Industry Association, the Licensed Clubs' Association, Hospitality and Miscellaneous Workers Union, the Motor Inns and Motels Association, the SA Restaurants Association, the Australian Tourism Industry Association, Shop and Distributors Association and the Catering Institute of Australia.

Rather than prescribing standards in the Act, it is suggested that the Act be amended to require the licensing authority to consider a person's knowledge, experience and skills in determining whether a person is fit and proper to hold a licence or to be approved under the Act. This is an extension of the current requirement that the authority must consider a person's creditworthiness in deciding whether the person is fit and proper.

It is recommended that the authority have absolute discretion to determine this aspect of whether the applicant is fit and proper. Rather than excluding persons who do not meet the required standard from entering the industry, which would discriminate against various ethnic and other disadvantaged groups, it is recommended that the authority have the discretionary power to direct that an applicant undergo approved training within a specified period of being licensed, depending on the individual circumstances.

The amendment to allow for the barring of patrons, mentioned earlier, arose in response to a request from the Hotel and Hospitality Industry Association to allow for the barring of patrons from licensed premises. The association has raised concerns regarding the current 24-hour barring period pursuant to section 128 of the Act. This period allows an unruly patron to return to the same premises after a short period and potentially create further difficulty.

At the launch of the Safe Profit Project on 14 February 1994—a project collaboratively undertaken by the Crime Prevention Unit and the Hotel and Hospitality Industry Association—it was indicated that the legislation would be reviewed in the light of the industry's request. That review has been undertaken and a decision made that an amendment to the Act is appropriate to allow for a longer period of barring of patrons who are committing an offence or behaving in an offensive or disorderly manner or on any other reasonable ground.

At present, at common law, a licensee has a right to refuse admission to a person on reasonable grounds, and if the person persists in seeking entry or refuses to leave the premises within a reasonable period of being asked to do so then that person becomes a trespasser at law.

There has been some confusion within the industry as to the common law rights of a licensee to refuse admission. The police have also been unclear as to enforcement of these rights and have advised officers that, as the law in this area is uncertain, no action should be taken apart from preserving the peace or under section 128 of the Act. The uncertainty in this area is unsatisfactory and should be resolved legislatively to put the matter beyond doubt.

It is the Government's view that, as a period up to one month is a relatively short time, there is no necessity to provide for a review by the Liquor Licensing Commissioner. However, the Bill allows for a review by the Commissioner where a patron is barred for a period exceeding one month or where a person has been barred from the licensed premises for a total period of one month or more during the preceding three months. This will prevent a publican imposing a month barring and at the conclusion of that period immediately imposing another month.

While the above amendment will provide much needed protection for responsible members of the industry, it will not alleviate the problems created by licensees who continue to serve intoxicated patrons on their premises. Prior to an extensive review of the liquor licensing laws in South Australia in June 1984, there was a provision in the Licensing Act 1967 which made it an offence for any licensed person or any person in his [or her] employ, to supply or permit to be supplied, any liquor to any person in a state of intoxication. This offence was removed after the review on the ground that there were a number of difficulties with ascertaining whether or not a person was intoxicated.

Since that time, developments overseas and interstate indicate that this is no longer the case and law enforcement and health agencies have increasingly advocated that it be an offence to sell or supply liquor to an intoxicated person. As members will note, there is no definition of 'intoxicated' in the existing legislation, but most jurisdictions have developed practical guidelines for use by both the industry and the policing authorities. These guidelines include slurred speech, aggressive behaviour, unsteady on feet and bloodshot eyes.

It should be made clear that this provision is not intended for use in a situation where a patron slightly exceeds .05 blood alcohol level and is still in control, but in situations where it is clear that a person is adversely affected by alcohol. The new offence will be a summary offence, attracting a fine of $2 000. I commend this Bill to members. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

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

Clause 3: Amendment of s. 58—Certain applications to be advertised

This clause amends section 58 of the principal Act. Section 58 requires an application for the grant of a licence (other than a limited licence) to be advertised in accordance with the section. This amendment exempts an application for a temporary licence from this requirement.

Clause 4: Amendment of s. 60—Factors to be taken into account when determining whether a person is fit and proper to hold licence

This clause amends section 60 of the principal Act. Section 60 currently requires a licensing authority to consider the credit worthiness of a person in determining whether that person is a 'fit and proper person' to hold a licence (or to occupy a position of authority in a body corporate that holds a licence). This amendment requires the licensing authority to also give consideration to certain other factors in determining whether a person is a 'fit and proper person' for some

purposes under the Act. In particular, where—

(a) the licensing authority is to determine whether a person is a fit and proper person to hold a licence and the person is to personally supervise and manage the business conducted under the licence; or

(b) the licensing authority is to determine whether a person is a fit and proper person to occupy a position of authority in a body corporate that holds (or is to hold) a licence and the person is to be actively involved in the supervision and management of the business conducted under the licence; or

(c) the licensing authority is to determine whether a person is a fit and proper person to be approved as manager of the business conducted under the licence,

the authority must consider whether that person has the appropriate knowledge, experience or skills for the supervision and management of the business.

Clause 5: Amendment of s. 61—Applicant must be fit and proper person

This clause amends section 61 of the principal Act. Section 61 requires an applicant for a licence to satisfy the licensing authority that he or she is a fit and proper person to hold the licence (or, in the case of a body corporate, that each person who occupies a position of authority in the body corporate is such a fit and proper person). This amendment provides that if an applicant for a licence is to supervise and manage the business conducted under the licence (or is to be actively involved in the supervision or management of the business) but does not have the appropriate knowledge, experience and skills for that purpose, the licensing authority can nevertheless grant the licence on condition that the person undertake specified training within a specified time after the grant of the licence.

Clause 6: Amendment of s. 70—Applicant for transfer must be fit and proper person

This clause amends section 70 of the principal Act. Section 70 requires an applicant for the transfer of a licence to satisfy the licensing authority that he or she is a fit and proper person to hold the licence (or, in the case of a body corporate, that each person who occupies a position of authority in the body corporate is such a fit and proper person). This amendment provides that if an applicant for a licence is to supervise and manage the business conducted under the licence (or is to be actively involved in the supervision or management of the business) but does not have the appropriate knowledge, experience and skills for that purpose, the licensing authority can nevertheless grant the licence on condition that the person undertake specified training within a specified time after the grant of the licence.

Clause 7: Amendment of s. 78—Approval of management and control

This clause amends section 78 of the principal Act. Section 78 empowers the licensing authority to approve a natural person as manager of a business and to approve the assumption by a person of a position of authority in a body corporate that holds a licence. This amendment provides that the authority can only give such approvals if satisfied that the relevant person is a fit and proper person. The amendment also provides that if the person seeking approval as a manager or to assume a position of authority in a body corporate that holds a licence is to supervise the business conducted under the licence (or is to be actively involved in that supervision or management) but does not have the appropriate knowledge, experience or skills for that purpose, the licensing authority can nevertheless approve the person and impose a condition of the licence that the person undertake specified training within a specified time of obtaining the approval.

Clause 8: Amendment of s. 80—Devolution of licensee's rights in certain cases

This clause amends section 80 of the principal Act. Section 80 provides that where a licence is surrendered or revoked and a landlord, mortgagee or other person satisfies the authority that he or she will suffer loss as a result, the licensing authority can grant that person a temporary licence of the same class, subject to a condition that the licence will expire at the end of a period (not exceeding six months) fixed by the authority. Such a temporary licence can be converted to an ordinary licence (by revocation of the requirement that it expire) if the authority is satisfied that the person who is then to hold the licence is a fit and proper person (or in the case of a body corporate that each person in a position of authority in the body corporate is a fit and proper person). This amendment provides that if the person who is to hold the licence (on revocation of the requirement that it expire) is to supervise or manage the business conducted under the licence (or is to be actively involved in that supervision or management) but does not have the appropriate knowledge, experience and skills for that purpose, the licensing authority can nevertheless grant the application to revoke the expiry of the licence and impose a condition that the relevant person undertake specified training after the grant of the application.

Clause 9: Amendment of s. 87—Licence Fee

This clause amends section 87 of the principal Act. Section 87 provides for the payment of licence fees. Subsection (9) provides that where a licence fee calculated in accordance with the section falls below a prescribed minimum fee, that minimum fee is payable instead. This amendment removes that minimum fee in the case of a restricted club licence.

Clause 10: Amendment of s. 90—Payment of licence fee

This clause amends section 90 of the principal Act. Section 90 deals with the payment of licence fees. It provides that a licence fee is payable on the first day of the licence period in respect of which it is payable, but can be paid in quarterly instalments. This amendment provides that where a licence fee is equal to or less than the prescribed minimum fee, the licence fee cannot be paid in quarterly instalments. It has to be paid in a single instalment on or before the first day of the licence period in respect of which it is due.

Clause 11: Insertion of Division 7A of Part 6

This clause inserts Division 7A of Part 6 into the principal Act. The new Division consists of one section, section 115A, which makes it an offence for liquor to be sold or supplied on licensed premises to a person who is intoxicated. The licensee, the manager of the licensed premises and the person by whom the liquor is sold or supplied are each guilty of the offence. The maximum penalty (for each person) is a $2 000 fine.

Clause 12: Amendment of s. 119A—Minors not to enter or remain in certain licensed premises

This clause amends s. 119A of the principal Act. Section 119A provides that a minor must not enter or remain in a part of licensed premises defined in a late night permit at any time when liquor can be sold under that permit. A similar rule applies in the case of premises in respect of which an entertainment venue licence is in force. A minor must not enter or remain on the premises to which the license relates at any time that liquor may be sold on those premises (otherwise than to a diner). This amendment makes the same provision in relation to licensed

premises in respect of which a general facility licence is in force. A minor must not enter, or remain in, the premises at any time between midnight and 5 a.m. (other than in a designated dining area).

