LEGISLATIVE COUNCIL

Tuesday 30 May 1995

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

ASSENT TO BILLS

Catchment Water Management,
Consent to Medical Treatment and Palliative Care,
Construction Industry Long Service Leave (Miscellaneous) Amendment,
Consumer Credit (South Australia),
Co-operatives (Abolition of Co-operatives Advisory Council) Amendment,
Credit Administration,
Dairy Industry (Equalisation Schemes) Amendment,
Dog and Cat Management,
Fisheries (Miscellaneous) Amendment,
Housing and Urban Development (Administrative Arrangements),
Liquor Licensing (Miscellaneous) Amendment,
Lottery and Gaming (Two up on Anzac Day) Amendment,
MFP Development (Miscellaneous) Amendment,
Mining (Native Title) Amendment,
Mining (Special Enterprises) Amendment,
Natural Gas Pipelines Access,
Parliamentary Remuneration (Basic Salary) Amendment,
Petroleum Products Regulation,
Phylloxera and Grape Industry,
Pipelines Authority (Sale of Pipelines) Amendment,
Plumbers, Gas Fitters and Electricians,
Public Sector Management,
Retail Shop Leases,
South Australian Housing Trust (Water Rates) Amendment,
Statutes Amendment (Attorney-General's Portfolio),
Statutes Amendment (Correctional Services),
Statutes Amendment (Female Genital Mutilation and Child Protection),
Superannuation Funds Management Corporation of South Australia,
Supply,
Trustee (Investment Powers) Amendment,
Waterworks (Rating) Amendment,
Workers Rehabilitation and Compensation (Miscellaneous Provisions) Amendment.

INDUSTRIAL AND EMPLOYEE RELATIONS (MISCELLANEOUS PROVISIONS) AMENDMENT BILL

The Hon. K.T. GRIFFIN (Attorney-General): I move:

That the sittings of the Council be not suspended during the continuation of the conference on the Bill.

Motion carried.

QUESTIONS ON NOTICE

The PRESIDENT: I direct that the written answers to the following questions, as detailed in the schedule that I now table, be distributed and printed in *Hansard:* Nos 117 to 129, 134, 143, 148A and 155 to 158.

REGIONAL IMPACT STATEMENTS

117. **The Hon. R.R. ROBERTS** will ask the Minister for Education and Children's Services: In accordance with the Liberal Party's 1993 election commitment to publish a Regional Impact Statement '. . . for each major policy development affecting the regions . . . ':

1. What Regional Impact Statements have been released by the Minister between 11 December 1993 and 22 February 1995?
2. On what date was each Regional Impact Statement released?
3. Which major policy developments have been announced by the Minister without an accompanying Regional Impact Statement?

118. **The Hon. R.R. ROBERTS** will ask the Minister for Education and Children's Services: In accordance with the Liberal Party's 1993 election commitment to publish a Regional Impact Statement '. . . for each major policy development affecting the regions . . . ':

1. What Regional Impact Statements have been released by the Premier and Minister for Multicultural and Ethnic Affairs between 11 December 1993 and 22 February 1995?
2. On what date was each Regional Impact Statement released?
3. Which major policy developments have been announced by the Premier without an accompanying Regional Impact Statement?

119. **The Hon. R.R. ROBERTS** will ask the Minister for Education and Children's Services: In accordance with the Liberal Party's 1993 election commitment to publish a Regional Impact Statement '. . . for each major policy development affecting the regions . . . ':

1. What Regional Impact Statements have been released by the Deputy Premier and Treasurer between 11 December 1993 and 22 February 1995?
2. On what date was each Regional Impact Statement released?
3. Which major policy developments have been announced by the Deputy Premier without an accompanying Regional Impact Statement?

120. **The Hon. R.R. ROBERTS** will ask the Minister for Education and Children's Services: In accordance with the Liberal Party's 1993 election commitment to publish a Regional Impact Statement '. . . for each major policy development affecting the regions . . . ':

1. What Regional Impact Statements have been released by the Minister for Industry, Manufacturing, Small Business and Regional Development and Minister for Infrastructure between 11 December 1993 and 22 February 1995?
2. On what date was each Regional Impact Statement released?
3. Which major policy developments have been announced by the Minister without an accompanying Regional Impact Statement?

121. **The Hon. R. R. ROBERTS** will ask the Minister for Education and Children's Services: In accordance with the Liberal Party's 1993 election commitment to publish a Regional Impact Statement '. . . for each major policy development affecting the regions . . . ':

1. What Regional Impact Statements have been released by the Minister for Employment, Training and Further Education and Minister for Youth Affairs between 11 December 1993 and 22 February 1995?
2. On what date was each Regional Impact Statement released?
3. Which major policy developments have been announced by the Minister without an accompanying Regional Impact Statement?

122. **The Hon. R.R. ROBERTS** will ask the Attorney-General: In accordance with the Liberal Party's 1993 election commitment to publish a Regional Impact Statement '. . . for each major policy development affecting the regions . . . ':

1. What Regional Impact Statements have been released by the Minister between 11 December 1993 and 22 February 1995?
2. On what date was each Regional Impact Statement released?
3. Which major policy developments have been announced by the Minister without an accompanying Regional Impact Statement?

123. **The Hon. R.R. ROBERTS** will ask the Attorney-General: In accordance with the Liberal Party's 1993 election commitment to publish a Regional Impact Statement '. . . for each major policy development affecting the regions . . . '

1. What Regional Impact Statements have been released by the Minister for Tourism and Minister for Industrial Affairs between 11 December 1993 and 22 February 1995?
2. On what date was each Regional Impact Statement released?
3. Which major policy developments have been announced by the Minister without an accompanying Regional Impact Statement?

124. **The Hon. R.R. ROBERTS** will ask the Attorney-General: In accordance with the Liberal Party's 1993 election

commitment to publish a Regional Impact Statement '. . . for each major policy development affecting the regions . . . ':

1. What Regional Impact Statements have been released by the Minister for Mines and Energy and Minister for Primary Industries between 11 December 1993 and 22 February 1995?

2. On what date was each Regional Impact Statement released?

3. Which major policy developments have been announced by the Minister without an accompanying Regional Impact Statement?

125. **The Hon. R.R. ROBERTS** will ask the Attorney-General: In accordance with the Liberal Party's 1993 election commitment to publish a Regional Impact Statement '. . . for each major policy development affecting the regions . . . ':

1. What Regional Impact Statements have been released by the Minister for Emergency Services and Minister for Correctional Services between 11 December 1993 and 22 February 1995?

2. On what date was each Regional Impact Statement released?

3. Which major policy developments have been announced by the Minister without an accompanying Regional Impact Statement?

126. **The Hon. R.R. ROBERTS** will ask the Minister for Transport: In accordance with the Liberal Party's 1993 Election commitment to publish a Regional Impact Statement '. . . for each major policy development affecting the regions . . . ':

1. What Regional Impact Statements have been released by the Minister between 11 December 1993 and 22 February 1995?

2. On what date was each Regional Impact Statement released?

3. Which major policy developments have been announced by the Minister without an accompanying Regional Impact Statement?

127. **The Hon. R.R. ROBERTS** will ask the Minister for Transport: In accordance with the Liberal Party's 1993 Election commitment to publish a Regional Impact Statement '. . . for each major policy development affecting the regions . . . ':

1. What Regional Impact Statements have been released by the Minister for Housing, Urban Development and Local Government Relations and Minister for Recreation and Sport between 11 December 1993 and 22 February 1995?

2. On what date was each Regional Impact Statement released?

3. Which major policy developments have been announced by the Minister without an accompanying Regional Impact Statement?

128. **The Hon. R.R. ROBERTS** will ask the Minister for Transport: In accordance with the Liberal Party's 1993 Election commitment to publish a Regional Impact Statement '. . . for each major policy development affecting the regions . . . ':

1. What Regional Impact Statements have been released by the Minister for Environment and Natural Resources, Minister for Family and Community Services and Minister for the Ageing between 11 December 1993 and 22 February 1995?

2. On what date was each Regional Impact Statement released?

3. Which major policy developments have been announced by the Minister without an accompanying Regional Impact Statement?

129. **The Hon. R.R. ROBERTS** will ask the Minister for Transport: In accordance with the Liberal Party's 1993 Election commitment to publish a Regional Impact Statement '. . . for each major policy development affecting the regions . . . ':

1. What Regional Impact Statements have been released by the Minister for Health and Minister for Aboriginal Affairs between 11 December 1993 and 22 February 1995?

2. On what date was each Regional Impact Statement released?

3. Which major policy developments have been announced by the Minister without an accompanying Regional Impact Statement?

Reply:

The Liberal Government is assisting country communities to build strong regional economies as part of an overall approach to ensuring the sustainable development of South Australia. The Government's Regional Development Policy is premised on the need to investigate the specific needs and problems of country areas and to assess the impact of Government policy and programs on regional South Australia.

The Government's specific commitment to require a Regional Impact Statement for each major policy development affecting the regions is being addressed through the Cabinet Process. It is Government policy that proposals before Cabinet take into account any impacts on regional development. Cabinet documents and submissions are confidential documents and are not released publicly.

The Government's Regional Development Program is assisting the development of a Government framework for regional impact assessment.

The Regional Development Task Force was established within the Department of the Premier and Cabinet to coordinate Government planning and programs for country regions. In cooperation with community representatives—including Local Government and regional development boards—the Regional Development Task Force is facilitating the preparation of regional development strategies for country South Australia. The Northern Spencer Gulf Resource Processing Draft Strategy was released publicly by the Minister for Mines and Energy on 4 February 1994. The Riverland Regional Development Strategy was released by the Minister of Industry, Manufacturing, Small Business and Regional Development on 16 December 1994. The Strategy represents a consolidated statement of the impacts of Government policy and programs on the Riverland, and a comprehensive set of actions for the Region.

The assessment of social, environmental and economic impacts of major proposals on regions is an integral part of the work of agencies in policy, program and project appraisal. Community involvement in the development and refinement of major policy proposals is accorded a high priority by the Government. The following summary illustrates the range of Government policy initiatives in support of regional development:

- The Government has significantly increased the level of resources dedicated to assisting the development of regional economies in South Australia. A Regional Development Division has been established in the Economic Development Authority to improve the Government capacity to service regional development boards and firms in regions. A review of the Authority's Regional Business Development Policy is underway.
- The South Australian Health Commission is working with Regional Hospital Boards to agree on structures for Regional Country Boards for the delivery of country health services across country South Australia.
- Within the Family and Community Services portfolio, nineteen District Centres are sponsoring joint planning processes to identify, with community groups and local authorities, local priorities for the distribution of State funds to support non-Government community welfare activities.
- The Department for Correctional Services has conducted a review of all prisons to determine their effectiveness and to identify scope to improve the economic efficiency of the prison system as a whole. The effect that closure would have on the local community was a significant factor in the decision by the Government not to close Port Lincoln Prison, and an economic study is being carried out by the Economic Development Authority before any decision concerning the Cadell Training Centre is made.
- In the provision of new schools or in projects associated with school restructure, the Department for Education and Children's Services works closely with community representatives, related organisations and agencies. Current projects include Clare and surrounding district; the formation of the John Pirie High from two former secondary schools, Risdon Park and Port Pirie; the development of one government secondary school in Port Augusta and initial discussions in Jamestown about co-locating primary and secondary facilities and services.
- The Employment, Training and Further Education portfolio has, through the enactment of new Vocational Education, Employment and Training legislation, empowered TAFE Institute Councils to respond to regional community needs. The Department's focus on youth training has most recently seen the introduction of the Kickstart for Youth program, in which the management of regional programs encourages input from regional development boards.
- The Office of Consumer and Business Affairs has improved access to services for consumers and businesses in non-metropolitan SA by the provision of a 13 line telephone service (cost of a local call).
- Regional South Australia has been given a strong focus in the provision of information on the Government's new industrial relations system. Special briefings were held in 11 regional locations during the latter part of 1994.
- The Committee of Inquiry into Shop Trading Hours recognised the need for adequate consultation with organisations and businesses outside the Adelaide metropolitan area. Verbal submissions were heard in three regional centres during April 1994.
- The recently announced Commonwealth-State Eyre Peninsula Rural Reconstruction Program will involve the community in a regional approach to long term rural adjustment. A special Task Force will develop a package of measures to address reconstruction and related natural resource issues on Eyre Peninsula.