Section 119A also provides that where a minor enters, or remains on, licensed premises in breach of this section, the minor can be removed and the minor and the licensee are each guilty of an offence. This amendment makes an additional provision that where a minor enters, or remains on, licensed premises in contravention of a condition of the licence, the minor can be removed and the minor and the licensee are each guilty of an offence.

This amendment also requires a licensee to display a prescribed notice at each entrance to the licensed premises when access is prohibited to minors under a condition of the licence. The same rule already applies under section 119A where access is prohibited under the section itself.

Clause 13: Insertion of Division 3 of Part 9

This clause inserts Division 3 of Part 9 into the principal Act. This Division consists of sections 128A, 128B, 128C and 128D and deals with the power to bar persons from licensed premises.

Section 128A provides that a licensee and the manager of licensed premises can, by order served on a person , bar that person from entering or remaining on the licensed premises (or any part of

the premises) for a specified period not exceeding three months. This power can be exercised—

(a) if a person commits an offence or behaves in an offensive, abusive or disorderly manner on (or in an area adjacent to) the licensed premises; or

(b) on any other reasonable ground.

It is an offence for a person to enter or remain on premises from which he or she is barred. The maximum penalty is a $1 000 fine.

The licensee or manager can, by subsequent order served on the relevant person, revoke any order that he or she has made.

It is an offence for a licensee, manager or an employee of the licensee to suffer or permit a person to enter or remain on premises from which he or she is barred. The maximum penalty is a $1 000 fine.

Section 128B provides that an order under this Division must be made in writing in a form prescribed by regulation. It also requires a copy of the order to be kept at the licensed premises to which the order relates.

Section 128C creates a power to remove persons from premises from which they have been barred. Subsection (1) provides that if a person is on premises from which he or she is barred, an authorised person can require that person to leave the premises. If a person who is barred from premises under this Division seeks to enter the premises or refuses or fails to comply with a requirement to leave those premises, an authorised person can prevent the person from entering the premises or remove him or her from the premises (as the case may be) using only such force as is reasonably necessary for the purpose.

An 'authorised person' for the purposes of this power to remove persons means the licensee, manager, an employee of the licensee or a member of the police force.

Section 128D gives the Liquor Licensing Commissioner power of review. A person in respect of whom one or more orders have been made under this Division barring the person from premises for a period exceeding one month, or for periods exceeding one month in aggregate during a period of 3 months, can apply to the Commissioner for the review of the order under which the person is barred from those premises.

The Commissioner can confirm, vary or revoke an order. A decision of the Commissioner is not subject to review.

The Commissioner can, if he or she thinks fit, suspend an order pending determination of an application for review of the order.

Clause 14: Amendment of s. 138—Service

This clause inserts a new subsection in Section 185 of the Act, making provision for service of notices or other documents on persons who are not licensees. Service of a notice may be personal, or may be effected by leaving it at or posting it to a nominated address for service, by posting it to the person's home or business or by leaving it at or posting it to the address of the person's solicitor.

The Hon. R.R. ROBERTS secured the adjournment of the debate.

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

A quorum having been formed:

RESIDENTIAL TENANCIES BILL

Adjourned debate on second reading.

(Continued from 21 March. Page 1596.)

The Hon. R.D. LAWSON: I rise to speak in support of this Bill. There are a number of reforms contained in this Bill which are worthy of support by this Parliament. In particular, the introduction in the Bill of a new and improved system for the payment and retrieval of security bonds by tenants and landlords will overcome a deficiency in the present legislation. Secondly, it seems to me that the provision that interest be paid on security bonds whilst in the residential tenancies fund is a worthwhile innovation. Under the proposal, if a bond is redeemed by the tenant, the tenant will be entitled to the accrued interest on the bond. This will have the effect, which is its intended effect, of encouraging tenants to apply for repayment of bonds rather than simply allowing themselves to get into arrears near the end of their tenancy and, as it were, allow the bond to pay for the remaining weeks of the rent and require the landlord to go to the expense and bother of applying for a refund of the bond which is, after all, the tenant's bond.

There is a new provision contained in this Bill which will result in a reduction of the number of days notice required for termination. Again, it seems to me that that is an advantage over the present system. A further advantage is the new procedure for the termination of a tenancy where the tenant or a person who is permitted on the premises with the consent of the tenant intentionally or recklessly causes or permits, or is likely to cause or permit, damage to the property. As the Attorney noted in his second reading explanation, many landlords have experienced substantial and costly damage to property at the hands of tenants and the procedure for obtaining possession under the present law is somewhat cumbersome.

A further innovation which is to be welcomed concerns the payment of rates and taxes for water supply. It is presently provided that a landlord cannot recover rates and taxes except charges for excess water. The notion of excess water has become redundant under the current means of calculating charges for water, and this fact has been recognised in the Bill. More importantly, the Bill allows a landlord and tenant to reach an agreement regarding the payment for water supply. It seems to me that that is an advantage worthy of note.

An area of some concern to me relates to the provisions of clause 29 of the Bill dealing with the security of premises. This clause, which largely replicates section 48 of the current Act, provides that it is a term of any residential tenancy agreement that the landlord will provide and maintain locks and other devices that are necessary to ensure the premises are reasonably secure. It further provides that neither the landlord nor the tenant will alter or remove a lock or security device without the consent of the other.

In a number of cases before the Residential Tenancies Tribunal under the existing section 48 landlords have been sued for losses suffered by tenants whose premises have been broken into where the tribunal has had to consider whether the landlord did not comply with the obligation to provide and maintain locks or devices to ensure that the premises were reasonably secure. One such case was *Canini v Elders Real Estate*, which was decided in 1991. In that case the premises were the subject of two break-ins. After the first of these break-ins the landlord had installed a new lock on the front door. Nothing had been taken during the first break-in but, after the new lock on the front door was installed, a further break-in occurred and goods to the value of $3 000 were stolen.

The tenants claimed compensation from the landlord but that claim was not successful in the circumstances of the case—those circumstances being, as the tribunal found, that access was gained not through the front door but through the more insecure back door. There was no suggestion, in the tribunal's finding, that the new front door lock was inadequate. In those circumstances, the tribunal held that the landlord was not in breach of the Act and, as the member constituting the tribunal held, the tenant's loss in that case was a result of bad luck and the conduct of a thief and not of any breach by the landlord, and that application was dismissed.

Another matter in which this issue arose was the case of *Evans v Hewitt*, also decided by the tribunal in 1991. In that

case the premises, which were rented by the applicant for compensation, were part of a house which was occupied by several other tenants. The applicant had exclusive use of one bedroom off which there was a small kitchen area. There were two means of entry into the tenant's room: through one door directly into her bedroom, which had a lock on it; and through swinging doors which opened into the kitchen. At the beginning of the tenancy the landlord had told the tenant that he would secure both doors through which entry to her room could be made. The main bedroom door was apparently secured by the landlord at the time but no lock, bolt or other security device was provided to the swinging doors so that her room was not, in fact, lockable or secure.

In January 1991 the house was broken into, the thieves having obtained entry by forcing open the window to the main kitchen of the house. Once inside, the only room to which access could be gained was the tenant's room through the unsecured swinging doors to her small kitchen. A number of items were stolen and the tenant claimed compensation from the landlord alleging his failure to provide and maintain locks at the premises so that it was reasonably secure. The claim was successful. The tribunal held that the premises were not secured, contrary to the provisions of section 48 of the Act; and further that, as a direct consequence of the landlord's breach of section 48, the tenant suffered loss. Both these cases yielded results which I think anyone would regard, both on the provisions of section 48 and on the facts of the cases themselves, as being entirely reasonable.

Opinions may, however, differ with respect to the third case to which I refer under section 48. This was the decision of *Cantrell v Zanatta*, a decision of the tribunal in 1994. In this case, a tenant took action in the tribunal for recovery of compensation for loss sustained when a flat tenanted by that tenant was burgled. The section used was section 48 which, as I have mentioned, is similar to clause 29 of the current Bill. In that case the premises were burgled by persons unknown who, it appeared, had gained access by use of a key. The landlord admitted that a previous tenant had not returned a key. That previous tenant was called to give evidence before the tribunal and denied that he was responsible for the burglary, but the tribunal found that the tenant's key or a copy of it was, on the balance of probability, used to gain entry. In the result, the tribunal found that the cause of the tenant's loss was the failure of the landlord to provide and maintain locks necessary to ensure that the premises were reasonably secure. Bear in mind that there was nothing wrong with the locks provided by the landlord in the particular case; however, there was the suspicion that a key was in hands other than those of the landlord or the tenant.

The tenant in this case complained that a large collection of compact disks and some cash had been taken, and the tenant was awarded in all $3 800, being the value of the goods taken and the cash. This case does, it seems to me, highlight the breadth of the operation of section 48, although the case was largely dependent upon its particular facts, namely, that the key had not been returned by a previous tenant and that there was some suspicion as to the honesty of that tenant.

There are a number of ways in which this problem can be addressed, because it does seem to me to be a problem where a landlord is required to indemnify his tenant against the activities and depredations of a person, namely, a burglar, over whom the landlord has absolutely no control. It seems to me that responsibility for loss caused by a burglar is hardly damage for which a landlord ought be responsible in all circumstances.

The case of *Cantrell v Zanatta*, to which I have just referred, was the subject, as I understand it, of representations by the Landlords Association, and it did cause some concern amongst landlords. It was a fact in that case that the tenant had intended to insure his goods against burglary but had, for some reason of oversight, either allowed the policy to lapse or had not taken out a policy. One would have thought that the primary responsibility of looking after one's goods resides with the owner of the goods. One would have thought that the primary responsibility to insure against damage caused by burglars resides with the tenant himself, so that the tenant has an obligation to take appropriate precautions in relation to his goods and not simply rely upon the landlord to act as insurer against loss which might be sustained.

It seems to me that further consideration ought to be given to the possibility of incorporating in this legislation some measure which would even the balance between landlord and tenant in these situations. I do not favour a repeal of the obligation to provide a secure lock. I think that is a worthwhile provision, and it is appropriate that that obligation be continued, but the case to which I refer highlights a deficiency which I consider could be remedied by limiting the liability of a landlord to some specified amount (say, $2 000 or $1 000 or some other amount) or perhaps a multiple of the rent payable under the tenancy agreement (for example, that the landlord's liability be limited to, say, two months' rent, one month's rent or whatever period is deemed appropriate).

Because under the present legislation as interpreted by the tribunal, if a tenant leaves very valuable property, property of which the landlord may have absolutely no knowledge (for example, a diamond necklace hidden under the bed), and if it is found that for some reason the lock was deficient, inadequate bars were put on the rear windows or, unknown to the landlord, a window lock had been broken by a previous tenant, or a previous tenant had a duplicate key, the landlord is potentially liable for $50 000 or $100 000 in circumstances where he has absolutely no opportunity to protect himself. It seems to me that, in those circumstances, where a tenant does have valuable goods, the tenant ought to make appropriate provisions for their security or, alternatively, ensure that he has appropriate insurance. The tenant ought not simply be able to make a claim against his landlord who, as I said, is not in any real sense the author of the misfortune. I give notice that in Committee I will pursue with the Attorney, as I have discussed with him previously, the matter of a possible amendment to clause 29 of the new Bill.

With regard to a less significant matter, in my view the way in which some of the provisions of this Bill are laid out and the unnecessary inclusion, as it seems to me, of notes, examples and other illustrations, which apparently are intended to have the effect of law, is to be deprecated.

The Hon. T.G. Roberts interjecting:

The Hon. R.D. LAWSON: They are almost pictures. For example, clause 5(c) includes an illustration. Although my eyesight is not perhaps the best, that illustration appears to be in smaller type than the provisions of the clause itself. This clause provides that the Act does not apply to an agreement genuinely entered into for the purpose of conferring on a person a right to occupy premises for a holiday.

The Hon. T.G. Roberts interjecting:

The Hon. R.D. LAWSON: The allusion completely escapes me.

The Hon. T.G. Roberts interjecting:

The Hon. R.D. LAWSON: I am happy to adopt any criticism that she makes in relation to the practice of including notes such as this. The note provides:

> An agreement conferring a right to occupy premises for a fixed term of 60 days or longer will be taken, in the absence of proof to the contrary, not to have been genuinely entered into for the purpose of conferring a right to occupy premises for a holiday.

That rider to the provision is not helpful to anyone who is interpreting the legislation in a general way; nor is the example given in the next subclause. I note that clause 5(h) provides that the Bill will not apply to agreements between the Housing Trust and its tenants. In a sense, that provision is inevitable because of the way in which the Housing Trust goes about its business and also the circumstances of many Housing Trust clients. However, it seems to me that we ought to move perhaps slowly in the direction of ensuring that the Housing Trust and the private rental market operate on a level playing field and that in the business of letting houses the Housing Trust is not advantaged, nor do I suggest for a moment that its tenants be disadvantaged.

I note that under clause 9 of the Bill no liability attaches to the Commissioner for Consumer Affairs 'or any person acting in the administration of this Act, for an honest act or omission in the exercise or purported exercise of functions under this Act'. That provision is similar to section 12 of the existing legislation and is a common enough provision in legislation, but I query whether or not this provision ought to go on to provide that any liability which would otherwise have applied, apart from the opening words of clause 9, shall attach not to the Commissioner or the officer acting in the administration of the Act but to the State of South Australia.

That provision is inserted in a number of Acts. It has the effect not of extinguishing the liability but of enabling a person who suffers loss or damage in consequence of a breach by the Commissioner of his general law obligations or any other person acting under his direction to sue the State because both the Commissioner and such a person would ordinarily be liable in damages. Clause 9 as it stands relieves them of that liability and deprives a person who suffers loss of any remedy at all. I query whether we ought not provide in this Act, as we have in, for example, proposed new section 33A of the Legal Services Commission Act, which appears in the Statutes Amendment (Attorney-General's Portfolio) Bill, that the liability rests with the State rather than with the individual officer concerned. Again, I will pursue that matter with the Attorney in Committee.

There is in clause 39 of the Bill a provision that the tribunal is empowered to make an order rescinding or varying a term of a residential tenancy agreement if it is satisfied that the term is harsh and unreasonable. That provision is, as I recall it, a similar provision to one presently appearing in the legislation and, if that recollection of mine is correct, I give notice that I would be interested to hear from the Attorney-General whether there have been any claims made under comparable legislation, whether either the tribunal or a court has on any occasion held under the existing law that terms of a lease are harsh or unconscionable. Because it does seem to me that some of the provisions about harshness and unconscionability which one finds in an increasing number of pieces of legislation is largely window-dressing because the expression 'harsh or unconscionable' has over the years become encrusted with particular meanings that have largely neutered the concept. So, I would be interested to hear whether this clause is as beneficial as it would *prima facie* appear to be.

I do support this measure. It contains reforms. They might be modest reforms, but reforms nonetheless in a very important area of law: one which affects the lives of a very large number of people and one which has been working but not working smoothly in recent years. The time is well nigh for a re-examination of the Residential Tenancies Act and the Attorney and his legislative review team are to be congratulated for this new Bill. I support the second reading.

The Hon. R.R. ROBERTS secured the adjournment of the debate.

INDUSTRIAL AND EMPLOYEE RELATIONS (MISCELLANEOUS PROVISIONS) AMENDMENT BILL

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

Schedule of the amendments made by the House of Assembly to the amendments of the Legislative Council:

Legislative Council's Amendment:

No. 1 Page 2, lines 8 to 21 (clause 4)—Leave out subsections (2) to (5) and insert new subsections as follow:

(2) However, an association, or two or more associations of employees, may enter into an enterprise agreement on behalf of the group of employees to which the agreement applies if the association or associations are authorised by a majority of employees constituting the group to act on their behalf.

(3) An authorisation given to an association by an employee for the purposes of subsection (2) is effective for a term of two years unless the employee by written notice given to the association revokes it before the end of that term.

(4) A member of an association is taken to have given the association an authorisation for the purposes of subsection (2) for as long as the member remains a member of the association unless the member by written notice given to the association withdraws the authorisation.

(5) If—

(a) an employer proposes to have an enterprise agreement with a group of employees who are yet to be employed by the employer; and

(b) the employees—

(i) are of a class not currently, or formerly, employed by the employer or a related employer in South Australia; or

(ii) are to be engaged in operations of a kind that are not currently, and have not been formerly, carried on by the employer or a related employer in South Australia,

the employer may enter, on a provisional basis, into an enterprise agreement (a 'provisional enterprise agreement') with a registered association of employees that is able under its rules to represent the industrial interests of the employees.'

House of Assembly's amendments thereto:

Leave out proposed subsection (3) and insert:

(3) An authorisation given to an association by an employee for the purposes of subsection (2) is (subject to revocation by the employee) effective for—

(a) two years after the authorisation is given; or

(b) if an enterprise agreement is entered into on the basis of the authorisation—for the term of the enterprise agreement,

(whichever is the lesser period).

An employee may revoke an authorisation under this section by giving written notice of revocation to the association.

In proposed new subsection (5) after (a 'provisional enterprise agreement') insert 'binding on the employees who become members of the group with the Employee Ombudsman as representative of the group or'.

After proposed subsection (5) insert:

(5A) The Employee Ombudsman enters into an enterprise agreement under this section only in a representative capacity and the agreement may not

impose obligations on the Employee Ombudsman personally.

Legislative Council's Amendment:

No. 6 Page 4—After line 17 insert new clause as follows:

9A. Amendment of s.115—Freedom of association

Section 115 of the principal Act is amended by striking out subsection (3) and substituting the following subsections:

(3) A person must not—

(a) require another to become, or remain, a member of an association; or

(b) prevent another from becoming or remaining a member of an association of which the other person is, in accordance with the rules of the association, entitled to be a member; or

(c) induce another to enter into a contract or undertaking not to become or remain a member of an association.

Penalty: Division 4 fine.

(4) A contract or undertaking to become or remain, or not to become or remain, a member of an association is void.

House of Assembly's amendment thereto:

Leave out proposed subsection (4) and insert:

(4) If an employee employed under an award or enterprise agreement enters into a contract, or gives an undertaking, to become or remain, or not to become or remain, a member of an association, the contract or undertaking is void.

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

No. 4 Page 3, lines 26 to 30 (clause 6)—Leave out subsection (8).

No. 10 Page 5, lines 13 to 18 (clause 12)—Leave out the clause.

Amendments Nos 1 and 6:

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

That the Legislative Council agree to the House of Assembly's amendments to the Legislative Council's amendments Nos. 1 and 6.

I do not need to go into this issue at great length. The Government opposed the original amendment, but the Australian Labor Party and the Australian Democrats prevailed. We have taken the view that the original amendment of the Legislative Council is deficient in two important areas. The original amendment confused the clear policy distinction in the Act between a union's role in representing its members in enterprise agreements, on the one hand, and a union's role in being a party to the enterprise agreement on the other.

I did indicate when we debated this original amendment that the Government is not opposed to unions being parties to enterprise agreements. However, the Government is opposed to unions having the ongoing authority of a group of employees to be a party beyond the life of an agreement and I gave some reasons on that occasion. For example, all groups of employees will change over time. Whilst it is appropriate policy to bind new members of the group to the decisions of their predecessors for a short period—and we are suggesting that should be the life of the current agreement—it would not be appropriate to have them bound on an ongoing basis into the future. I also indicated that the authorisations are being given to an association by employees who may well not be members of the association and who may have no intention of becoming a member. In either case, when an employee authorises an association to be a party to enterprise agreement, the employee is not authorising the association to be an agent acting on his or her behalf. Those decisions rightfully should be separate with the former being determined each time a new agreement is reached in the context of that specific agreement.