- In Transport, the Government has commenced work on fulfilling its election commitment to seal all arterial roads in Incorporated Areas within 10 years.
- In the Status of Women portfolio, four of the fourteen member Women's Advisory Council are from Regional and Rural areas of South Australia. One of the four key areas of interest for the Council in its first two years of operation is Women in Regional and Rural Areas.
- The Tourism portfolio now has a much more entrepreneurial and regionally directed structure of marketing boards. A series of regional tourism workshops has assisted the articulation of the vision and identification of strategies for the joint industry and Government 1995-97 tourism master plan. The Tourism Development Scheme is targeting the development of new tourism projects in country areas and the better utilisation of existing tourism resources with infrastructure and investment support.
- The key objective in the restructuring of the Department of Environment and Natural Resources is to provide an integrated service to regions to improve access to information and advice on all areas of responsibility and to improve decision making at the regional level.
- The Government is actively seeking the involvement of the community in the development of water resources policy. A major public consultation program is being undertaken in relation to the development of a State Water Plan for South Australia and its regions.
- In December 1994, the Minister for Housing, Urban Development and Local Government Relations appointed an independent Ministerial Advisory Group on Local Government Reform to address the functions carried out by Local Government, both by individual Councils and within defined regions, and the means by which more responsive, effective and competitive service delivery might be achieved—including the planning and delivery of functions on a regional basis. The Group has conducted regional meetings to hear submissions from Local Government, community and key interest groups from each region.

WIRREANDA HIGH SCHOOL

134. **The Hon. CAROLYN PICKLES:**

1. How many teachers were redeployed away from Wirreanda High School after finalisation of timetables and curricula for Year 12 students at the school?

2. What were the reasons for teachers being redeployed from Wirreanda High School at that stage?

3. Which subjects were cancelled and how many classes had to be combined following the redeployment of teachers at that stage?

4. Will the Minister reallocate teachers to Wirreanda High School to ensure that the original curriculum choices are maintained, and if not, why not?

5. Can the Minister provide details of class sizes at the Wirreanda High School and, in particular how many junior secondary senior secondary classes are conducted with more than 29 students, and what are the subjects taught in these classes?

The Hon. R.I. LUCAS:

1. Wirreanda High School carried out a required placement of 2.5 teachers from the school at the start of the 1995 school year.

2. This required placement was necessary because Wirreanda High School fell short by 43 students of the enrolment target on which staff was provided at the end of 1994. The statewide staffing formula when applied to the actual enrolment at the start of 1995, entitled the school to 2.5 teachers less than had been provided on predicted student enrolment numbers.

3. The direct consequences of these current required placements has been

- the amalgamation of a year 11 music class with a year 12 music class
- the abandonment of a year 12 SAS English class, year 12 Technical Studies class, year 12 Australian History and year 12 Environmental Science class
- the amalgamation of year 12 PES and SAS Drama into a combined Drama class offering both PES and SAS
- the collapse of a year 10 French class.

4. It would not be equitable to reallocate teachers to Wirreanda High School above their entitlement under the staffing formula for the number of students enrolled at the school.

5. There are 12 classes at Wirreanda High School containing more than 29 students. The decision on these classes is a school management responsibility. In some of these cases a conscious school decision has been made to have a class of over 29 students so that other classes in the same subject can be considerably smaller. In these cases it would have been possible to still have all the classes in a subject below 29 students if the school had chosen that option. The classes are:

Year	*Subject*	*Size*
9	Maths	32
10	Science	30
10	Science	31
10	English	32
10	General Studies	30
10	Health & the Teenager	31
10	Law & the Teenager	30
10	Maths	32
10	Maths	30
11	Pure Maths	33
12	SAS Contemporary World History	30
12	SAS English	30

It should also be noted that almost 40 per cent of all classes at the school have less than or equal to 24 students.

SCHOOL CARD

143. **The Hon. CAROLYN PICKLES:** What is the total number of students now in receipt of school card, and how does the number in each primary and secondary school compare with last year?

The Hon. R.I. LUCAS: As at 23 March 1995 the Department for Education and Children's Services records show there were 36 275 primary students and 17 396 secondary students, totalling 53 671 students approved for the School Card Scheme. On 22 March 1994 there were a total of 48 618 students recorded as approved. The total number of students approved for the 1994 School Card Scheme by the end of the year was 104 519 (primary 71 060 and secondary 33 459).

A significant number of students are approved at the school level on the basis of Health Care Cards and Sole Parent Pensioner Concession Cards. Schools then progressively advise the Department for Education and Children's Services about the number of students approved during the school year. All schools have been requested to forward their school card registers of approved students as at 31 March 1995 by the end of term 1.

SCHOOL FEES

148A. **The Hon. CAROLYN PICKLES:** What are the details of school fees being charged at each primary and secondary school in South Australia and will the Minister provide a schedule listing charges at each school?

The Hon. R.I. LUCAS: School fees are set by individual school councils to reflect the individual requirements of their communities and for this reason vary widely across the State.

The department does not keep information on fees for individual schools.

It is extremely difficult to make comparisons with school fee data. One school may have a relatively high fee, but not charge families for excursions throughout the year, while another school may have a relatively lower fee and 'pay as you go' excursions. This also applies with subject and/or computer levies.

I am advised that fees may range from $60 in a small country primary school to $315 in a large metropolitan secondary school.

WOMEN'S SUFFRAGE

155. **The Hon. ANNE LEVY:** Of the $400 307 contributed by Government agencies for the Suffrage Centenary activities in the 1994-95 financial year (see *Hansard* 22 November 1994), what were the sums contributed by each agency and for what projects?

The Hon. DIANA LAIDLAW: The amounts contributed by Government agencies towards Women's Suffrage Centenary activities for 1994-95 are outlined in Attachment A.

A copy of the 'State Public Sector Calendar 1994' which details the projects undertaken, will be forwarded direct to the honourable member.

In some cases agencies undertook additional activities as enthusiasm for the centenary celebrations developed.

The cost of some activities were incorporated in existing agency budgets, therefore do not appear on Attachment A.

A final financial statement for the Women's Suffrage Centenary will be available by the end of this financial year.

Attachment A

Women's Suffrage Centenary

Department/Agency Contribution	1994-95
State Library of South Australia (Calendar year total representing *notional* allocations from the State Library's budget including salary costs = $80 000)	40 000
State History Centre, OPH (Calendar year total = $15 000)	7 500
Treasury (1993-94)	-
State Electoral Department (1993-94)	-
Office of Fair Trading (1993-94)	-
Former Office of Government Management (1993-94)	-
Department for Employment, Training and Further Education	5 000
Correctional Services	
Women Power and Politics conference	2 000
Department of Housing and Urban Development	20 000 National Planning Conference
Department of Transport	2 000 (Exhibition)
Women Power and Politics Conference	4 900
(State Transport Authority)	10 000
TransAdelaide	
State Services	
State Services Corporate Unit (1993-94)	-
State Fleet	3 325
State Supply	500 (Student Award)
State Records	7 000
Art Gallery of South Australia	53 225
Department of Premier and Cabinet	2 500
Department of Industrial Affairs	15 000
State Government Insurance Commission (1993-94)	-
South Australian Tourism Commission	7 500
Courts Administration Authority	200 (photocopying)
Family and Community Services	20 000
Community Development Grants	
Australian Submarine Corporation (1993-94)	-
Women Power and Politics Conference	
Office for Recreation, Sport and Racing	4 067
Office of Multicultural and Ethnic Affairs	-
Grants for activities related to Women's Suffrage and Year of the Family (1993-94)	
Primary Industries of South Australia	9 820
SARDI SA Research Development Institute (1993-94)	-
EWS	5 500
Children's Services Office of	
Department for Education and Children's Services	2 000
Education Department of	320
Department for Education and Children's Services	(for ASO1 salary, taking conference registrations)
South Australian Health Commission	53 000
Department of Mines and Energy	500
Commissioner for Public Employment	to 31/1/95
ASO6 includes 20 per cent on costs	30 422
ASO4	24 395
ASO2	15 726
ASO1	14 157
State Bank	to 31/1/95
Secretariat Accommodation	29 750
Department of Environment and Natural Resources, Barbara Hardy Award	10 000
Total	$400 307

TEACHER SELECTION PROCEDURES

156. **The Hon. CAROLYN PICKLES:**

1. How many complaints have been received by the Department for Education and Children's Services in relation to the teaching staff selection procedures introduced last year?

2. To what extent have criteria for selection of teaching staff changed, and what are the reasons for any changes to criteria?

3. To what extent are priority dates taken into account under the new teaching staff selection procedures?

The Hon. R.I. LUCAS:

1. In the 1994-1995 teacher recruitment process a new initiative was introduced which enabled school principals, with advice from the personnel advisory committee, to have greater participation in the selection of their teachers. This was done once it had been determined that no permanent teachers could be appointed.

Approximately 80 positions were filled through this recruitment process.

There was one complaint about this process from a teacher who was not successful in achieving permanent status.

2. There was very little change to the criteria for the selection of teaching staff in 1994-1995.

The process used for both recruitment to permanent and contract positions is:

- A vacancy is declared by a school and submitted for the appointment of a teacher.
- A computer matching run of teachers is called which provides a list of teachers in a priority order determined by the following factors:
  - The degree to which there is a match between the vacancy and the teacher's skills.
  - A teacher's ratings.
  - A teacher's preference for the district in which a school is located.
  - Priority date (if applicable).

For the local selection process, the principal of a school with a permanent vacancy which was available for recruitment was issued with a copy of a matching run with approximately 20 names on it.

Principals had the opportunity to look closely at other skills, subjects and abilities a teacher could bring to their school. These qualities are also included on the matching run. This enabled principals and their personnel advisory committees to consider the longer term developments in the school as indicated by the school development plan. It was also an opportunity for a school to bring in complementary skills and expertise which would be of benefit for students by providing a broader curriculum base within the staff.

Principals also had access to teacher's past experience and work reports (ED048) written at the end of a period of contract service. The purpose of this was to gauge some understanding of the context of the skills a teacher had presented. For example, a verified skill in behaviour management at an Adelaide eastern suburbs school has a different context to the same skill in a difficult northern suburbs school. Principals were able to make some appropriate judgement about the context in which a prospective recruit had demonstrated their skills and how that related to their school.

The criteria for the selection of teachers is no different from that which applied in other years. However this year there was an opportunity for principals and their advisory committees to access additional information to enable them to nominate teachers who could contribute extensively to the educational program of a school.

3. The priority dates are the last factor used to determine which person from a group of teachers should be offered a position. This has always been the case.

The priority date applies to a small group of women who had to resign from the Department for Education and Children's Services for reasons of child birth or child rearing. At present approximately 600 women hold a priority date, although many of these may not have an application for employment lodged. Priority dates for all other teachers were removed in 1993 on advice from the Commissioner for Equal Opportunity.

In the vast majority of cases, in recruitment to both permanent and contract positions, there is not the need to consider the priority date. The higher priority factors usually determine the teacher best suited for a position.

In the local selection recruitment process described above, the priority date held the same status as it did in all other recruitment processes.

LANGUAGES OTHER THAN ENGLISH

157. **The Hon. CAROLYN PICKLES:**

1. Is the Minister aware of a shortage of teachers for languages other than English in the Lower South-East region?

2. Why has the Glenburnie Primary School been without a LOTE teacher for 1994 and 1995 and can the Minister guarantee the school will not be penalised for not fulfilling curriculum requirements?

3. What action is the Minister taking to overcome this shortage?

The Hon. R.I. LUCAS:

1. The provision of Languages Other Than English (LOTE) teachers to primary schools in the Lower South-East region has been difficult to resource for a number of years. There are two main factors which contribute to this problem:

- The sizes of the primary schools in that region.
- The amount of their teacher entitlement each is able to devote to the position of LOTE.

As with all other permanent LOTE positions, the vacancies in the Lower South-East have been offered as permanent positions. This has been done both as individual positions, as combined positions across two schools and combined positions across a number of schools in close proximity.

Despite all efforts it has not been possible to attract teachers of LOTE to this area for the fractions of time available. In instances where this happens, schools need to reconsider their curriculum offerings for a particular year.

2. In 1995 Glenburnie had a LOTE vacancy described as 0.2 Italian. The minimum fraction of time a teacher can be recruited to a permanent position is 0.4.

As indicated earlier, Glenburnie Primary School is faced with the difficulties a number of small Lower South-East schools face with respect to the provision of LOTE. The school will not be penalised in any way because it has not been able to provide its 0.2 Italian.

3. There are a number of initiatives which are being considered to enable schools, such as those in the Lower South-East, to provide LOTE to their students.

Through the Open Access College, Personnel Division and the Languages and Multicultural Unit the following alternatives are being considered:

- interactive television programs via satellite
- training programs for local teachers
- release time scholarships for LOTE teachers
- conversion of salary to Temporary Relieving Teacher (TRT) or Hourly Paid Instructor (HPI) time

Of course, normal recruitment procedures will continue to meet the demands of these and all schools.

MADDISON PARK PRIMARY SCHOOL

158. **The Hon. CAROLYN PICKLES:** In relation to the contract let in 1995 for cleaning the Maddison Park Primary and Junior Primary Schools:

1. What were the names of the tenderers and the amounts tendered?

2. Who was granted the contract and on what basis was the winning tender selected?

3. Was the performance offered by the winning tender equal to, or better than, other tenders?

4. How will the performance of the contractor be monitored?

The Hon. R.I. LUCAS: The industrial cleaning contracts at several schools including Maddison Park Primary and Junior Primary schools, were recently tendered out to the open market place. In relation to the cleaning tender at Maddison Park Primary and Junior Primary Schools:

1. It is not recognised practice within the Department for Education and Children's Services' tendering process to advise publicly the names of tenderers and amounts tendered without the written permission of the contractor concerned.

2. Alert Cleaning and Maintenance Services Pty Ltd were awarded the cleaning contract at this school on the basis of:

- Compliance with the mandatory requirements of the conditions of contract.
- The productivity rate offered, i.e the amount of square metres to be cleaned by each cleaner per hour.
- The net present value quotes offered for the initial one-off clean, each periodic clean and the on-going (daily) cleaning.
- Supervision of the contract as offered by the tenderer.
- Certification of the contractor to the applicable Australian Standards. The target date by which Alert Cleaning is expected to achieve certification is by July 1995.
- Equipment offered by the tenderer.
- Consumables intended to be utilised by the tenderer.
- Assurance of quality strategies as detailed in the tenderers response.
- Referee assessments as provided by the tenderer.
- School consultation in the selection process.

3. The successful tenderer met at least all the minimum requirements under the conditions of contract and at the most competitive price.

4. Assurance of quality will be monitored through:

- All parties inspecting the school upon completion of the initial one-off clean. If standards are satisfactory then the standard achieved is the one to be maintained thereafter.
- mandatory requirement under the contract ensures that the contractor must inspect the site a minimum of once per month with a school representative.
- School representatives will also ensure the assurance of quality on a day-to-day basis in consultation with the contractor.
- DECS personnel also regularly monitor performance.

PAPERS TABLED

The following papers were laid on the table:

By the Minister for Education and Children's Services (Hon. R. I. Lucas)—

Reports, 1994—
- Senior Secondary Assessment Board of South Australia.
- Teachers Registration Board of South Australia, 1994.

Regulations under the following Acts—
- Gaming Machines Act 1992—Fees.
- Sewerage Act 1929—
  - Examination and Registration Fees.
  - Fees.
- Waterworks Act 1923—
  - Examination and Registration Fees.
  - Fees.

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

Reports—
- Animal and Plant Control Commission, 1994.
- Australian Formula One Grand Prix Board, 1994.
- Department for Building Management, 1993-94.

Regulations under the following Acts—
- Associations Incorporation Act 1985—Fees.
- Co-operatives Act 1983—Fees.
- Correctional Services Act 1982—Communication with Prisoners.
- Cremation Act 1891—Cremation Permit Fees.
- Dangerous Substances Act 1979—Fees.
- District Court Act 1991—Fees.
- Environment, Resources and Development Court Act 1993—Fees in General Jurisdiction.
- Explosives Act 1936—Fees.
- Firearms Act 1977—Fees.
- Fisheries Act 1982—
  - Boat Replacement Policy.
  - Spencer Gulf/West Coast Prawn Fisheries.
- Gas Act 1988—Fees for Examinations.
- Magistrates Court Act 1991—Fees.
- Members of Parliament (Register of Interests) Act 1983—Contracts with the Crown.
- Occupational Health, Safety and Welfare Act 1986—Fees.
- Sheriffs Act 1978—Fees.
- Summary Offences Act 1953—Expiable Offences and Expiation Fees.
- Supreme Court Act 1935—
  - Fees.
  - Fees for Appeals.
  - Probate Fees.
- Workers Rehabilitation and Compensation Act 1986—
  - Aggregation of Two or More Disabilities.
  - Reviews and Appeals.

Environment, Resources and Development Court—Rules of Court—General.
Occupational Health and Safety Regulations—Codes of Practice.

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

Regulations under the following Acts—
Births, Deaths and Marriages Registration Act 1966—Fees.
Builders Licensing Act 1986—Fees.
Business Names Act 1963—Fees.
Commercial and Private Agents Act 1986—Fees.
Commercial Tribunal Act 1972—Fees.
Consumer Credit Act 1972—Fees.
Consumer Transactions Act 1972—Fees.
Goods Securities Act 1986—Fees.
Land and Business (Sale and Conveyancing) Act 1994—
General.
Registered Agents.
Landlord and Tenant Act 1936—Commercial Tenancies—Application Fee.
Liquor Licensing Act 1985—Fees.
Second-hand Motor Vehicles Act 1983—Fees.
Trade Measurement Administration Act 1993—Application and Licence Fees—Charges.
Travel Agents Act 1986—Fees.

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

National Road Trauma Advisory Council—Report, 1993-94.
Regulations under the following Acts—
Bills of Sale Act 1886—Fees.
Botanic Gardens and State Herbarium Act 1978—Fees.
Chiropodists Act 1950—Fees.
Controlled Substances Act 1984—
General Fees.
Precursor Chemicals.
Crown Lands Act 1929—Fees.
Development Act 1993—
Environmental Protection.
Simplify Safety Provisions for Buildings.
Environment Protection Act 1993—
Beverage Container.
Interpretation Pigs.
Various Amendments.
Harbors and Navigation Act 1993—Fees.
Health Act 1935—Revocation.
Local Government Act 1934—Members Allowances and Expenses.
Local Government Finance Authority Act 1983—Fees.
Motor Vehicles Act 1959—
Accident Towing Prescribed Fees.
Registration and Licence Fees.
National Parks and Wildlife Act 1972—
Hunting Fees.
Take, Keep and Sell Permit Fees.
Passenger Transport Act 1994—Fees.
Pastoral Land Management and Conservation Act 1989—Fees.
Public and Environmental Health Act 1987—Waste Control.
Radiation Protection and Control Act 1982—Fees.
Real Property Act 1886—Registering of Transfer Fees.
Registration of Deeds Act 1935—Fees.
Road Traffic Act 1961—Inspection and Exemption Fees.
Roads (Opening and Closing) Act 1991—Fees.
South Australian Health Commission Act 1976—
Compensable and Non-Medicare Fees.
Compensable and Non-Medicare Fees—Increase and Management.
Surgically Implanted Prostheses.
South Australian Housing Trust Act 1936—Water Rates and Charges.
Strata Titles Act 1988—Fees Payable to the Registrar-General.
Valuation of Land Act 1971—Fees and Allowances.
Water Resources Act 1990—Fees.
Worker's Liens Act 1893—Fees.
Corporation By-laws—
Marion—
No. 3—Council Land.
No. 4—Inflammable Undergrowth.
No. 5—Creatures.
No. 6—Lodging Houses.
Mitcham—No. 8—Poultry.
Noarlunga—
No. 1—Permits and Penalties.
No. 2—Flammable Undergrowth.
No. 3—Bees.
No. 4—Petrol Pumps.
No. 6—Animals, Birds and Poultry.
No. 7—Caravans and Tents.
No. 8—Parks, Playgrounds and Reserves.
No. 9—Streets.
No. 10—Traffic.
No. 11—Garbage.
No. 12—Bridges and Jetties.
No. 13—Beach and Foreshore.
No. 14—Bird Scarers.
District Council By-law—Yankalilla—No. 35—Inflammable Undergrowth.

MOUNT LOFTY FORESTS

The Hon. K.T. GRIFFIN (Attorney-General): I seek leave to table a ministerial statement made by the Minister for Primary Industries in another place in respect of the Mount Lofty forests.

Leave granted.

EDMUND WRIGHT HOUSE

The Hon. DIANA LAIDLAW (Minister for Transport): I seek leave to read a ministerial statement made by the Minister for Industrial Affairs in another place in relation to Edmund Wright House.

Leave granted.

The Hon. DIANA LAIDLAW: He states:

I am pleased to confirm that historic Edmund Wright House in King William Street will be retained as a Government owned asset. Members will be aware that the State Government has been assessing all assets in terms of their potential contribution to the reduction of the State's inherited debt. At no time during this process was Edmund Wright House approved for sale. However, speculation about the building's future arose following the decision to relocate the Registrar of Births, Deaths and Marriages from Edmund Wright House to Chesser House. In the meantime, the Department of Building Management has been assessing the nature and cost of work required to ensure that the building meets both fire safety and occupational health and safety standards. With my support, the Department of Arts and Cultural Development has been negotiating a long-term tenancy for an arts-related use of the building. This will ensure that Edmund Wright House and its magnificent banking chamber continue to be available to the public for exhibitions and performances. It is expected that these negotiations will be concluded in the near future.

The Government recognises that Edmund Wright House is a unique State asset. The building was crafted with great skill; indeed, it is a work of art in its own right and today stands as a monument to the work of noted architects, Edmund William Wright and Lloyd Taylor. Edmund Wright House is also a culturally significant building. It was completed in 1878 and served as the State's first Bank of South Australia, which itself was an off-shoot of the South Australian Company whose establishment enabled the colonisation of the State to proceed. The Government is keen to ensure that Edmund Wright House is preserved for the enjoyment of South Australians and visitors to the State and that a suitable tenant is installed in this historically significant building.

QUESTION TIME

EDUCATION CAPITAL WORKS

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 education capital works.

Leave granted.

The Hon. CAROLYN PICKLES: Last Saturday, the media carried a pre-budget announcement by the State Government regarding funding for capital works by the Department of Education and Children's Services. The article stated quite erroneously:

> The $90.6 million in capital works is $10 million more than the former Labor Government earmarked in its final term in office in 1993-94.

It is no surprise that the Education Minister's office has tried to put some gloss on the education works program ahead of the budget. For the record, the Council will be interested to note that Labor's last budget for capital works on education was $90.390 million made up of $87.683 million for works and $2.707 million for debt reduction. The Minister can find this on page 57 of the Estimates of Receipts and Expenditure, and he would have to agree that $90.39 million or even $87.683 million is not $10 million less than $90.6 million. In fact, after allowing for inflation, the last Labor budget was actually bigger than this year's allocation.

As occurs in most years, the department did not achieve the budgeted cash flow on capital projects in 1993-94, and the debt repayment provision was increased from $2.707 million to $15.7 million. Today, the Minister said that his capital budget for 1994-95 was not fully spent, and the real issue is to what degree next year's program will include a re-run of projects from the 1994-95 budget. My questions are:

1. What is the forecast for actual expenditure this year against the 1994-95 allocation of $90.206 million for capital works, and how much has been carried over to 1995-96?

2. Will capital funds not spent during 1994-95 be used to retire debt or returned to Treasury?

3. Will the Minister take action to correct the misleading budget leaks apparently coming from his office?

The Hon. R.I. LUCAS: I am delighted that the Leader of the Opposition has reminded me of that story in the *Advertiser* on Saturday. I thought it was a lovely photograph of hundreds of children at Nairne Primary School jumping with joy—like Toyota actors and actresses—at the prospect of the long awaited redevelopment of their primary school. The children, the teachers and the parents said that they had been waiting 10 long, dark years for the redevelopment of the Nairne Primary School. I thought it was delightful, as I awoke to my cornflakes on Saturday morning, to see those lovely, smiling faces jumping with joy and glee out of page 2 at me. I had a second bowl of cornflakes Saturday morning as I was so excited—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: —to see that lovely photograph. It was not a leak, it was a press release from my office, so I am not sure what the Leader of the Opposition is talking about—

An honourable member interjecting:

The Hon. R.I. LUCAS: No, it was a press release. It had my name on the top and the bottom of it and stated that it was a press release from the Minister for Education in terms of the capital works program. I thank the Leader of the Opposition for brightening my Tuesday by reminding me of very pleasant times on Saturday morning. I refer the honourable member to page 61 of an extract from the Estimates of Receipts and Payments 1994-95, Financial Paper No. 2, where it indicates actual expenditure 1993-94, the last budget of the Labor Government, of $76.3 million. That was the figure used in the press statement and was the actual expenditure.

I indicated in the press interviews that I suspected, for similar reasons that the Labor Government found in 1993-94 when it was unable to expend the full amount of its capital works program, that the Government in 1994-95, for a number of reasons, including the slow property market, had been unable to realise the sales of some of the school properties that had been declared surplus, which was a similar problem the Labor Government suffered in 1993-94. Secondly, I give the example of Coromandel Valley, where an allocation of $650 000 was made to that school last year but, because the school community is now wanting to look at a new reconfiguration of its capital development, it has come to the Government and said, 'Please hold onto that money; do not spend it yet because we now want to have a look at a different arrangement in terms of the capital works program.'

Another example, Tanunda Primary School, amounts to $3.5 million. There is a dispute between the local council and the school council as to where the new school should be located. Until that issue can be resolved at the local community level, although we are very keen to spend the $3.5 million on the Tanunda Primary School, the Government has to await the final decision in terms of location of a site. We will not know the final figures until 30 June. Even the figures that will be revealed on Thursday in the State budget will only be estimates of end of year arrangements. We are still desperately trying to sell properties that have been declared surplus to requirements of the department and, if we are able to organise sales between today and 30 June, then clearly that will change the final year budget position. We will not know the final position until 30 June. As I said, if one looks at page 61 of that document it will be full proof of the reason why we use $76 million as the indication of the amount of money spent in the last Labor budget on capital works in South Australian schools.