We also take the view that the original agreement places unreasonable restrictions on the proposed mechanism whereby new businesses and major projects can access the new enterprise bargaining provisions of the Act, provisional enterprise agreements. The original amendment does limit the important pro-development mechanism that the Government is initiating and does this by allowing a trade union but not the Employee Ombudsman to be the respondent party to a provisional enterprise agreement.

The original amendment is based on an argument that registered associations are better able to represent the interests of employees than is the Employee Ombudsman. The real effect is to provide a guaranteed opportunity for trade unions to monopolise and control greenfields sites as ready made sites for recruitment. It is our view that such a situation cannot be justified on policy grounds and it does unduly restrict the options of companies considering new projects in South Australia.

The House of Assembly's amendment does address in a much more effective way the issue of the duration of the agency. It also deals with the issue of a provisional enterprise agreement by ensuring that the Employee Ombudsman can be involved as a representative of a group.

In relation to amendment No. 6, the original amendment made by the Council seeks to declare a contract or undertaking to become or remain or not to become or remain a member of an association as being void. We oppose the original amendment but support the amendment moved by the House of Assembly. While we support the principle behind the original amendment made by the Legislative Council, it is considered that there may arise situations where it is inappropriate for executives and managers in a firm to be subject to this limitation. The amendment made by the House of Assembly provides for such flexibility by limiting the application of this clause to employees who are employed under an award or enterprise agreement.

The Hon. R.R. ROBERTS: I oppose the House of Assembly's amendments, which revisit arguments that we widely canvassed in this place and seek to introduce the same matters that we discussed before. I am advised by my shadow Minister that, whilst the agreements reached here in the Legislative Council do not go as far as the Opposition originally wanted to travel, they are in fact a better proposition. In respect of the length of the authorisation, the Government now wants to introduce a situation where it sets minimum standards of two years after the authorisation is given or, if an enterprise agreement is entered into, on the basis of the authorisation for the term of the enterprise agreement, whichever is the lesser.

The Government contradicts itself whereby, when it talks about freedom of association, it demands the right to end membership or authorisations at the drop of a hat. However, on this occasion, it says that it must be for two years. We will not support either of the two amendments that the Attorney-General has asked us to support. It is not our intention to support any amendments made by the House of Assembly. We will be supporting the proposition that the House of Assembly's amendments not be supported and we insist on our original amendments.

The Hon. M.J. ELLIOTT: There is one part of one amendment to which I may be able to agree in relation to subclause (3) under amendment No. 1. However, I cannot agree with the rest of that clause. Other than that, we have visited the other issues before. I have been given no reason to change my mind in regard to any of those matters. Whilst there may be one small aspect with which I can agree, I guess that can be sorted out at the conference of the Houses.

Motion negatived.

Amendments Nos 4 and 10:

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

That the Legislative Council do not insist on it is amendments Nos 4 and 10.

The original amendment removes a clause contained in the Government's original Bill which provided for commission powers to approve an enterprise agreement that could not otherwise be approved in circumstances where undertakings are given to the commission by or on behalf of one or more persons bound by the agreement about the operation or interpretation of the agreement. We opposed the original amendment. We believe that subsection (8) should be left out.

The Government did consult with the Enterprise Agreement Commissioner on this proposal prior to its inclusion in the Bill, and it was regarded as a useful mechanism for the commission and the parties in the making of agreements. That is a simple mechanism, under the supervision of the commission, whereby the parties may clarify matters relating to an agreement without having to repeat the technical and time consuming processes required prior to bringing the agreement before the commission.

Amendment No. 10 is to leave out a clause. The original amendment sought to remove a Government clause in the Bill which sought to extend the definition of 'industrial agreement' to include enterprise agreements for the purposes of other Acts or statutory instruments. We opposed the original amendment and put the view that there were a number of pieces of legislation in which reference is made to industrial agreements and identified those as the Workers Rehabilitation and Compensation Act, the Construction Industry (Long Service Leave) Act, the State Long Service Leave Act and the Industrial and Commercial Training Act, with a view to ensuring that the reference to 'industrial agreement' was not outmoded.

Motion negatived.

PUBLIC SECTOR MANAGEMENT BILL

Bill recommitted.

Clause 5—'Personnel management standards.'

The Hon. R.I. LUCAS: I move:

Page 4—Insert in new paragraph (ca) 'use diversity in their work forces to advantage and' before 'afford employees equal opportunities'.

The further amendment to clause 5, page 4, is proposed to reintroduce the concept of the valuing of diversity in the work force into the personnel management standards of the Bill. The Opposition proposed changes to the personnel management standards that reintroduce the GME Act principles related to unlawful discrimination and equal employment opportunity. The amendments were passed and the standards no longer make allowance for a managing diversity approach in the Public Service.

The Government supports equal employment opportunity in the workplace but also recognises that equal employment, equal opportunity and fairness do not necessarily equate to equal treatment. The diverse needs of employees should be recognised and supported by managers. In addition, it is essential that the benefits that a diverse work force can bring to the workplace and the provision of services to the community are also recognised and welcomed.

The Hon. R.R. ROBERTS: The Opposition will not oppose this amendment.

The Hon. M.J. ELLIOTT: The Democrats support this amendment.

Amendment carried; clause as amended passed.

Clause 7—'Public Service structure.'

The Hon. R.I. LUCAS: I move:

Page 5—Insert in subclause (5), as amended, 'the Minister after consultation with' before 'the commissioner'.

When last we debated this Bill the Australian Democrats indicated that they might be willing to give further consideration to this issue. The Government had a proposition to put and the Hon. Mr Elliott indicated that he was prepared to think further about this issue. It is for that reason that the Government is moving this amendment.

This clause is not, as I think some believe it might be, part of the group of Government provisions seeking to shift the power to make general employment determinations from the Commissioner to the Minister. The Government is arguing that this is not consequential on a range of other issues that the Opposition and the Democrats have successfully introduced into the legislation in that respect. The Government believes that this is instead an extension of the powers of Government to determine the structure of administrative units.

Section 21 of the current GME Act provides that the Governor by proclamation establishes and disestablishes administrative units. Of course, the Governor does this on the advice of the Government of the day. Clause 7 of the Public Sector Management Bill provides for the same process. Under clause 22 of the GME Act, an administrative unit was established for unattached officers. Where in a restructuring of units no provision had been made for the transfer of positions, they were placed in this unit. The Public Sector Management Bill has not established a permanent administrative unit for unattached positions for the reason that such a permanent establishment is an encumbrance. It is better to establish one at need. This is a more flexible and less bureaucratic process. That the Minister designates the unit simply reflects the reality of a Government's determining what administrative structures it wants. The Government believes that it is inappropriate for the Commissioner to be involved, as he or she is not familiar with the structures wanted by Government. That is a decision to be taken by Government under both pieces of legislation and proclaimed through the Governor.

Further to that explanation, we discussed this issue at some length. As I indicated on that occasion, these issues about the shape and structure of administrative units within the public sector are decisions that are, in reality, taken by Government and by Ministers. They are not really talking about the general employment determinations and the power structure between the Commissioner and the Minister. That is why the Government is putting the proposition to the Democrats and the Labor Party again: to indicate that we do not see this as being consequential on the issue on which they have held sway, so far anyway, in the parliamentary debate about the power balance between the Commissioner and the Minister.

This really is an issue of the reality of what occurs, that is, that Governments and Ministers do make and should make the judgments about the administrative structures within their units. If, for example, the Minister for Education decides that he or she does not want to have a personnel division and wants to incorporate that into a human resources division or a corporate services division, or indeed wants to start up a strategic planning unit or other units like that within the particular department, then those sorts of decisions really are

the province of Governments and Ministers to take. They are not really decisions in which the Commissioner either has the competence or, frankly, the need to be involved.

In the end, I understand the position of the Democrats and the Labor Party. They are seeking, from their viewpoint, anyway, to place greater protections in the Bill on behalf of the Public Service Association and others for whom they are putting a particular position in this Chamber. However, in relation to the administrative units and administrative structures of the various departments, it really ought to be an issue that is left to Government and to the Minister, as I am advised it was under the GME Act. All the Government is seeking to do is continue, but in a more flexible and less bureaucratic way, that sort of arrangement for this Government and for future Governments.

The Hon. R.R. ROBERTS: I understand that since we discussed this Bill in this place considerable negotiations have been taking place between the Public Service Association and members of the Government in respect of many aspects of this Bill. That was a process that we were encouraging prior to embarking on the tortuous task of the Committee stages of the Public Sector Management Bill. I am advised that some progress is being made in those negotiations. However, the Opposition is not persuaded to support this amendment at this time.

Significant debate took place on the issue of whether or not various functions should be carried out by the Commissioner or the Minister. The amendments that were carried determined that these functions should in fact be carried out by the Commissioner. If this proves to be the case, where this particular function needs to be performed by a Minister, this can be revisited and considered at another time.

On the other hand, if the amendment reflects an attempt to rescue what was recently amended, the Opposition would continue to oppose it in other forums besides this one. We are not persuaded to support this amendment, but I do indicate that it would be our intention probably to support all the other amendments listed.

The Hon. M.J. ELLIOTT: I did indicate last time we debated this clause that I was prepared to reconsider my position. That still is my position. I did not expect that we would be back debating this matter at this time, and my focus has not been on this Bill or on this clause. It has been on more immediate concerns such as the retail traders Bill that has been in conference, and the WorkCover Bill which still has a lot of work to be done on it. I have not had sufficient opportunity to be satisfied beyond doubt about this change. I indicate my mind is still open and I expect when we do revisit this legislation that I will probably support it. This is in fact the first visit of this legislation to this Chamber and it will come back to us again from the other place. If I have understood things correctly, it is most likely I will be supporting the Government's position, but will not be doing that at this stage. I also indicate that I will be supporting all other clauses which are before us.