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 outsourcing school management.

Leave granted.

The Hon. CAROLYN PICKLES: A company called SERCO has made a submission to the Industry Commission Inquiry. The submission, dated 18 April 1995, is on the subject of competitive tendering and contract by public sector agencies. In the submission the company states:

> It is perfectly feasible to contract out the complete management of individual schools, teaching as well as support staff, making the contractor responsible to both the education departments and the school councils.

SERCO apparently believes that it can deliver a better education system to our children than the Minister and his department. The submission suggests that SERCO believes

that it can manage teaching as well as support services, do it cheaper and more efficiently and make a tidy profit while answering to both the Government and school councils. As the football advertisements says, 'I'd like to see that!' My questions are:

1. Do submissions from SERCO seek to manage any teaching or head office functions in addition to work carried out by school service officers?

2. When will the Minister announce his decision on the SERCO submission?

The Hon. R.I. LUCAS: The Government is not considering any proposition from SERCO, or indeed anybody else, to outsource teachers within the Government school sector. I have indicated that in this place and on many other public occasions as well. So that is the end of that particular furphy or story. It cannot be any clearer than that. It is not on the Government's agenda; it will not be on the Government's agenda. The Minister is not considering it; the Minister will not be considering it. I cannot be any clearer than that. I think it is almost clear enough for the Leader of the Opposition to understand that the Government is not going to be considering that particular proposition.

WORKERS REHABILITATION AND COMPENSATION (MISCELLANEOUS PROVISIONS) AMENDMENT BILL

The Hon. R.R. ROBERTS: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Industrial Affairs, a question about the proclamation of the Workers Rehabilitation and Compensation (Miscellaneous Provisions) Amendment Bill 1995.

Leave granted.

The Hon. R.R. ROBERTS: Members would be aware of the Workers Rehabilitation and Compensation (Miscellaneous Provisions) Amendment Bill, which passed this place on 12 April this year. I am informed that the Bill was assented to by Her Excellency the Governor on 27 April this year. On 18 May 1995 a notice appeared on page 2 154 of the *Government Gazette* proclaiming that the Governor had fixed 25 May 1995 as the day on which this Act would come into operation and stating that particular sections of the Act were suspended until a day or days to be fixed by subsequent proclamation. The proclamation was countersigned by R.B. Such for the Premier. In the *Government Gazette* of 25 May 1995 at page 2 198 a notice appeared under the heading 'Workers Rehabilitation and Compensation (Miscellaneous Provisions) Amendment Act 1995 (Act No. 35 of 1995): Day of Commencement' which stated:

> In the *Government Gazette* of 18 May 1995 at page 2 154, proclamation first appearing was published in error and the Governor has not made a proclamation in those terms.

It appears that the Government has delayed the commencement of the Workers Rehabilitation and Compensation (Miscellaneous Provisions) Amendment Act 1995 for one reason or another. Therefore my questions are:

1. Is the withdrawal of the proclamation and subsequent delay in the commencement of the Act yet another example of the bungling and incompetence of the Minister for Industrial Affairs, who yet again seems to have failed the proclamation day test?

2. Why was the Act proclaimed on 18 May 1995 as coming into operation on 25 May 1995 and then withdrawn on 25 May?

3. Is it true that there are flaws in the Act which prevented it from coming into operation on 25 May? If so, what are those flaws and how will they be corrected?

4. What is the status of WorkCover claims made between the period 18 May and 25 May?

5. Will the Attorney-General table in this Council a copy of the original proclamation signed by the Governor and R.B. Such, for the Premier, on 18 May 1995 (reference number WKC 7/95CS) and, if not, why not?

The Hon. K.T. GRIFFIN: This is not evidence of any incompetence on the part of anybody. There was an administrative difficulty which originated in the way in which the draft proclamations are coordinated with the Government Printer. It was drawn to my attention last week that, whilst there had been a proclamation drafted, and—

The Hon. R.R. Roberts interjecting:

The Hon. K.T. GRIFFIN: It certainly had not been signed by the Governor. The advice which the Government received, I think from the Crown Solicitor as well as from Parliamentary Counsel, was that if we let the *Government Gazette* notice stand that would be evidence in any court of law, and if it did not accurately reflect the fact whether or not a proclamation had been made that, in itself, would be misleading. The fact is that no proclamation was made by Her Excellency on 18 May. If it had have been, it could not have been revoked by notice. Legally, once a proclamation is made, it is valid and binding and would need an Act of Parliament to revoke it. The fact is that no proclamation was made by the Governor in Council on 18 May. As happens with all these sorts of things and to enable the *Gazette* to be published on the day of the Executive Council meeting, a lot of material is channelled from Parliamentary Counsel to the Government Printer so that the whole of the *Gazette* can be set for the subsequent publication, but the rule is that nothing is to proceed unless it gets the final approval from Parliamentary Counsel. That did not occur and inadvertently the notice, which purported to be a proclamation, was published—and that was done in error.

The advice that we received was that there should be a notice in the next regular *Gazette*, and that was 25 May, to indicate that there had been no formal proclamation executed by Her Excellency on 18 May, and that therefore the notice given in the *Gazette* of that proclamation was erroneous and should not be relied upon. The difficulty was that, if that public notice had not been given, there could have been an argument in court under the Acts Interpretation Act that the notice in the *Gazette* of the proclamation could be relied upon, and it was important that we give notice at the earliest opportunity that the 18 May notice was erroneous. So what happened in relation to WorkCover claims between 18 May and 25 May is largely irrelevant because there was no legally binding proclamation to bring into effect the new legislation. So, any claims made would have been made under the old Act as affected by the transitional provisions of the new Act when it comes into operation. There was no so-called bungling on the part of the Minister for Industrial Affairs. It was essentially procedural and administrative in the link-up between Parliamentary Counsel, the Executive Council office and the Government Printer. As far as I am aware, there are no legal advantages or disadvantages which flow from that error.

The Hon. R.R. ROBERTS: As a supplementary question, when will the Act come into force?

The Hon. K.T. GRIFFIN: I will have to check that, and I undertake to bring back a reply in relation to that. I do not have that information at my fingertips.

PRISON PRIVATISATION

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Attorney-General a question about the privatisation of prisons.

Leave granted.

The Hon. T.G. ROBERTS: On 11 May this year the Government made a regulation, pursuant to the Correctional Services Act, which clearly provided for prisoners to communicate with and receive directions from people acting on the authorisation of the prison manager. In other words, the regulation would appear to permit the prison manager to delegate some degree of authority to non-departmental employees. A Bill before us in the last session defeated the intentions of the Minister to privatise prisons, and section 7 of the current Act—the Correctional Services Act—expressly provides that 'the Minister for Correctional Services can delegate powers and responsibilities to the CEO and employees of the department other than in the case of the police prison managers'.

This raises some doubt as to the intention of the Government in making these regulations and, since there are obvious legal questions involved, I am sure the Attorney has been briefed on this issue. Will the Attorney now assure the Parliament that the correctional services regulations made on 11 May 1995 are not designed to facilitate the private sector management and staffing of prisons?

The Hon. K.T. GRIFFIN: I do not have those regulations in front of me. Whilst I read most of the regulations that come up, I cannot necessarily say that I retain all the information that I acquire. I will look at the regulations and bring back a reply. No secret was made during the course of the debate on the Correctional Services Amendment Bill, defeated in this Parliament, that the Government did already have power to delegate certain functions and responsibilities to the private sector under the existing Act, which was legislation enacted during the life of the previous Labor Administration. There was power to do it. We made no secret of the fact that we wanted to involve the private sector in a number of aspects of management and administration of the Mount Gambier prison. We indicated that it would be preferable to do it upfront in explicit legislation. As it turned out, as a result of the deadlock conference where agreement could not be reached between the Houses, that opportunity was not available to the Government, but we indicated at the time that we would use other avenues allowed by the law to involve some aspects of private sector management and administration in respect of Mount Gambier prison. There is no secret about it: it is all on the public record in the Parliament, in the media and in the public arena. In respect of the actual regulations, I will have some inquiries made and, if it is necessary to bring back a further reply, I will do so.

FUNERAL INDUSTRY

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 the Adelaide funeral industry.

Leave granted.

The Hon. M.J. ELLIOTT: In the past 12 months the United States company—Service Corporation International (Australia)—has dominated Adelaide's funeral industry, now capturing 30 per cent of the local market. I note that the same company has attracted attention in the United Kingdom from the United Kingdom Government for its control of the UK market. In Australia the company already dominates some areas, and I will give examples of some of the markets. SCI currently controls 90 per cent of the cremation market in Brisbane and 35 per cent of funerals; in Sydney it controls 60 per cent of cremations, 45 per cent of burials and 45 per cent of funerals; and in the ACT it has an 80 per cent market share in the funeral area. In Adelaide I understand that it now controls White Lady, Simplicity and Blackwell.

The State Government recently announced an investigation under the Minister for Housing, Urban Development and Local Government Relations into the operation of Adelaide cemeteries, which will look into the management of, in particular, West Terrace, Enfield and Memorial Park cemeteries. From comments the Minister made on radio this morning, it is apparent that he is looking favourably, at the very least, on private control if not ownership of the cemeteries.

It is worth looking at what the UK Corporate Consumer Affairs Minister had to say in a press release of 25 May 1995 in relation to the interests of SCI in Britain. Part of the release states that his decision followed a report by the Monopolies and Mergers Commission (MMC), which concluded that the acquisition by SCI of Plantsbrook Group Plc may be expected to operate against the public interest in relation to competition between funeral directors and between operators of crematoria, and to the detriment of consumers. The MMC recommended both divestment of individual funeral directors' businesses and a number of behavioural remedies to address the adverse effects it identified.

I note from the press release that SCI's market share averages about 28 per cent, which is marginally less than SCI has in Adelaide right now. The release later states that the MMC also had concerns about the degree of transparency of funeral directors' charges, the lack of transparency of ownership of funeral directing outlets and the ability of funeral directors unduly to influence the choice of funeral arrangements. In particular, it pointed to the fact that SCI owned a large number of crematoria. The release further states:

> The MMC considered that it would be natural for SCI, where it could, to channel funerals to the crematoria it owned, and that the position had been exacerbated by the acquisition of Plantsbrook. The MMC had found that prices at SCI's crematoria were generally higher than those of competitors. They thought that in the determined area the acquisition would result in a clear loss to consumers and be detrimental to competition between crematoria.

Unfortunately, this is an area in which people are most susceptible—the area of burying their loved ones—and do not want to argue too much about price or about the service provided. I have been given a number of examples of practices by this company, but will not go through them now in this place. The Minister finally sought a number of undertakings from SCI, the most important and relevant of which is that it reduce its market share to no more than 25 per cent by selling funeral directors' businesses in Brighton, Hove and named parts of London. It is worth noting that service fees in Adelaide have risen from $1 100 to $1 350 in the past six to eight months—an increase of about 20 per

cent. In the same period SCI has taken control of 11 funeral homes. I ask the Minister the following questions:

1. Why has the Government undertaken an inquiry into the cemeteries? When is it due to report and will that report be made public?

2. Does the Government have a position on what size market share is detrimental to genuine competition, as the Conservative Government in England has expressed?

3. Does the Minister have a view on what further impact vertical integration of a company might have when a company becomes involved in operating crematoria and cemeteries, noting that there are only two major crematoria in Adelaide—one at Enfield and one at Centennial Park (and a less important one at Gawler)?

4. Has the Minister or his department had any discussions with SDIA in relation to private ownership or management of cemeteries in South Australia?

5. Finally, has the Minister or his department spoken with any other private operators of cemeteries or have any other operators expressed interest?

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

TRANSADELAIDE

The Hon. A.J. REDFORD: I seek leave to make a brief explanation before asking the Minister for Transport a question about TransAdelaide and tourism.

Leave granted.

The Hon. A.J. REDFORD: Last week I attended a Business Asia conference in Adelaide. A number of speakers identified many opportunities available to various industries in South Australia and also indicated the growth in tourism in the South-East Asian area. By way of comment, in 1990 there were 12 million passengers from Europe to the Pacific-Asia region, and by the year 2010 that is expected to increase to some 48 million passengers. In 1990 there were some 24 million trans-Pacific passengers, and that is expected to increase to 86 million in the year 2010. The number of intra-Asia-Pacific passengers in the same period is expected to increase from 57.5 million to a phenomenal 262 million by the year 2010.

I also note that South Australia's share of international tourism, particularly under the previous Government, headed by the then tourism Minister Mr Rann (who I understand is enjoying a short-term rise in the opinion polls), dropped down to some 2 per cent. An advertisement in relation to the Barossa Valley Tourist Rail Service states:

> TransAdelaide and Australian National are jointly seeking registrations of interest from suitably qualified and experienced operators for the provision of a tourist rail service from Adelaide to the Barossa Valley tourism region.

I understand that the advertisement seeks registrants of interest, which registrations will be evaluated, and then decisions will be made in relation to such a service. My question is as follows: will the Minister outline to this place what TransAdelaide and Australian National propose in relation to this service?

The Hon. DIANA LAIDLAW: The honourable member is correct in his assessment of the Barossa Valley as a key region in the tourism strategy that was released last year by the Minister for Tourism. I have been pleased to work with TransAdelaide and Australian National to see what we can do to improve access to the Barossa Valley and also to broaden the range of tourist experiences for people who come to this State or who may live in this State and want to travel to the Barossa Valley by other means. Of course, with the wineries being one of the greatest attractions and with our strict drink driving laws, travel by means other than motor cars must have appeal, if we can get a tourist service going which is popular and which can be organised on a sufficiently regular basis. I recall that, when I made an announcement last year about the allocation of Government funds for SteamRanger to be relocated to Mount Barker, I indicated I was keen to see a tourist train service to the Barossa. It has been excellent to see TransAdelaide and Australian National work together to determine which railcars would be available for this service and what rates they would charge so that an operator would not find it prohibitive to commence the service.

TransAdelaide will provide 2 000 class railcars, with climate-controlled air-conditioning, which railcars have a seating capacity of 64 people. Australian National will provide the *Explorer Consist*, which is a 930 class locomotive with a seating capacity of 218 people. It also has provision for people to take their bicycles on the train all the way to the Barossa and ride around the Barossa and the flat territory there, or they can take their bikes as far as Gawler and ride from there. We decided to proceed in this way because a number of people have expressed an interest in operating a tourist service, and it was important that TransAdelaide and Australian National got their act into gear, in terms of what railcars were available, what leasing rates would be charged and what evaluation procedure would be undertaken to assess the most suitable operator.

The service will be run initially on a trial basis. The station facilities that will be available are Adelaide, Gawler, Angaston, Nuriootpa, and Tanunda. At Lyndoch, where I would be keen to see a stop, the platform no longer exists. If the trial is successful, there may well be means to invest in a new platform facility at Lyndoch. In the meantime, I am very keen to see this service starting by the time of the Barossa Music Festival, if not before. Certainly, it would be an asset to that festival in terms of people coming up and down for the day and attending music and performance functions at those wonderful churches and other facilities in the Barossa.

In the meantime, I know the Hon. Mr Redford has been on a honeymoon and may not have been around when I made the statement recently. Even if he was, having just been married he may not have been so interested in my statement about the Adelaide O-Bahn, but a major pamphlet and campaign have been launched to attract South Australians as well as visitors to the State to ride the O-Bahn, and that is working particularly well. TransAdelaide has prepared another leaflet highlighting the beaches, the Hills, Cleland and other important areas, including the arts facilities along North Terrace, the many destinations people can get to by bus, and that is proving a successful initiative, as are the mystery bus tours operated by the St Agnes bus depot.

PASSENGER SERVICE ATTENDANTS

The Hon. M.S. FELEPPA: I seek leave to make an explanation before asking the Minister for Transport a question about passenger service attendants.

Leave granted.

The Hon. M.S. FELEPPA: On Monday 24 April the *Advertiser* published an article headed 'Government

winning battle with ticket cheats'. It was reported that 6 100 passengers have so far been caught for not paying tickets. According to the Minister, that has simply been due to an introduction of passenger service attendants on trains since last year. The article states:

> By their presence, they deter vandalism and unruly behaviour.

However, from a letter which I received a couple of weeks ago and which I will be quite happy to show to the Minister, I am led to believe that the situation seems not to be as satisfactory as would appear from reading the *Advertiser*. I quote part of the letter, as follows:

> As a regular commuter on the Outer Harbor line I was very happy to see PSA [passenger service attendants] back on the trains. At first I thought they were inspectors but until I watched closely I noticed that these PSA have no power whatsoever. For example, a male passenger boarded the train, and walked past the ticket machine without validating his ticket and then passed the PSA and sat down. The PSA then approached the passenger, and went on to ask to see if he had a ticket or in fact had any money to buy a ticket. The passenger did have money but implied that seeing as the PSA was not an inspector and did not have the proper authority, he refused to buy a ticket. The PSA advised the passenger that he would call an inspector, but by the time the inspector boarded the train the passenger had left the train, and had gotten away with not paying for his ticket.
>
> The PSA and the inspector then began a ticket check on the train. Once this was done the inspector left the train, shortly after which three youths boarded the train, and the PSA found himself in the same situation all over again. I have noticed this kind of thing happening every day, which becomes very frustrating because these people get free rides and we, the honest, have to pay.

While the efforts of the passenger service attendants do serve the public to some extent and are appreciated, their presence falls short of what might be accomplished in combating ticket cheats, because they seem to have no power whatsoever directly to fine those passengers who try to cheat the system all the time. My questions are:

1. Has the Minister been made aware of this situation; and, if so, has she considered taking any course of action?

2. Can passenger service attendants be given more training, status and power so that they can have effective responsibility for confronting ticket cheats in order to get the problem under control?

The Hon. DIANA LAIDLAW: I assure the honourable member that I was aware of the situation well before I gave approval, with Cabinet endorsement, to the training and employment of the first passenger service attendants (PSAs). I was conscious that the Transit Police, the Police Commissioner, and union representatives, particularly the Public Transport Union, were loath, at the time, to see PSAs given powers as authorised officers or the status of inspector. In part, the police were concerned because they would have some difficulty in controlling situations on trains if actions by PSAs led to passengers becoming agitated. The Public Transport Union was concerned about work standards and conditions, which may be the responsibility of others within the system, being assumed by PSAs.

Knowing the importance of getting a human presence in addition to the driver back onto trains—this was the most important issue for rail travellers—I decided to recommend to Cabinet, and Cabinet agreed, that we proceed immediately with this initiative, notwithstanding the concern that PSAs may not have the full powers that one may have wished them to have in those situations. Either you did not do anything while you waited for the PTU and the police to come to terms with the introduction of passenger service attendants or you went ahead, took some action, made some improvement and then sought to win the confidence of the police, the inspectors and the PTU in the fact that this system would work, which is what the Government did.

The Government took the latter course, and it has won the confidence of the police in the fact that this system does work. In fact, I have correspondence from the Chief Inspector of the Transit Police who commends TransAdelaide management and PSAs for the excellent working relationship that has been developed between them. This letter is very much appreciated by PSAs and management, and it suggests that it is time to discuss with the police the further enhancement of the powers of PSAs, which is what we intend to do.

I have no doubt that the success that we are enjoying, to date, in getting people to pay for their tickets is due, in major part, to the work of PSAs. They are able to persuade passengers to pay or even to make them feel guilty if they have not paid. In addition, many passengers seem to be prepared to pay when, in the past, they were not, because they see the return of a passenger friendly service. Now that they see that they have this extra presence, they seem to be more pleased to make a contribution. I cannot say that that is happening in every instance, and the references made by the honourable member indicate that it is not, but it is certainly a major improvement in the state of fare fraud, which we inherited with the change of Government. We will continue to crack down on cheats and fare fraud, because it is important not only for fare paying passengers but in terms of what we can reinvest into the passenger transport system and that all who work in the system see that their work is appreciated and valued.

SOUTHERN REGION INFRASTRUCTURE

In reply to **Hon. T.G. ROBERTS** (14 March) and answered by letter on 24 May.

The Hon. DIANA LAIDLAW: The Minister for Housing, Urban Development and Local Government Relations has provided the following information.

The Government is currently progressing two strategic plans which affect southern metropolitan Adelaide, to ensure a coordinated approach to issues in the southern region:

1. The southern Adelaide plan is a broad strategic plan for the future development of the southern metropolitan region.

It will address economic development and employment, agricultural development, environment, centres, housing and urban development, access to and within the south and human services.

A period of public consultation on the draft plan was recently completed and it is anticipated that the plan will be finalised and will become an important part of future revision of the metropolitan Adelaide planning strategy.

2. The draft Willunga Basin planning strategy prepared by a joint Council and State Steering Committee focuses in more detail on the Willunga Basin part of southern metropolitan Adelaide.

Some of the specific goals of the draft strategy include:

- ensuring that there is no ocean outfall of treated effluent and minimal ocean outfall of stormwater;
- investigating opportunities for the recharge of aquifers in the basin;
- facilitating the increased availability of water for agricultural purposes in the Willunga Basin;
- preparing a management plan for the Aldinga scrub and surrounds; and
- preparing a program for the reinstatement of the wetlands in the washpool.

It is anticipated that the plan will be available for public consultation shortly.

As well as these direct actions on the planning strategy for the southern areas of Adelaide the Government has undertaken, with the Willunga Council a number of significant studies into environmental matters and in particular stormwater and waste water management. These studies are an important part of the coordinated strategic direction adopted by the Government.

TREES

In reply to **Hon. T.G. ROBERTS** (22 March) and answered by letter on 22 April.

The Hon. DIANA LAIDLAW: The Minister for the Environment and Natural Resources has provided the following information.

At present there are two potential mechanisms for the protection of significant trees in urban and semi-urban areas.

The first of these is protection by local government as items of local heritage significance under the Development Act 1993. However, some local government councils are reluctant to use these powers, and have expressed the view that the process involved is too complex. There is also concern about protecting trees which may subsequently become hazardous because of falling limbs.

The second mechanism is protection under the Native Vegetation Act 1991. However, this Act contains several exemptions which reduce its effectiveness in protecting native trees in urban areas, and the Act does not apply to most parts of metropolitan Adelaide.

A meeting of parties interested in developing solutions to the management of urban biodiversity and particularly trees and other vegetation in built up areas is being convened. It will include representation from State Government, local government and the Conservation Council of South Australia.

In the meantime, the Minister would certainly encourage local government to use its existing powers under the Development Act to protect trees of local significance.

MURRAY RIVER

In reply to **Hon. T.G. ROBERTS** (21 March) and answered by letter on 18 April.

The Hon. DIANA LAIDLAW: The Minister for the Environment and Natural Resources has provided the following information.

1. The District Council of Paringa has indicated that it will not accept liability in the event that any person suffers loss or injury if their craft comes into contact with treated willows.

The Department of Environment and Natural Resources (DENR) has now taken action to remove the trees that were a concern to council so that there is now no risk to river users. The trees have been removed from the banks so they can be burnt at an appropriate time and there is no likelihood of material entering the main stream. Given that there are numerous snags along the river as a result of naturally falling trees over the years the Minister for the Environment and Natural Resources believes that any legal investigation will be unnecessarily lengthy, and is satisfied that DENR officers have taken necessary action to remove the risk of liability in this matter.

2. The Minister has placed a total moratorium on the treatment of willows in the Bookmark Biosphere. However with regard to the previous use of Garlon the Minister can report that the chemical was applied in a way that did not represent any risk to public health including the waters of the River Murray. The State Water Laboratories advised DENR staff prior to the use of chemicals that the concentrations being used and the manner of application presented no risk to water supplies. At all times consideration was given to both public health issues and as importantly the welfare of staff applying the chemicals on site.

3. In January the Minister for the Environment and Natural Resources announced that he would initiate an investigation into the ecological and social values of willows along the River Murray and particularly the Bookmark Biosphere. As part of that investigation the Minister expects considerable public consultation before any consideration is given to lifting the moratorium which is currently in place.

SOUTHERN EXPRESSWAY

In reply to **Hon. T.G. ROBERTS** (23 March) and answered by letter on 24 May.

The Hon. DIANA LAIDLAW: The Minister for Housing, Urban Development and Local Government Relations has provided the following information.

1. As stated in the Legislative Council on 23 March 1995 the first section of the Southern Expressway from Darlington to Reynella was exempted from a full EIS in 1988 by the former Minister for Environment and Planning, the Hon. Don Hopgood. This decision has been endorsed by the Minister for Housing, Urban Development and Local Government Relations, the Hon. John Oswald in a letter to the Department of Transport on 21 March 1995. With respect to the other section of the Expressway from Reynella-Onkaparinga the Minister has reserved his decision on the need for an EIS prior to development of that section. If it is deemed that an EIS is not required for any part of the Expressway it will still be necessary for the Department of Transport to undertake an environmental study of the project as would be needed for any major road project. This would also allow for public comment as I outlined in this House on 23 March 1995.

2. The limits to growth and development in the south are outlined in the current development plan for the area and in the strategic plan for the south which has recently been completed by the Department of Housing and Urban Development. The southern plan indicates areas of opportunity for growth which will benefit from the Expressway including Lonsdale and Noarlunga Centre, with job creation a feature of that growth. Alternatively, environmentally sensitive areas such as the Willunga Basin and Southern Vales vineyards are protected from encroaching residential development in order to further develop the tourism attraction in that area. Access to south coast attractions and Kangaroo Island will also be enhanced. The Expressway will benefit existing residents of the south to the greatest extent by reducing travel times during peak traffic periods.

MUSICA VIVA

In reply to **Hon. ANNE LEVY** (21 March) and answered by letter on 1 May.