Amendment negatived; clause passed.

Clause 28—'Positions.'

The Hon. R.I. LUCAS: I move:

Page 6—Leave out from new subclause (4) 'be abolished or have its remuneration level reduced while occupied by an employee' and insert:

(a) be abolished while the position is occupied by an employee; or

(b) have its remuneration level reduced while the position is occupied by an employee except—

(i) with the employee's consent; or

(ii) in order to correct a clerical error made in the course of the process of fixing or varying the remuneration level of the position.

The Bill allows the chief executive to vary the remuneration level of the position at the initiative of the chief executive or on application made by the employee occupying the position. There may be circumstances where the remuneration level of the position may need to be reduced; for example, the personal circumstances of an employee may impact on the ability of the employee to undertake the duties of the position to a satisfactory level. There might be an agreement with the employee about the reduction. The other circumstances we talked about last time, where there might have been a clerical error. This provision is drafted to take into account both circumstances and some others.

Amendment carried; clause as amended passed.

New clause 37B—'Promotion appeals.'

The Hon. R.I. LUCAS: I move:

Insert the following subclause after subclause (7) of new clause 37B:

(8) Nothing in this section prevents a Chief Executive or the Commissioner from attempting to resolve by conciliation a matter the subject of an appeal under this section prior to the commencement of the hearing of the appeal.

This really allows for the application of conciliation procedures in relation to promotion appeals. The Bill as it currently stands allows for conciliation in relation to grievance appeals only. The Government is of the very strong view that conciliation is an important part of satisfactory dispute resolution procedures and would like to see it apply to promotion appeals as well, and has therefore drafted the appropriate amendment to achieve that objective.

Amendment carried; new clause as amended passed.

Clause 44—'Excess employees.'

The Hon. R.I. LUCAS: I move:

Leave out from subclause (2)(e) 'employee be retired from the Public Service' and insert 'employee's employment in the Public Service be terminated'.

Leave out from subclause (3) 'retire an employee from the Public Service' and insert 'terminate an employee's employment in the Public Service'.

These really are consequential on the debate we had last time about retirement and termination. It just makes the language consistent with what we have done when previously we debated the Bill.

Amendments carried; clause as amended passed.

Schedule 3.

The Hon. R.I. LUCAS: I move:

Clause 8, page 46, line 21—Leave out 'four weeks' and insert 'three months'.

This really just ensures consistency in the treatment of chief executives. It was an issue overlooked in the last debate and this tidies up that particular anomaly.

Amendment carried; schedule as amended passed.

Bill read a third time and passed.

PETROLEUM PRODUCTS REGULATION BILL

Adjourned debate on second reading.

(Continued from 15 March. Page 1546.)

The Hon. T.G. ROBERTS: I rise to indicate that the Opposition is supporting the Bill. It will replace the Motor Fuel Distribution Act 1973, the Business Franchise (Petroleum Products) Act 1979 and the Petroleum Shortages Act 1980. It also makes consequential amendments to the

Environment Protection Act 1993. Basically, the Bill consolidates the intentions of some of the applications of those Acts into the one Act. It streamlines processes including licensing which allows for a less complicated process for applicants and puts those responsibilities and the licensing responsibilities under the one Act. It also provides an inspectorial service for the responsibilities associated with the Act.

As we all know, petrol products distribution and storage responsibilities are major responsibilities for those people who do make applications for licence. In this State we have not had too many causes for concern, but we have had the one major problem on the South Road and a couple of scares, and I suspect that the timing of this Bill is appropriate to facilitate the intentions of the Government.

We have an indicated amendment on file which is not of major consequence, but it notes that, in the bringing of these provisions under the one Act, some of the activities of the Motor Fuel Distribution Licensing Board will be subservient to the Minister. Under the old Act the board made its decisions in a much more independent fashion than is envisaged in this legislation. We accept that it is the right of the Minister to be involved and address situations as they arise. We believe that the amendment makes it more appropriate for the Minister to distance himself from some of the decisions made especially when objectors to a particular application are before the board. It is for that reason we have moved that amendment.

The previous Act has served us well over the years in being able to identify some of the environmental problems that are associated with the potential danger of the non-registration of licensed premises. I understand that interstate there is some difficulty in identifying underground tanks and service provisions which have been buried over the years and that a lot of these tanks are now rupturing and leaking into the environment. Some of them have been closed off with petroleum products still stored in them, and they have presented environmental agencies with a lot of problems.

As I said, in South Australia we have not had that problem. All registered outlets were identified under the previous legislation and we have been able to move quickly to identify the problems associated with old sites. Although I suspect that underground tanks still in operation may be ruptured or leaking, that it is not the fault of the legislation but the fault of those people who operate underground tanks in poor condition.

The Bill moves to control and impart a duty of care with regard to the handling, storage, measuring and dispensing of fuel. All those are important areas when considering the associated public risk of dealing with petroleum and petroleum products. The new legislation, which takes into account the consolidation of the old Act, will streamline the administration processes and hopefully allow for a one-stop shop with regard to potential applicants for licences. For all those reasons, we support the Bill.

The Hon. K.T. GRIFFIN (Attorney-General): I thank members for their contributions to debate on the Bill. It is an important Bill which is in the interests of South Australia and the petroleum industry. There are some issues which we will address during the Committee stage, but I would not expect that to be a long, drawn-out process.

Bill read a second time.

CATCHMENT WATER MANAGEMENT BILL

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

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I move:

That this Bill be now read a second time.

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

Leave granted.

Well before the 1993 State election the Liberal Party recognised that the management of metropolitan stormwater left a great deal to be desired.

This situation was, and is, most obvious in the case of the Patawalonga, which has been described as the most polluted urban waterway in Australia. With the Patawalonga's present reputation, it is barely credible that in the memory of many South Australians the Patawalonga was used for Australian water-skiing championships.

In our Environment and Natural Resources policy we made our strongest commitment to rectifying this situation. We undertook to:

- Commit $4 million to ensure a permanent solution to pollution of the Patawalonga Boat Haven;
- Fund the installation of a series of trash racks to remove gross pollution from the catchment area;
- Discuss ways of minimising pollution with the 11 councils of the catchment; and
- Seek financial support from the Federal Government by having the project recognised as one of national importance.

all of these things we have done.

Of the $4 million, $0.5 million will be spent through the Minister for Housing and Urban Development by the end of the financial year on dredging the Patawalonga Basin, and design work for both a flushing system for the Basin and wetlands in the vicinity;

A further $1.5 million will be spent by 30 June this year on design and construction of works and measures such as trash racks and silt traps in the catchment;

We have assisted the Steering Committee of Patawalonga councils by funding a facilitator to assist in consideration of issues such as the membership and staffing of a catchment Board, and in developing a catchment management plan;

We have not merely sought, but been successful in obtaining from the Federal Government, recognition of the scale of the Patawalonga's problem through the granting of $9 million of Federal funds under the Building Better Cities Program.

Our concern for this issue is not restricted to the Patawalonga. Our policy commits us to pursue a comprehensive program to solve the problem of water quality in the River Torrens, restore its visual and recreational appeal and emphasise this important Adelaide tourist attraction.

Some important work has already begun in both the Torrens and the Patawalonga catchments. Constituent councils of those areas formed two Steering Committees in early 1994, and the enormous amount of work accomplished during the year can be seen in, amongst other things, the 'Year of the Torrens' project. The Government's acknowledgment of, and congratulations for, the time and effort represented by those achievements go to Colin Haines and the Patawalonga Steering Committee, and Rosemary Craddock and the Torrens Steering Committee.

In spite of the efforts of the two Steering Committees, it became apparent by late 1994 that the Government needed to do more to speed up the process, and at the same time to facilitate the involvement of the many councils in each of these catchments. Local Government has a wealth of experience in stormwater management, but this is a multi-faceted problem which is best managed on a catchment-wide basis.

With the Catchment Water Management Bill the Government proposes to establish small but powerful Boards which will harness the energy of the community, the expertise of councils, and the legislative backing of the Government to clean up our waterways and develop stormwater as a resource.

The Torrens and Patawalonga Boards will be formed by 1 July 1995, and will immediately commence work on catchment water management Plans. These Plans will aim firstly at improving the quality of catchment water, but they will address also other catchment-wide issues such as flooding, recreational amenity and wetland environments. The Plans will establish an ongoing schedule of works

(for example, trash racks and wetlands) and measures (for example, community education and water quality monitoring programs).

Draft catchment water management Plans will be developed and upgraded each year by the Boards in close consultation with the constituent councils and other community groups and individuals. The cost of the proposed works and measures will be shown in the Plans. The works and measures will be funded through a small levy on all rateable properties in the catchment area.

The Government is presently focusing on the Patawalonga and the Torrens because this is where the problems are most evident. It is also where the councils have shown great initiative over the last year in working together and with the Government. However, the Bill is broadly drafted, and may be applied to catchments from Gawler to Sellicks Beach if the same problems and the same opportunities arise.

The Government is committed to devolving as much authority to communities to manage their own affairs as is reasonably possible. This model of water resources management, with local Boards being empowered with authority and adequate finance, and being required to consult extensively with local councils and the local community in the performance of their functions, will provide the sort of community education and participation that is essential in achieving such an aim.

Explanation of Clauses

The provisions of the Bill are as follows:

Clause 1: Short title

Clause 2: Commencement

Clauses 1 and 2 are formal.

Clause 3: Interpretation

Clause 3 defines terms used in the Bill.

Clause 4: Act binds Crown

Clause 4 provides for the Crown to be bound.

Clause 5: Constitution of catchment areas

Clause 5 provides for the constitution of catchment areas by proclamation.

Clause 6: Vesting of works, buildings, etc., in board

Clause 6 enables the Governor, by proclamation, to transfer the use of works, buildings, equipment and other facilities from a council or controlling authority to a board.