The Hon. DIANA LAIDLAW:

1. Yes the Minister does support the extension of the Musica Viva in Schools Program to South Australia provided funding arrangements can be negotiated.

2. With regard to whether or not a commitment has been given to this extension by the Department for Education and Children's Services, preliminary discussions about the extensions of Musica Viva in Schools Program into South Australia have been held between Mr Denis Ralph, Chief Executive of the Department for Education and Children's Services; Ms Michele Pope, Principal Curriculum Officer with responsibility for the Arts; and Ms Bernadette McNamara, Manager of Musica Viva in Schools Program.

Further meetings involving the Department for Education and Children's Services and the Department for the Arts and Cultural Development are planned for August of 1995.

It has been made clear that funding support will be required from both the Department for Education and Children's Services and the Department for the Arts and Cultural Development if this program is to be introduced to South Australia.

PAP SMEARS

In reply to **Hon. ANNE LEVY** (4 April) and answered by letter on 24 May.

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

1. To date, the Papnet system has not been fully evaluated in routine screening practice but only in a relatively limited number of investigation and research studies. It would be premature at this stage to advocate for its availability in South Australia.

2. Yes, if evaluation of this type of technology in Australia indicates that it is a useful adjunct to, or replacement for, manual reporting of Pap smears. Manual reporting of Pap smears, provided reporting is by an approved pathology provider, currently attracts Medicare benefits.

3. Several technological innovations (including Papnet) that have the potential to reduce laboratory false negatives are currently being investigated at the National level. When there is a clear indication of the most effective technology for reducing the risk of a false negative smear, its use in SA will be supported.

ARTS GRANTS

In reply to **Hon. ANNE LEVY** (12 April) and answered by letter on 1 May.

The Hon. DIANA LAIDLAW: In the last round of project grants (January to July 1995) there were 56 individual applications from men, and 56 individual applications from women, and from these applications 21 male and 22 female applications were successful.

$115 312 was requested by successful male applicants and $75 935 was granted, while successful females requested $101 619 and received $75 810.

A statistical variance and then a standard deviation have been calculated by the department, to show a difference in standard

deviation of approximately 10 per cent between the dollar grants made in the last grant round to males and females.

I am not prepared at this time to spend scarce resources to undertake a detailed statistical analysis which, by its very nature, can only produce a nebulous conclusion. Grant recommendations, as the honourable member well knows, is made by peer assessment panels and is based on artistic merit and the amount the panel deems appropriate to the task.

TAXIS

In reply to **Hon. SANDRA KANCK** (23 February) and answered by letter on 24 April.

The Hon. DIANA LAIDLAW:

1. The newsletter issued by the Passenger Transport Board was part of the consultation process to obtain feedback from the Taxi industry about the potential to release new taxi plates. The submissions received have been collated to assist the Board in making recommendations on how many, the method and time that taxi licences will be issued. The principles on which the Board will make recommendations are inter alia, changes in population and development of metropolitan Adelaide.

2. No. Many factors are required to be taken into account when considering the issue of taxi licences including population trends, available statistical information, information from Centralised Booking Services based on response times and jobs per car fluctuations, and complaints from consumers.

3. The Hallett Cove taxi service was not specifically taken into account in determining the number of licences to be issued and would be infinitesimal in terms of overall hirings on the overall percentages.

4. Other matters considered by the Board include—submissions from members of the Taxi industry (stating that licences need to be issued to increase the level of service to the consumer and submissions opposing increases); submissions from some Taxi organisations; and complaints from fringe areas that a satisfactory service is not being supplied.

5. The honourable member will be aware that goodwill values have increased progressively from about $90 000 to $140 000 over the past four years during which time 45 new taxi licences were issued. Notwithstanding this positive result, the Passenger Transport Board has resolved to commission research on the financial impacts arising from the issue of new taxi plates.

Meanwhile, any decision by the Passenger Transport Board in relation to new licences will be considered by me under the terms of the Passenger Transport Act, and ultimately by Cabinet.

ADOPTIONS

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

The Hon. DIANA LAIDLAW: The Minister for Family and Community Services has provided the following information.

The Minister for Family and Community Services appointed a committee to undertake a review of some aspects of the current Adoption Act 1988 and make recommendations about possible changes required to the legislation. The committee reported in October 1994.

The report is a comprehensive assessment of the Adoption Act and it addresses the range of highly sensitive and emotional issues that are part of the whole debate about adoption. Accordingly, the Government has had to give careful thought to the serious matters raised.

After further consideration by Cabinet it is intended to release the report, together with the Government's proposed responses to the recommendations. This will give the public an opportunity to consider the Government's response, prior to an appropriate legislative amendment being put forward for consideration and debate.

TRAFFIC FINES

In reply to **Hon. M.S. FELEPPA** (9 March) and answered by letter on 3 May.

The Hon. DIANA LAIDLAW: The Minister for Housing, Urban Development and Local Government Relations has provided the following information.

The Minister has been informed that it is the practice of some, mainly metropolitan councils to engage private contractors, such as Argus Securities, to police and enforce parking restrictions during evenings and on weekends. Provided that this type of outsourcing is economical and administered equitably, the Minister sees no reason to be critical.

The Minister has asked the Secretary-General of the Local Government Association to ascertain as expeditiously as possible—

- the number of councils which engage contractors for parking law enforcement;
- whether any council staff are known to have a business relationship with these contractors; and
- if so, whether prompt steps will be taken by the particular council to engage another contractor.

When the Minister receives these particulars he will provide them to the honourable member.

In respect of the latter part of the honourable member's question, at the Minister's request Thebarton council provided him with a copy of the Sheppard Report reviewing the council's parking and traffic management practices. The report contained 31 recommendations, almost all of which the council is implementing. However, the Minister has been informed that the council considers it impractical to refund any of the parking revenue received during the period under review by the consultants. As the honourable member may be aware the Minister has no power to require any such refunds.

OIL SPILL

In reply to **Hon. M.J. ELLIOTT** (4 April) and answered by letter on 1 May.

The Hon. DIANA LAIDLAW:

1. The causes of the Port Bonython oil spill were fully investigated by the South Australian State Committee of the National Plan to Combat Pollution of the Sea by Oil. The State Committee is a statutory body comprising representatives from Federal and State Governments and the oil industry. In its report to the then Minister of Transport and the Parliamentary Environment, Resources and Development Committee, the State Committee clearly indicated that the ERA oil spill was not caused by human error or adverse weather conditions. The accident was a result of mechanical failure of the fendering system on the tug assisting the ERA to berth. Such an event could not have been foreseen, nor can guidelines and procedures, other than those for normal preventative maintenance, forestall such an event.

For as long as ships are necessary to transport oil, there will never be an absolute way to avoid oil spills. The Department of Transport is of the opinion that all reasonable measures have been taken to minimise the risk of oil spills by the appropriate training of personnel in a range of preventative measures.

2. The decision to berth the vessel in the prevailing weather conditions was the responsibility of the ship's master, advised by the pilot and the Port Manager, Whyalla and Port Bonython, who are all experienced master mariners. Guidelines and procedures which would complement and improve on the experience and knowledge of such experienced mariners would be extremely difficult to prepare. There would also be a risk that such guidelines might adversely constrain and limit the application of the professional skills and judgement expected of such mariners.

3. The total cost of an oil spill is to be met by the ship's insurers. In addition, the National Plan provides both an infrastructure and funding mechanism for the cleaning up of any oil spill. The State Government, SANTOS, the ship's insurer and owners provided ex gratia funds for ongoing monitoring of the environmental impact of the Port Bonython oil spill. These funds are administered by the Marine Environment Protection Committee, a joint Government/university/industry body. A similar arrangement would be established should another unfortunate incident occur.

ENVIRONMENT STATEMENT

In reply to **Hon. M.J. ELLIOTT** (11 April) and answered by letter on 24 May.

The Hon. DIANA LAIDLAW: The Minister for the Environment and Natural Resources has provided the following information.

1. Yes. The incident occurred in a sewer in easement at the rear of a property in Yalanda Avenue, Bellevue Heights. The manhole, located in easement, was reported to the EWS on Sunday 9 April at about 2 p.m. The EWS arrived on the scene but were initially refused permission of the householder to enter his property to clear the choke. After the police were called, access to the manhole was gained and the choke was eventually cleared by about 7 p.m.

2. The EWS clears a total of approximately 20 000 chokes each year in sewer mains and connections in Adelaide. Overflows occur

in about 300 of these cases. Most of the overflows are minor, but some of them will inevitably find their way to waterways. Sewer chokes inevitably occur in any sewerage system, and the fact that overflows occur in so few cases of the chokes reported in Adelaide indicates the effectiveness of the EWS response to such incidents.

3. The copy of the document released recently indicated on the front page that this is the first of a series of statements on the environment to be made by the Government.

The statement 'a Cleaner South Australia' was prepared as an overview of the Government's intent on principal environmental protection and restoration issues. Further statements will be issued covering other areas. Naturally, there is a great deal of activity being undertaken by the Government on issues raised in the environmental statement and ancillary to it which cannot hope to be covered in detail in such a document.

PENSIONER COUNCIL REBATES

In reply to **Hon. M.J. ELLIOTT** (22 March) and answered by letter on 7 May.

The Hon. DIANA LAIDLAW: The Minister for Family and Community Services has provided the following information.

The Rates Remission Scheme was introduced in July 1973. Rates charged by councils do vary, with a number still charging below $250 and 60 per cent therefore applying.

However, under amendments to the Local Government Act, it is now possible for individual councils to determine an increased amount of rate remission or alternatives for the payment of rates suitable to their residents.

In addition, the concession program administered by Family and Community Services (council, E&WS, ETSA and Transport) is currently being reviewed and a number of different options are being considered.

GREENHOUSE GASES

In reply to **Hon. M.J. ELLIOTT** (7 April) and answered by letter on 7 May.

The Hon. DIANA LAIDLAW: The Minister for the Environment and Natural Resources has provided the following information.

The Southern Expressway is the fulfilment of the Government's election pledge to build the long-promised Third Arterial Road. The southern region is heavily reliant on cars for transport for commuting to work and for other purposes and the roads experience considerable congestion particularly during times of peak travel. Public transport has and will continue to play an important role in serving this need, however, the Government believes that there is a need to address the basic problem of improving accessibility from the south to the city and vice versa. This will ensure a similar level of service enjoyed by other parts of Metropolitan Adelaide. The Southern Expressway is intended to fulfil this need.

The corridor of the Expressway will be developed with cycling tracks, walking paths and a linear park, all of which will significantly enhance the environs around the Expressway.

In greenhouse terms, the Southern Expressway is not expected to result in a net increase in greenhouse gases. By reducing congestion, waiting times at the many traffic lights along the existing South Road, and by enabling a good flow of traffic, the Expressway will improve the efficiency of traffic flow which should reduce greenhouse gas emissions. An expected savings in travel time of say 10 minutes in the morning and evening could translate into a reduction of some 20 tonnes of carbon dioxide per day for the 4 000 odd cars expected to eventually use the road.

The Government is mindful of the need to reduce greenhouse gases. It has endorsed the National Greenhouse Response Strategy. The Department of Transport is addressing greenhouse emissions in a number of ways including the following:

- encouraging fuel efficiencies through information in commercial driver training courses, and the Road Traffic Code booklet which is distributed to learner drivers;
- encouraging the use of efficient fuels such as Compressed Natural Gas (CNG) in buses and the purchase of fuel efficient rail cars;
- investigating travel demand management measures such as car pooling, telecommuting and intelligent vehicle systems;
- encouraging fuel efficient modes such as provision for cyclists and priority provision for buses at traffic lights;
- carbon sequestering through the planting of some 600 000 trees to absorb emissions from public transport and continued tree planting along road reserves;
- improving efficiencies with the road system such as coordinated traffic lights which facilitate traffic flow.

These measures are in addition to those being undertaken at a national level such as developing national vehicle fuel efficiency targets for new vehicles.

In response to the honourable member's specific questions:

1. The issue of the Southern Expressway is not considered relevant in relation to the Government's strategy of encouraging new technology. By reducing travel time, congestion and improving the efficiency of traffic flow it is expected that the Expressway will slightly reduce greenhouse gases.

2. In 1991 the previous Government released the Greenhouse Strategy for South Australia. This was followed, in December 1992, by the endorsement of all Governments in Australia of the National Greenhouse Response Strategy. Both of these Strategies are available to the public at the Natural Resources Information Centre, 77 Grenfell Street. In April 1994 the Government endorsed the National Greenhouse Response Strategy.

The Government has established the South Australian Greenhouse Committee to provide policy advice regarding climate change. Its terms of reference include initiating and coordinating action to achieve the objectives and targets of the greenhouse strategies, monitoring and reporting on their implementation, liaising with other Governments regarding climate change and informing and raising community awareness about climate change. The Committee contributed to the development of the recently announced Commonwealth package of greenhouse measures. It publishes a biannual newsletter of greenhouse news. It has been involved in the preparation of a national inventory of greenhouse gas emissions. It has initiated a study into the implications for South Australia of a Commonwealth carbon tax.

3. See response to question 2.

WATER SUPPLY

In reply to **Hon. M.J. ELLIOTT** (16 March) and answered by letter on 24 April.

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

1. The minimum and maximum of Total Dissolved Solids (TDS) for 1994 were:

	Maximum	Minimum
Lake Alexandrina	450 mg/L	180 mg/L
Strathalbyn Reservoir	1300 mg/L	960 mg/L

2. It was necessary to supply from the Strathalbyn Reservoir during the following periods:

28 January 1994 to 7 May 1994;
29 December 1994 to 11 January 1995; and
20 January 1995 to date, (except overnight on 28 March 1995 when the approach main from the reservoir was damaged).

Outside of the above dates, water was received from the lakes system.

The 'normal water supply' in any typical year comprises about 20 weeks from the Strathalbyn Reservoir, with the remainder from Lake Alexandrina. However, in 1994, an additional 14 weeks of supply came from the reservoir.

3. A three year program of mains upgrading in the Strathalbyn district has commenced, and plans for water filtration are well advanced. Other long term supply options are being investigated. The EWS is well aware of growth predictions and these are incorporated in the planning of this upgrading.

The extra allowance to grape growers is not from this system. The Minister understands it was in the form of a 6 000 megalitre water allocation from Lake Alexandrina via a pipeline constructed by a private consortium for irrigation purposes.

DRUGS

In reply to **Hon. T. CROTHERS** (7 March) and answered by letter on 24 May.

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

1. The Minister for Health is aware of the Quantum program referred to by the honourable member.

2. While this Government has done much to improve the cost effectiveness of health services in South Australia, it does not

manage or direct at a micro level in the State. The introduction of new technologies or changes in treatment modalities is a matter for hospital management. In particular, by encouraging clinical budgeting devolution, the authority and responsibility for cost effectiveness is being progressively moved to where it can influence cost effectiveness in these areas.

3. Regrettably, there are still some doctors who do not see costs as their concern. However, what the honourable member has raised with respect to the treatment of peptic ulcers is a completely different treatment whereby antibiotics are used as opposed to antacids, anticholinergic drugs or surgery. This does not represent a differential cost between different brands or different drugs with the same desired effect. It does seem in this case that the medical profession may have been slow to examine the alternative or to introduce it where it is appropriate.

4. The costs of drugs and medical supplies are about 10 per cent of the total public hospital expenditure in South Australia.

5. The cost and funding of drugs is something that is on every Health Minister's agenda already. The Government will continue to endeavour to effect better and more cost effective health services for South Australia.

TAXIS

In reply to **Hon. T.G. CAMERON** (7 April) and answered by letter on 3 May.

The Hon. DIANA LAIDLAW:

1. I agree the value of taxi licences appear excessive. The value of taxi licences is an area which is created by the industry itself. A significant factor creating demand in recent years has been the availability of capital for investment created by the large number of separation packages and superannuation payouts.

Due to the numbers of taxi licences leased (approximately 50 per cent of the taxi fleet) and the fee received (between $300 and $350 per week), the investor has a large role to play in maintaining high plate values. This return is perhaps the biggest factor in determining the price of a taxi licence.

The trend to higher plate values has existed despite the absence of any guarantee on the part of Government to licence holders and despite a continued policy of issuing further licences.

2. The travelling public are not paying the licence. They pay what shows on the meter and for a number of years, there has not been an excessive demand for higher fares from the industry. Fare increases in recent years have not exceeded the CPI and if the industry demanded and received higher fares, I would agree it would not be in the public interest.

If the number of licences issued was excessive the industry would be less efficient in that there would be more kilometres of 'dead travel'. This inefficiency would in part be passed on to the customer.

3. The Passenger Transport Board's administration is clearly not *ultra vires* the Passenger Transport Act. The Act requires the Board to determine the number of taxi licences and specifically prohibits the Board from issuing more than 50 general licences a year.

The public interest would not be served by an excessive number of taxi licences as is apparent from the history of those cities that have removed entry barriers. Open entry into the taxi industry in New Zealand and cities in the United States has led to higher fares, more congestion and poorer quality service, to the extent that all US cities of any substantial size that deregulated in the 1970s and 1980s have since re-regulated. These include Seattle, San Diego, Oakland, Milwaukee, Atlanta and Indianapolis. Phoenix and Sacramento have reintroduced controls on numbers at airports. The only cities that have maintained open entry have had populations of less than 100 000.

BLOOD TESTS

In reply to **Hon. T.G. CAMERON** (9 March) and answered by letter on 24 April.

The Hon. DIANA LAIDLAW:

1. Yes, it is usual to review the drink drive provisions of both the Road Traffic Act and the Harbors and Navigation Act at the same time so that they remain alike. Consequently, I would expect any recommendation to amend the procedures under one Act to also embrace a similar amendment to the other.

2. Vessel is defined in section 4(1) of the Harbors and Navigation Act 1993 which states:

'vessel' means—

(a) a ship, boat or vessel used in navigation; or

(b) an air-cushioned vehicle, or other similar craft, used wholly or primarily in transporting passengers or goods by water; or

(c) a surfboard, wind surfboard, motorised jet ski, water skis or other similar device on which a person rides through water; or

(d) a structure that is designed to float in water and is used for commercial, industrial or scientific purposes,

but does not include a structure of a class excluded by regulation from the ambit of this definition.

3. The combination of alcohol and the use of watercraft has long been a source of concern and has been the cause of many accidents. Consequently, the investigation of any accident involving these vessels must also include an analysis of the part played by alcohol so that the extent of the problem can be fully understood.

On this basis, I do not believe that removal of the blood test provision is warranted. However, I will consider replacing blood tests with Alcotests in the same way as is currently being examined for similar procedures under the Road Traffic Act.

TRANSADELAIDE

In reply to **Hon. G. WEATHERILL** (12 April) and answered by letter on 28 May.

The Hon. DIANA LAIDLAW:

1. Total cost of the change of name from State Transport Authority to TransAdelaide was $242 991.40. This included limited media, reprints of all 107 timetables, logo decals, number plates and badges for existing staff uniforms.

2. Tangible benefits to customers: as the Government's operating arm, TransAdelaide has a different role to that of the Passenger Transport Board, the regulatory body governing public transport in South Australia. It has no option but to change its orientation to a more competitive one and we chose to start this process by introducing a new name and logo as well as new, easy to read timetables and a more responsive customer feedback system.

TransAdelaide's logo, in addition to the new timetable format was designed in-house by former STA graphic designers at no cost to taxpayers. Further, the print costs of the new timetables were reduced by an average of 50 per cent as a result of better managed print runs and fewer ad hoc service changes.

Some money was spent on informing current and new public transport users that the name change was about to occur and that new timetables would be available. Much of this budget was enhanced by free of charge radio spots offered by virtually all commercial radio stations. In effect, TransAdelaide started by adopting an aggressive marketing stance at the least possible cost—a position it means to continue in its bid to win business.

PATAWALONGA

In reply to **Hon. G. WEATHERILL** (21 March) and answered by letter on 28 May.

The Hon. DIANA LAIDLAW: The Minister for Housing, Urban Development and Local Government Relations has provided the following information.

The Government has embarked on a comprehensive program of works to clean up the Patawalonga.

This includes a commitment to a total catchment management approach, in which attention is being given to dealing with pollution at its source.

The Catchment Water Management Bill, which has now passed both Houses of Parliament is a key component of this total catchment approach.

In relation to the Patawalonga basin, there is a requirement to remove from the basin the sediment material that has built up over the past 20 years. This material is to be dredged and the basin is to be deepened so that it can be flushed with sea water twice a day on every high tide.

The Government has also received advice from two consultant companies recommending that the best long term solution is for the major stormwater flows from the upstream catchment to be diverted away from the basin. This option has been canvassed publicly and is being further investigated. A decision on this will be made around July 1995.

Members should be aware that the Government is not interested in short term or quick-fix solutions. We are looking for the best outcome, and this outcome must be environmentally sustainable.

KANGAROO ISLAND FREIGHT

In reply to **Hon. BARBARA WIESE** (4 April) and answered by letter on 3 May.

The Hon. DIANA LAIDLAW:

1. The Service Agreement covers the standard of freight service to be provided, limits the price that can be charged for freight services, provides for Government to take over the *Island Navigator* for up to three months should Kangaroo Island Sealink default on provision of the freight service, makes provision for upgrading port facilities to accommodate a larger Kangaroo Island Sealink vessel within existing Ports Corp charging levels and defines the competitive sea freight conditions that will lead to suspension and then cessation of the agreement.

2. The Ports Corporation has agreed to spend an amount on upgraded port facilities within existing Ports Corp charging levels but this is a commercial arrangement and not a liability.

The Government has made a separate policy decision to subsidise transport operators on a reducing basis starting at $600 000 in the first full year from 1 April 1995. This subsidy is applied via Kangaroo Island Sealink on the basis of $8 per metre of freight vehicle.

3. Parts of the agreement contain commercial in confidence information and I am not prepared to table the agreement. However, if the honourable member has particular concerns I am prepared to look into them.

4. The freight subsidy is subtracted from the price charged by Kangaroo Island Sealink. The net price to operators is therefore a maximum of $17 per metre compared with the base rate previously charged by Kangaroo Island Sealink of $25 per metre. This subsidy goes to all transport operators whether Kangaroo Island based or on the mainland and whether trucks are fully loaded or empty. I will not provide details of the amount of subsidy going to each operator as this would effectively reveal commercial in confidence information on the levels of business by various parties. However, I would be happy to provide the overall amount in the normal course of financial reporting.

5. When *El Baraq* commences the subsidy will cease but compensation may be payable to some transport operators if they can prove loss as a result of the course of events subsequent to cessation of the *Island Seaway* service. Any claims for compensation will be assessed and decided by the Chief Executive Officer, Department of Transport.

TRANSPORT DEPARTMENT

In reply to **Hon. BARBARA WIESE** (7 March) and answered by letter on 18 April.

The Hon. DIANA LAIDLAW:

1. As part of the 'Strategic Shift' in the Department of Transport, the total activities of the Motor Registration headquarters and city office will not be transferred to a private sector operator. However, the activities currently undertaken at the Motor Registration headquarters and city office will be affected in a number of ways.

First, Motor Registration's existing external providers, such as Australia Post and authorised motor vehicle dealers, will be more efficiently and effectively utilised and, where cost advantages can be achieved, extended.

Secondly, through the more efficient use of existing and new technology many of the processing services which support the customer contact counter services, will be able to be decentralised and integrated with the tasks undertaken by the existing metropolitan and country network of Motor Registration offices.

Thirdly, it is envisaged that through the calling of expressions of interest, external organisations, including those with an existing presence in the Central Business District (CBD), may be able to demonstrate a capacity to undertake customer transactions and services at a more competitive cost than those currently provided through Motor Registration's city office.

There are currently 129 full time equivalent staff located at Wakefield Street of whom some 50 provide central support and management functions, with the remainder being directly engaged in providing registration and licensing services to the public, including over the counter.

It is anticipated successful implementation of the three initiatives described above will result in there being some 55 staff located at Motor Registration's headquarters and city office by 30 December 1996.

2. The proposal does not envisage to hand over the management of all the functions currently handled by Motor Registration's city office. Both the core statutory responsibilities and the responsibility for purchasing any services provided by external organisations will remain a central Motor Registration responsibility.

As this will entail some degree of public contact, it is likely that the full range of customer services will continue to be available from the city office, but with the public contact area becoming more akin to a metropolitan branch office. With the addition of one or more other privately operated outlets in the CBD, service levels and accessibility will be improved.

The eventual size of Motor Registration's city office and whether there will be additional externally managed outlets in the city will be dependent on finding one or more external operators who can provide an effective, efficient and cost-competitive counter service.

3. It is not the intention to have a central private operator responsible for managing and coordinating data from regional Motor Registration offices. External providers will be the agents, not the managers of Motor Registration's central business. External service providers' access to data held by Motor Registration will be confined to the needs relating to the services those agents are providing, with strict conditions and protections relating to the confidentiality of the data involved.

4. I understand that EDS will become the providers of information processing and network management for the whole of Government. The contract will include information processing and network management for Motor Registration. EDS will thus take on that part of the facilities management role previously undertaken for Motor Registration by the Justice Information System. As custodian of the data, EDS will be required to comply with Government security standards.

Motor Registration will continue to be responsible for management of the use of information contained on the 'DRIVERS' database.

MARINO ASPHALT PLANT

In reply to **Hon. T.G. CAMERON** (5 April) and answered by letter on 26 April.

The Hon. DIANA LAIDLAW: Regarding the redundancies at the Department of Transport's Marino Asphalt Plant, out of the 13 permanent officers who were employed, there were 3 officers redeployed to other sections of the Department. The remaining 10 officers accepted Target Separation Packages to a total value of $270 710.19.

ALGAL BLOOM

In reply to **Hon. T.G. ROBERTS** (12 April).