Clause 7: Variation and revocation of proclamations

Clause 7 provides for the variation and revocation of proclamations.

Clause 8: Recommendation by the Minister

Clause 8 sets out the procedures that the Minister must follow before recommending the making of a proclamation.

Clause 9: Exclusion of the South East

Clause 9 excludes that part of the State to which the *South Eastern Water Conservation and Drainage Act 1992* applies.

Clause 10: Establishment and nature of boards

Clause 10 provides for the establishment of catchment water management boards.

Clause 11: Common seal and execution of documents

Clause 11 provides for the use of the common seal of a board and the execution of documents.

Clause 12: Membership of boards

Clause 12 provides for the membership of boards.

Clause 13: Presiding member

Clause 13 sets out requirements in relation to the presiding member.

Clause 14: Nomination

Clause 14 relates to nomination of members.

Clause 15: Term of office of members

Clause 15 specifies the time at which the term of office of a member expires.

Clause 16: Conditions of membership

Clause 16 provides for conditions and termination of membership of a board.

Clause 17: Vacancies or defects in appointment of members

Clause 17 provides for vacancies and defects in appointments of members.

Clause 18: Procedure at meetings

Clause 18 sets out procedures at meetings of a board.

Clause 19: Meetings to be held in public subject to certain exceptions

Clause 19 requires that meetings be held in public except in specified circumstances.

Clause 20: Agenda and minutes of meeting to be provided to Minister and councils

Clause 20 requires a board to provide agendas and minutes of meetings to the Minister and the constituent councils.

Clauses 21 to 24

These clauses are standard provisions dealing with duties of members and their liability for breach of those duties.

Clause 25: Functions of boards

Clause 25 sets out the functions of boards. Most of a board's functions will be contained in the catchment water management plan.

Clause 26: Powers of boards

Clause 26 sets out some of the powers of boards. A board cannot establish permanent works on private land unless it acquires the land or an easement over the land (subclause (3)).

Clause 27: Sale of water by board

Clause 27 enables a board to sell water. The water must meet certain quality standards prescribed by regulation or under the *Environmental Protection Act 1993* in relation to water disposed of to an underground aquifer or be water that would otherwise be wasted by disposal into the sea.

Clause 28: Diversion of water to underground Aquifer

Clause 28 requires a board to enter into an agreement with the Minister administering the *Water Resources Act 1990* if it wishes to take water from an aquifer into which it has disposed of water. A board cannot expect to re-take the same quantity of water it put into an aquifer because a certain amount is lost and because part of the surface water that it puts into the aquifer would have found its way there in any event.

Clause 29: Board's responsibility for infrastructure

Clause 29 sets out the board's responsibility in relation to its infrastructure.

Clause 30: Entry and occupation of land

Clause 30 enables the board to enter and occupy land. Clause 55 provides for compensation in relation to the entry and occupation of land by a board.

Clause 31: By-laws

Clause 31 enables a board to make by-laws that a constituent council or controlling authority could have made if its functions had not been taken over by the board.

Clause 32: Representations by Minister administering Waterworks Act 1932

Clause 32 enables the Minister administering the *Waterworks Act 1932* to make representations to a board in relation to water pumped into a watercourse, channel or lake by the Minister.

Clause 33: Staff of board

Clause 33 provides for staff of a board.

Clause 34: Board may undertake building or works on behalf of council

Clause 34 enables a board to undertake works on behalf of a constituent council or other person.

Clause 35: Exclusion of functions and powers of councils, etc.

Clause 35 excludes the functions and powers of a constituent council or controlling authority that relate to the same subject matter as a board's functions or powers.

Clause 36: Water recovery rights subject to boards' functions and powers

Clause 36 provides for the interaction of the Bill and the *Water Resources Act 1990* and with other Acts.

Clause 37: Preparation of plans

Clause 37 provides for the preparation of catchment water management plans.

Clause 38: Amendment of a Development Plan

Clause 38 sets out the action that a board must take where it has identified amendments that should be made to a Development Plan.

Clause 39: Consultation

Clause 39 provides for consultation on the preparation of a plan.

Clause 40: Approval of plan by the Minister

Clause 40 provides for approval by the Minister of draft plans.

Clause 41: Consent of Minister administering the Waterworks Act 1932

Clause 41 requires the consent of the Minister administering the *Waterworks Act 1932* where the plan would affect the quality or quantity of water flowing into the waterworks. If the two Ministers cannot agree the deadlock will be resolved by the Governor.

Clause 42: Preservation and enhancement of natural resources

Clause 42 requires a board and the Minister to have regard to the effect of a plan on the State's natural resources when preparing the plan.

Clause 43: Annual review of plans

Clause 43 provides for the annual review of plans.

Clause 44: Time for preparation and review of plans

Clause 44 provides for the time frame for the preparation and review of plans.

Clause 45: Initial and comprehensive plans

Clause 45 allows for the fact that it may not be possible to prepare a comprehensive plan within the six month period prescribed by the previous clause.

Clause 46: Time for implementation of plans

Clause 46 enables a draft plan to be implemented with the consent of the Minister and the constituent councils.

Clause 47: Availability of copies of plans

Clause 47 provides for the availability of copies of plans to members of the public.

Clause 48: Contributions

Clause 48 deals with the contributions to be made by constituent councils.

Clause 49: Payment of contributions

Clause 49 sets out the time within which contributions are to be paid.

Clause 50: Imposition of rate by constituent councils

Clause 50 enables councils to impose a levy on landowners to recover the contribution payable to the board by the council.

Clause 51: Accounts and audit

Clause 51 requires a board to keep accounts and to prepare financial statements. The Auditor-General must audit the accounts and financial statements of a board.

Clause 52: Annual reports

Clause 52 provides for the preparation of an annual report.

Clause 53: Councils to have regard to management plan

Clause 53 requires constituent councils to have regard to the management plan.

Clause 54: Immunity from liability

Clause 54 provides for immunity of members and employees of boards and other persons engaged in the administration of the Act.

Clause 55: Compensation

Clause 55 is a compensation provision.

Clause 56: Interference with works

Clause 56 makes it an offence to interfere with the infrastructure for which a board is responsible without its consent.

Clause 57: Offences by body corporate

Clause 57 is a standard provision relating to offences by bodies corporate.

Clause 58: General defence

Clause 58 is a defence provision.

Clause 59: Regulations

Clause 59 is a regulation making power.

Schedule 1: Transitional Provisions

Schedule 1 provides transitional provisions.

Schedule 2: Consequential Amendments to Other Acts

Schedule 2 makes consequential amendments to the *Local Government Act 1934* and the *Water Resources Act 1990*.

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

PIPELINES AUTHORITY (SALE OF PIPELINES) AMENDMENT BILL

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

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I move:

That this Bill be now read a second time.

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

Leave granted.

This Bill provides for the eventual sale of the Moomba–Adelaide and Katnook natural gas pipelines, supporting assets and pipelines business of the Pipelines Authority of South Australia (PASA).

This asset sale, which the Government intends to conclude by the middle of this calendar year, is an important element in the Government's program, mandated during the 1993 election, to return South Australia's economy to one of growth and prosperity. The Government's program involves a substantial effort to reduce the State's debt which blew out of all proportions with the economic disasters which occurred during the late 1980's.

PASA was formed in the late 1960's when it was necessary for the Government of the day to provide infrastructure for the development of the then newly discovered natural gas riches in the far north east of the State at Gidgealpa and Moomba in the Cooper Basin. After some 25 years of operations and development, it is now an appropriate time for this Government, and Governments generally within Australia, to get out of the gas business and let the private sector take the running to develop the industry further through competition and commercial venture.

With the appropriate checks and balance mechanisms in place, it is now unnecessary for the Government to remain in the gas pipeline business. Indeed, it is argued that the only way that the full potential of the industry and its economic benefits to the State will be achieved, is through significant private sector participation. As we have seen only too well within this State, Governments may be well equipped to provide infrastructure but deal poorly with commercial risk.

Of course PASA's existing operations remain a vital ingredient to the State's economic development and its day to day continued supply of energy. This will not be handed over to the private sector in any carefree manner. The new owners of the pipelines, whoever they may turn out to be, will be subject to the rigours of the pipeline licence provisions.

In selecting a purchaser, the Government will not be driven by price alone. Although this will be a key objective of the sale, of equal standing will be the following objectives:

- economic benefits to South Australia;
- public safety;
- a pro-competitive ownership structure within the gas industry;
- fair and equitable treatment of employees;
- minimisation of any Government ongoing liability from its former ownership of the assets and business;
- maintenance of good relations with existing suppliers and customers; and
- achieving a timely sale.

The Government is aware of the sensitivities of employment issues in this asset sale. The PASA work force contains specialist pipeline skills and these are expected to be required by the purchaser of the pipelines. PASA's employees and management have worked closely together to achieve substantial productivity gains which has assisted in making PASA an attractive purchase option for companies seeking to enter the gas industry or for those seeking to expand their operations to take advantage of the exciting developments which are occurring, and will continue to occur, within Australia. Indeed, substantial interest has been expressed from national and international companies in this sale.

However, apart from seeking some undertakings from the ultimate purchaser regarding job security and the realistic expectation that the purchaser will require the majority of the PASA skills for its continued operation, the purchaser will not be obligated to offer everyone employment nor will the employees be obliged to transfer to the new owner.

For its part the owner will be required to offer comparable remuneration arrangements where employment offers are made, and as I have intimated will be required to guarantee employment for a minimum of 2 years to those employees who transfer to the new owner. Where employees don't transfer, they will be offered redeployment to suitable positions elsewhere within the State Government or voluntary separation.

Notwithstanding these arrangements, the Government aims to see that the majority of the existing employees stay with the business and is confident that PASA's existing employees will wish to remain in the gas industry, which as I have indicated is expected to provide accelerated growth under private ownership and expanded career opportunities.

The precise employment terms for transferring employees will be a matter between them and their new employer, but will be subject to certain minimum guidelines set by the Government. Such employees who are members of the State's contributory superannuation schemes will be able to preserve their benefits under the existing resignation preservation or alternative lump sum provisions of those schemes. This will ensure that there is a "clean break" at the time of sale from the Government.

PASA also has a "gas merchant" function at present. That is to say, PASA currently buys and sells gas, as well as transports it. The gas purchase and sale arrangements are quite complex and involve multiple contracts and multiple parties. For simplicity in the proposed sale, and in order to protect existing contractual rights and obligations, PASA's gas merchant function is to be separated from its gas transportation business and will be retained by the Government, at least for the time being. No further decision has been taken at this time regarding the future of this gas merchant business, although it is the Government's aim for new gas purchase and sale

contracts to be directly between producer and distributor or gas end user. However, there may be some circumstances where the Government may choose to contract for gas as a last option in order to protect the public interest.

In order to preserve the sanctity of existing purchase and sale contracts, the Bill seeks to reconstitute PASA as the Natural Gas Authority of South Australia (NGASA) as a sole corporation constituted by the Minister to whom the administration of the Act is committed from time to time.

NGASA will not require a Board and will be supported by an existing administrative unit, yet to be determined. Up to 5 of PASA's existing employees are expected to be redeployed to that administrative unit to undertake the residual work of NGASA. These employees' remuneration, conditions and service continuity will be preserved. Where an employee's salary is above State Public Service standards, it will be "pegged" to provide for catch-up.

The Bill also seeks to provide certainty to the new owner that it will acquire with the assets wholesome property rights. This is done through the establishment of a statutory easement which adheres as closely as possible to existing easements held by PASA, which the statutory easement will replace. This follows similar precedents in South Australia and elsewhere in Australia.

This Bill paves the way for a successful sale of PASA's assets and an important contribution to the Government's mandated program of getting South Australia back on its feet. As an added bonus, the transmission of gas by pipeline is expanding within Australia and is increasingly performed very successfully by the private sector and this asset sale fits quite comfortably with the national agenda for micro-economic reform and competition policy.

I commend this Bill to the House.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

This clause provides for the measure to come into operation on a day to be fixed by proclamation.

Clause 3: Interpretation

Substitution of s.1. This clause amends the short title to the *Pipelines Authority Act 1967* to "*Natural Gas Authority Act 1967*".

Clause 4: Insertion of heading

This clause is formal.

Clause 5: Amendment of s.3—Interpretation

This clause amends s.3 of the principal Act dealing with defined terms.

"Asset" and "liability" are given expansive meanings.

"Authority" means the Pipelines Authority of South Australia continuing in existence under the name "Natural Gas Authority of South Australia".

"Katnook pipeline" means the Katnook natural gas pipeline as delineated in Schedule 3.

"Minister" means the Minister for the time being responsible for the administration of the Act but where the Governor assigns a particular function to a minister, "Minister" means the minister to which such function is assigned.

"Moomba-Adelaide pipeline" means the Moomba-Adelaide pipeline delineated also in Schedule 3.

"Designated pipeline" refers to each of the two pipelines referred to.

"Operator" of a pipeline means a body corporate licensed as operator under the *Petroleum Act 1940*.

"Pipeline lease" means a perpetual lease granted under s.36 as title to compressor stations and other facilities associated with the Moomba-Adelaide pipeline.

"Servient land" means the land subject to a statutory easement created under Part 4.

"Transferred asset" and "transferred liability" encompass assets and liabilities transferred under this measure.

Clause 6: Repeal of ss.4—9 and insertion of new Part

This clause repeals provisions of the *Pipelines Authority Act* dealing with the Board, the common seal, remuneration of members of the Board and power to appoint officers and servants.

The Authority is to continue in existence as the "Natural Gas Authority of South Australia". It is to be a body corporate with full capacity and is to have a common seal.

The Authority will be a corporation sole constituted of the Minister and will hold its property for and on behalf of the Crown. It will cease to require a board and the Minister will act in place of the board.

Clause 7: Repeal of ss.10—11 and substitution of new Part

Sections 10, 10aa, 10a and 11 of the principal Act dealing with functions and powers and the application of the *Petroleum Act* are to be repealed.

Under a new s.10, the Authority will have a sufficient power to fulfil its obligations under existing gas sales and other outstanding contracts.

Clause 8: Repeal of s.12 & 14

This clause repeals s.12 of the principal Act which contains a power of compulsory acquisition for construction of a pipeline and related petroleum storage facilities. In future, the power of acquisition contained in the *Petroleum Act* will be relied upon.

It also repeals s.14 dealing with borrowing arrangements on the part of the Authority.

Clause 9: Repeal of ss.15—20

This clause repeals ss.15—20 of the principal Act.

S.15 of the principal Act deals with certain special obligations and powers of the Authority relating to the construction of the Moomba-Adelaide pipeline and other matters.

S.16 of the principal Act requires the preparation of annual accounts and an annual report to Parliament. It is envisaged that after the passing of the amending Act the Authority, being constituted of the Minister, will be brought under the control of a department and its activities reported on as part of the departmental report. The requirement to keep accounts and to have them regularly audited is dealt with in the *Public Finance and Audit Act 1987*.

S.17 of the principal Act deals with the resumption of certain Crown lands for the purposes of the Act and the grant of licences on property of the Authority.

S.18 of the principal Act makes the Authority liable for rates and land tax.

Clause 10: Insertion of new Parts

This clause adds a number of additional sections to the principal Act. These are as follows—

New s.21: Creation of statutory easements

This section creates a statutory easement over both the Moomba-Adelaide pipeline and the Katnook pipeline in favour of the Authority as owner.

The new statutory easement must be dealt with together with the pipeline and cannot be dealt with independently of it without the Minister's consent. Provision is made for the surrender of the statutory easement and for the addition of land for the purposes of the easement, eg. in case of a re-alignment of the pipeline.

New s.22: Land subject to statutory easement

Section 22 defines the statutory easement as extending along the entire length of the pipeline in each case and extending laterally from the pipeline at various widths in accordance with the description and plan set out in Schedule 3.

The land covered by the statutory easement also includes any other land over which the Authority held an easement for the purposes of the pipeline as at the commencement of the amending Act.

If a building, structure or fixture not associated with the operation of the pipeline is lawfully on the land covered by the statutory easement before the commencement of the amending Act, the land on which that building, structure or fixture stands is not part of the land subject to the easement.

The Minister is authorised, by notice in the *Gazette*, within 3 months after the commencement of the amending Act, to vary the boundaries of the easement to avoid conflicts or possible conflicts between the rights conferred by the easement and other rights and interests.

New s.23: Rights conferred by statutory easement

Rights conferred by the statutory easement are set out in s.23. Essentially, these rights are to install, maintain and operate the pipeline and to maintain associated equipment such as facilities for cathodic protection, equipment for the transmission of electricity or providing water and fences and other protective structures on the servient land, and also on other land within five kilometres of the pipeline ("the outlying land").

Provision is made for compensation as assessed by the Magistrates Court to be paid for the installation of associated equipment on the outlying land after the commencement of the amending Act.

Provision is made enabling the holder of the easement to obtain water necessary for domestic requirements at living quarters along the pipeline route from a natural source, reservoir or bore on Crown land. Compensation for water taken is to be determined by agreement or in default by the Magistrates Court.

New s.24: Effect of statutory easement on existing interests etc
The statutory easement extinguishes documentary easements in favour of the Authority over the land covered by it.

Rights related to the Stony Point Liquids Pipeline are preserved to the extent that they may be exercised consistently with the rights conferred by the statutory easement.

If an instrument creating an easement contains a covenant indemnifying other persons interested in the land from liability in respect of the pipeline, those covenants are preserved but are enforceable only against the owner of the pipeline at the time the relevant loss or damage occurs.

If a documentary easement registered under the *Real Property Act* is extinguished, the Registrar-General is required on application to cancel the relevant registration.

Dedication of Crown land before the commencement of the amending Act for the purpose of either the Moomba-Adelaide or Katnook pipeline is revoked.

The licence granted by the Crown, a statutory authority or a council to permit the installation of the pipeline is revoked in relation to land covered by the statutory easement.

New s.25: Registrar-General to note statutory easement
This section makes provision for the endorsement by the Registrar-General of a note on certificates of title affected of the existence of the statutory easement.

New s.26: Registration of statutory easement or part of statutory easement
This section enables the owner of the easement to formally register it on certificates of title affected and enables a certificate of title for the easement as an easement in gross to issue in the name of the owner of the easement.

New s.27: Minimisation of damage etc
This section requires a person exercising rights under the statutory easement to take reasonable steps to minimise damage to land (including pastures and native vegetation) from work carried out in relation to the pipeline and to avoid unnecessary interference with land or its use or enjoyment by others from the exercise of rights conferred by the statutory easement.

A provision is included preventing a person exercising rights under the statutory easement from engaging in activities involving substantial destruction of vegetation on the land covered by the statutory easement unless it is essential to do so or unless the Minister approves.

New s.28: Sale of assets
This section authorises the Treasurer to sell assets and liabilities of the Authority to a purchaser. This section enables the Treasurer to sell and transfer assets and liabilities of the Authority even though the Treasurer is not the owner of those assets and liabilities.

The transfer of an asset or liability under this section will operate by force of the Act and despite the provisions of any other law or instrument.

The transfer of a liability under this section will operate to discharge the Authority from the liability.

New s.29: Transferred instruments
Provision is made in the legislation for a sale agreement to identify transferred instruments. Any instrument declared in such an agreement to be a transferred instrument will operate, as from the date specified, as if references in the instrument to the Authority were references to the purchaser.

New s.30: Grant of pipeline licence
This section provides for a new pipeline licence to be granted to a purchaser and for the existing licence in favour of the Authority to be revoked.

New s.31: Registrar's duty to record vesting of land
This section enables any land (other than the statutory easement) transferred by the operation of a sale agreement under the Act to be recorded in the Lands Titles Office as having vested in the purchaser.

New s.32: Evidence
This section permits the Treasurer or a person authorised by him to give a certificate as to a transferred asset or liability or a transferred instrument. Such a certificate is to be acted upon by courts, administrative officials and others.

New s.33: Saving provisions
This section provides that nothing done or allowed in accordance with Part 5 or a sale agreement:

(a) constitutes a breach or default under any Act or other law;
(b) constitutes a breach or default under a pre-existing contract, agreement or understanding etc;
(c) constitutes a breach of a duty of confidence;
(d) constitutes a civil or criminal wrong;
(e) terminates an agreement or obligation or fulfils the condition that allows a person to terminate an agreement or obligation;
(f) gives rise to any other right or remedy.

New s.34: Dissolution of the Authority
This section enables the Governor by proclamation to dissolve the Authority and vest its remaining assets and liabilities in an authority or person nominated in a proclamation. Any remaining assets vest in the Crown.

Any statutory powers that might have been exercised by the Authority will, after its dissolution, be exercisable by the Minister.

New s.35: Act to apply despite Real Property Act 1886
This section provides that the Act applies to land whether or not it is brought under the provisions of the *Real Property Act*.

The statutory easement is valid despite anything contained in the *Real Property Act*.

New s.36: Pipeline leases
This section authorises the grant of perpetual leases over lands for the purpose of metering stations, living quarters, airstrips and other facilities in conjunction with the operation of the pipeline.

The holder of a perpetual lease will be entitled to reasonable access to the land comprised in the lease.

The grant of a pipeline lease will have the effect of revoking any existing sublease or other Crown tenement that might exist and also will have the effect of revoking any existing dedication of Crown land in respect of the area covered by the perpetual lease. A perpetual lease will, in the first instance, be granted to the Authority and will then be dealt with as part of the assets and liabilities to be sold.

A pipeline lease can only be dealt with with the consent of the Minister.

If it is necessary to preserve an existing Crown tenement or dedication from the operation of the section, the Minister may do so by notice published in the *Gazette*.

New s.37: Grant of licences by the Authority
This section is substantially in the form of ss.17(3) and (4) of the principal Act.

The section permits the Authority to authorise another to use easements to facilitate the construction and operation of another pipeline (eg. the Stony Point pipeline).

New s.38: Aboriginal interests
The rights of aboriginal people to engage in traditional pursuits is preserved. It is not intended to adversely affect those rights.

New s.39: Interaction between this Act and other Acts
A transaction to dispose of assets or liabilities of the Authority is not to be subject to the *Land and Business (Sale and Conveyancing) Act 1994* which provides for the giving of certain notices on the sale of land.

Consent under Part 4 of the *Development Act* (dealing with the subdivision of land) is not to apply to a transaction under this Act.

This Act is not intended to derogate from requirements under the *Petroleum Act 1940* about safety or the protection of the environment.

New s.40: Joint ventures
Provision is made here for the joint and several liability of participants in a joint venture. The section also facilitates the giving and receiving of notice from participants in a joint venture by requiring an agent to be nominated to represent the group.

New s.41: Exclusion of liability
This section provides that the exercise of rights under the Act does not give any right to compensation. Compensation is provided for in 2 instances in the new s.23.

New s.42: Authority's immunities
This section is a re-enactment of s.20 of the principal Act. It preserves the Authority's immunity in respect of an interruption of or failure in supply of petroleum.

New s.36: Regulations
This section contains power to make regulations and provides that a regulation may impose a fine for breach of not more than a Division 7 fine.

Clause 11: Renumbering
This clause provides for renumbering of the principal Act.

Clause 12: Insertion of Schedules
This clause provides for the insertion of schedules.

Schedule 1 deals with a number of consequential amendments to the *Petroleum Act 1940* and an explanation of these is as follows:

Schedule 1

Clause 1: Amendment of s.80ca
This clause contains two new definitions.

"Easement" includes the statutory easement under the *Pipelines Authority Act 1967*.

"Pipeline land" includes an easement.

Clause 2: Amendment of s.80d—Requirement to hold licence

This amendment makes it clear that the obligation to hold a licence under the Act applies to one who constructs or operates a pipeline through the agency or instrumentality of another.

This amendment also provides that a pipeline licence may only be held by a body corporate.

Clause 3: Insertion of s.80ia

This section provides that joint venture participants who hold a pipeline licence under the Act are jointly and severally liable for the obligations under the Act. Provision is also made for nomination of a representative to give and receive notices on behalf of the participants in the joint venture.

Clause 4: Amendment to s.80j—Acquisition of land

This amendment ensures that where an easement is acquired for the construction or operation of a pipeline, there is no need for the easement to be made appurtenant to any other land.

The amendment also provides that a statutory power to resume land subject to lease under the *Crown Lands Act 1929* and the *Pastoral Land Management and Conservation Act 1989* may be exercised as if land required for a pipeline were a public purpose.

Clause 5:

Insertion of s.80qa: Pipeline to be a chattel

A pipeline under the Act is, although affixed to the soil, deemed to be a chattel.

Insertion of s.80qb: Dealing with pipeline

A pipeline and pipeline land cannot be dealt with without the Minister's written approval.

This provision has no application to the Moomba-Stony Point liquids line which is subject to Pipeline Licence number 2.

Insertion of s.80qc: Resumption of pipeline

This section enables the Minister to resume a pipeline if it is not used for a continuous period of at least three years. This would occur when operations have ceased and the pipeline is abandoned.

If the Minister decides to resume the pipeline and give notice to that effect, the owner has the right within six months to take up the pipeline and associated structures but must restore the land to its former condition.

At the expiration of the six months' period, the Minister may require the owner of the pipeline to remove buildings, structures and fixtures associated with it (but not the pipeline itself) and restore the land to its former condition. In default, the Minister may carry out the work and recover the cost from the owner.

At the expiration of the six months' period referred to, the Minister may vest the pipeline land and any structures in the Crown.

No compensation is payable for divestiture of property under this section.

Where the easement is vested in the Crown, the Minister may surrender it or any part of it to the owner of the land in question.

Schedule 2

Schedule 2 deals with staff and superannuation.

Clause 1—Interpretation

This clause sets out definitions used in Schedule 2.

Clause 2—Transfer of certain staff

This clause deals with staff who are not taken over by the purchaser of the Moomba-Adelaide pipeline.

It enables the Commissioner for Public Employment to transfer an employee or group of employees to an administrative unit in the Public Service by an order in writing. The order must be made within 3 months of completion of the sale of the Moomba-Adelaide pipeline.

Where such an order is made, continuity of service and entitlements to long service leave and annual leave are preserved.

These provisions have no application to employees transferring to the employment of a purchaser of the Moomba-Adelaide pipeline or to the employment of a nominated employer (ie. an employer nominated by the purchaser).

Clause 3—Superannuation—State Scheme contributors 55 years of age and over

This clause applies only to State Scheme contributors of 55 years and over.

Entitlements of State Scheme contributors who are employees of the Authority and who transfer to the employment of the purchaser of the Moomba-Adelaide pipeline or a nominated employer do not crystallise on resignation from employment by the Authority but crystallisation is postponed until termination of employment with the purchaser or nominated employer.

On termination of employment with the purchaser or nominated employer (other than by death), an old scheme contributor is entitled to a pension under s.34 of the *Superannuation Act 1988* and a new scheme contributor is entitled to a lump sum benefit under s.27 of that Act.

For the purposes of applying those sections, the benefit is calculated on the basis of the contributor's actual or attributed salary at the time of the transfer of employment from the Authority to the purchaser or nominated employer and indexed according to CPI up to the date of cessation of employment with the purchaser or nominated employer.

In the case of death, benefits will be paid having regard to the same salary to the contributor's beneficiaries in accordance with s.38 in the case of old scheme contributors and s.32 in the case of new scheme contributors. These sections provide for benefits to the deceased contributor's family.

A new scheme contributor on retirement from the employment of the purchaser or nominated employer (or persons entitled in the case of death) is entitled to the additional benefit provided for in section 32A of the *Superannuation Act 1988*.

As an alternative to the above benefits, a State Scheme contributor who has reached 55 years of age has the option to take a lump sum under s.28A of the *Superannuation Act 1988*.

Clause 4—Superannuation—State Scheme contributors under 55 years of age

This clause applies only to State Scheme contributors who have not reached 55 years of age.

A State Scheme contributor under 55 years of age, who is an old scheme contributor and who is transferring to the employment of the purchaser of the Moomba-Adelaide pipeline or a nominated employer is entitled to elect to preserve his or her benefits under the *Superannuation Act 1988* or to receive a lump sum under s.39A of that Act.

A State Scheme contributor under 55, who is a new scheme contributor and who is transferring to the employment of the purchaser of the Moomba-Adelaide pipeline or a nominated employer is entitled to elect to preserve his or her benefits under the *Superannuation Act 1988*, to receive a lump sum under s.28A or to carry over accrued superannuation benefits to some other complying superannuation fund.

Where benefits are preserved, they do not become payable to the contributor until he or she:

(a) ceases to be an employee of the purchaser or nominated employer and reaches the age of 55 years;

(b) dies; or

(c) becomes totally and permanently incapacitated for work and ceases to be an employee of the purchaser or nominated employer.

Clause 5—Non-application of certain provisions of the Superannuation Act 1988

Parts 4 and 5 the *Superannuation Act 1988* apply to employees transferring to a purchaser or nominated employer only to the extent that they are made applicable by the provisions of clauses 3 and 4 of the Schedule.

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

ADJOURNMENT

At 5.43 p.m. the Council adjourned until Thursday 23 March at 2.15 p.m.