The Hon. K.T. GRIFFIN: The Minister for Primary Industries has provided the following response.

The recent algal bloom in Coffin Bay was particularly extensive and the media has made much of the reported extent of the bloom. It affected waters from the south west of Kangaroo Island to Fowlers Bay.

The Department of Primary Industries has furthered its investigations into the matter and there is now strong, if not overwhelming evidence, that the oceanographic effect called an 'upwelling' was the cause of the bloom. As I have previously stated this is an occurrence where, under certain meteorological conditions, surface waters on the west coast of Eyre Peninsula are forced offshore. This causes deep water, from below the continental shelf, to rise to the surface. The deep water carries with it relatively high amounts of nitrogen and phosphorus based nutrients, which may trigger extensive algal blooms.

The department commissioned a specialist oceanography report to study the months leading to the occurrence of the bloom. This report was completed on 3 April 1995 and showed that the conditions which cause the upwelling were unusually strong this year. In particular the winds blew consistently and maintained the upwelling for a particularly long time, 88 per cent more so than in 1993 when similar reports were received.

The key to the extent and persistence of the algal bloom is the persistence of the upwelling. Once the nutrient-rich water began to rise to the surface the weather conditions were such that it kept it going. In simple terms it was like turning on a tap and leaving it on. The nutrients continued to rise and so the algal bloom kept increasing in size.

Satellite images confirmed this event.

The change in weather conditions during early April has been associated with a reduction in algal numbers around Coffin Bay but the department continues to monitor the situation.

The likely effect of a single, or even a series of seismic events peters into insignificance against this sort of phenomenon. Furthermore, the upwelling phenomenon occurs regularly, unlike seismic events and algal blooms result to a greater or lesser degree. The difference in 1995 was that the upwelling was so large in comparison to previous years that the bloom was large, extensive and persistent.

The department will not initiate any studies into a possible causal link between seismic events and algal blooms as there is no evidence to warrant any support for the suggestion.

MOUNT GAMBIER PRISON

In reply to **Hon. T.G. ROBERTS** (15 February) and answered by letter dated 26 April.

The Hon. K.T. GRIFFIN: The Minister for Correctional Services has provided the following response:

I refer the honourable member to the ministerial statement made by the Hon. Wayne Matthew, Minister for Correctional Services, tabled in the House of Assembly and Legislative Council on 11 April 1995.

In reply to **Hon. T.G. ROBERTS** (11 April).

The Hon. K.T. GRIFFIN: The Minister for Correctional Services has provided the following response:

Regarding questions 1, 3 and 4, I refer the honourable member to the ministerial statement made by the Minister for Correctional Services and tabled in this place on 11 April, 1995.

In the matter of question 2, the minister has advised me that Mr Ian Winton is no longer an employee of the Department for Correctional Services, and that he is unaware of Mr Winton's present employment.

FRUIT-FLY

In reply to **Hon. R.R. ROBERTS** (22 March) and answered by letter dated 26 April.

The Hon. K.T. GRIFFIN: The Minister for Primary Industries has provided the following response:

The possible extension of operating hours at Oodlawirra is being investigated by Primary Industries SA. This process will involve a number of facets including an assessment of the traffic flows outside of the current operating hours of 6 a.m. to 10 p.m. There will also be an assessment of the fruit deposited in the bins at the roadblock during the period 10 p.m. to 6 a.m. to assess the fruit fly risk.

The level of fruit infected with fruit fly detected at Oodlawirra is indeed the highest of the four roadblocks maintained in South Australia. This detection rate however may reflect the fact that unlike the Yamba roadblock which intercepts up to five times the quantity of fruit, the lesser quantity of produce intercepted at the roadblock means that the fruit can be maintained under security for up to one week prior to its destructive sampling. This period provides an opportunity for fruit fly eggs which may be present on the fruit to hatch and develop into detectable infestations. This is simply not possible where large quantities of fruit are involved.

It is proposed to open the roadblock for extended hours on several selected days during the forthcoming school holiday period when the movement of passenger vehicles and caravans carrying fruit fly host produce is expected to be at its highest. This will assist PISA in their assessment of the merit of extending the current hours of the roadblock.

During the winter period (1 June to 31 August) when the roadblock is normally closed, PISA will be providing a presence at the roadblock in the person of the senior roadblock inspector.

Whilst accepting that the level of detection of fruit infested with maggots at Oodlawirra is high this season, it is hoped that the recent introduction of the Fruit Fly Exclusion Zone (FFEZ) for the management of Queensland fruit fly in south-eastern Australia will have a significant future impact on fruit fly detections at Oodlawirra and also at South Australia's roadblocks at Pinnaroo and Yamba. This tri-State program (NSW, Victoria and SA) involves the establishment of the zone in the three States (in South Australia this is the Riverland area), the provision of roadsign packages and fruit disposal bins, community awareness programs, a trial random roadblock program in NSW and the establishment of a sterile fruit fly factory in NSW to assist in future eradication programs within the FFEZ.

NSW Agriculture have included Broken Hill in their portion of the FFEZ and late last year installed signs and a fruit disposal bin on the Barrier Highway between Wilcannia and Broken Hill. Unfortunately the interception figures at Oodlawirra suggest that many travellers are not heeding the signs and depositing fruit into the bin provided prior to travelling through Broken Hill on their way into South Australia. It is to be hoped that the community awareness programs and the random roadblock program in NSW will result in a significant future drop in the interception figures for both fruit fly host produce and fruit fly infestations. PISA will continue to monitor this situation closely and will be liaising with both the NSW and Victorian Departments of Agriculture on the results of produce and fruit fly interceptions at our roadblocks.

TUNA FARMS

In reply to **Hon. R. R. ROBERTS** (7 April).

The Hon. K. T. GRIFFIN: The Minister for Primary Industries has provided the following response:

1. Aquaculture developments in South Australia require three separate approvals. These are development approval, access to a lease (tenure) and a licence pursuant to the Fisheries Act.

Development approval is determined by the Development Assessment Commission and until recently tenure has been granted by the Minister for the Environment and Natural Resources. Primary Industries licenses the operation.

As part of the Government's commitment to a one-stop-shop for aquaculture, Primary Industries South Australia has committed resources to consolidate the administration of all of the relevant legislation within the department. This is under way, but is yet to be finalised.

An application from Mr King Chang to farm Southern Bluefin Tuna was received by Port Lincoln Council on 20 March, 1992. At the time, the Government supported research and development of tuna farming within Boston Bay. Commercial development was withheld pending the preparation of a management plan for the area. Mr Chang's application, along with three others, was lodged at such a time that no research could have been initiated prior to 1993, when wild caught fish were again available between February and May each year.

Assessment of the applications was postpone pending the production of an Aquaculture Management Plan for the region. It was anticipated that the plan would be completed prior to February 1993 and therefore would be in place when wild caught fish were again available. Mr Chang was informed of this decision and advised that his application would be held in abeyance until the plan was produced.

Prior to release of the management plan, Mr Chang wrote to the Aquaculture Committee advising of his intention to withdraw his application to farm tuna. Mr Chang indicated that he wished to change his application to a research and development permit for the culture of other finfish.

The Aquaculture Committee of the Development Assessment Commission was willing to assess Mr Chang's application on merit once the management plan was completed. Mr Chang's withdrawal of his application preceded release of the management plan and therefore this issue was never assessed by the committee.

The 'licensing authorities' represent a number of Government agencies and all applications were dealt with in a fair and reasonable manner.

2. Management of the southern bluefin tuna fishery is the responsibility of the Commonwealth. Those individuals who have access to tuna do so by virtue of a Commonwealth licence and a quota allocated by the Commonwealth.

As has been stated, Mr Chang's application was delayed due to the need to prepare a management plan for aquaculture in Boston Bay. Further, all applicants for tuna farming leases were required to demonstrate access to quota. For non-quota holders a contract for sale would have sufficed. Mr Chang was unable to gain access to quota and it is understood that this was at least in part responsible for his decision to withdraw his application.

3. Release of the Port Lincoln Aquaculture Management Plan in February 1993 and the subsequent success of tuna farming lead to an unprecedented upsurge in interest in aquaculture in Boston Bay. Numerous applications were lodged in a short period of time and with little regard to the management plan. The Government was forced to declare a moratorium on further aquaculture development pending a review of the management plan. All applications lodged were held pending the review. The plan has been reviewed and

applications are currently being processed. Mr Chang's applications for other forms of aquaculture are among those.

4. All participants in the tuna farming industry in Port Lincoln are quota holders.

KANGAROO ISLAND FREIGHT

In reply to **Hon. BARBARA WIESE** (7 April).

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

A maximum price has been set by the Prices Commissioner based on Kangaroo Island Sealink's underlying freight charge which has been $25 per metre of freight vehicle for at least the last three years. In order to determine a maximum allowable price increase, the Prices Commissioner subtracted the Ports Corp wharfage charge of $8.53 to give $16.47, which is the portion of the charge attributable to KI Sealink.

The Prices Commissioner then applied last year's CPI to the $16.47 to determine a maximum price for KI Sealink of $17 per metre. When the $8.53 Ports Corp charge (which has not changed) is added back the maximum price allowable for KI Sealink to charge is therefore $25.53. The price determination would be for the year commencing 1 April 1995.

It is understood that KI Sealink has not increased its charge from the $25 per metre freight rate that it has had in place in recent years.

WORKCOVER

In reply to **Hon. A.J. REDFORD** (21 March).

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

In his explanation before asking the question, the Hon. A.J. Redford referred to comments made by the Hon. M.J. Elliott in 1986 when the WorkCover Bill was first introduced. At that time there was considerable debate about whether the proposed workers compensation reforms should be administered totally by a single statutory authority or by the ongoing involvement of private insurers. The Hon. M.J. Elliott expressed a view that he was not convinced at that time that a single authority was the best approach. The then Liberal Opposition also favoured the ongoing involvement of the insurance sector.

Much has happened since that opinion was expressed in 1986. A single authority was established, costs have escalated as predicted by the Liberal Party at that time, and the debate has come full circle, with the Legislative Council recently considering a regulation to provide for the outsourcing of claims management functions to private sector bodies.

The Liberal Party Worker Safety Policy, released prior to the election in December 1993, made it clear that when elected the Liberal Party would ask the WorkCover Corporation to examine the issue of involvement of the private sector insurance companies in the administration of the workers compensation scheme. The following paragraphs are extracted from that policy.

'WorkCover may tender out to private sector insurance companies some or all of the collection of levy fees and the management of claims administration related to workers compensation and rehabilitation.'

'Allowing the private sector to compete in management and administration of claims will establish a scheme which is more service orientated and cost effective.'

The answer to the first part of the question put by the Hon. A. J. Redford is, yes, I agree with the sentiments expressed by the Hon. Michael Elliott in 1986.

In response to the second part of the question, the following actions have been taken to implement outsourcing.

When legislative amendments were made in relation to the administration of WorkCover, the WorkCover Corporation Act 1994 included the power for the corporation to enter into contracts or arrangements with private sector bodies to manage claims, provide rehabilitation or other related services or to collect levies or to exercise any other power or function specified. (Such contracts are to be authorised by regulation).

When the above amendments became operative in July 1994, the board of WorkCover was asked to consider outsourcing the various functions of the corporation. In December 1994 the board recommended the outsourcing of the claims management function from July 1995. This recommendation was accepted by the Government. Whilst the board did not recommend outsourcing of other functions such as levy collection and investment at this stage, the board has agreed to re-examine these functions in 1996.

The required regulation necessary for the outsourcing of the claims function was prepared and gazetted in February 1995. A motion for the disallowance of this regulation was rejected by the Legislative Council on 5 April 1995.

Such an outcome is consistent with the view expressed by Hon. M.J. Elliott in 1986.

INTRODUCTION AGENCIES

In reply to **Hon. A.J. REDFORD** (7 April).

The Hon. K.T. GRIFFIN: The Office of Consumer and Business Affairs received two complaints concerning the operations of a business known as Sincerity Consulting Services in 1991. Since then no complaints have been recorded against Sincerity. The office has no record of complaint against Premier Partners.

The Victorian Office of Fair Trading and Business Affairs established a working party to inquire into the conduct of introduction agencies in that State. The working party monitored complaints over a period of 12 months and made its report to Parliament in May 1994. Concern was raised over a number of small introduction agencies and it was recommended that those operators be monitored for 12 months. In effect, those businesses were placed on notice.

Resulting from this monitoring, the Office of Fair Trading and Business Affairs recorded a 100 per cent increase in complaints.

The Victorian working party has prepared a voluntary code of conduct and the Minister for Consumer Affairs will seek to have all introduction agency operators sign its acceptance. The code will not be brought into legislation unless non-adherence is a major issue.

The Victorian Commissioner for Consumer Affairs proposes to take action against those operators who do not sign the code and act in contravention of legislation. It is further proposed that written assurances be entered into and, where the behaviour is not corrected, those operators be prosecuted.

The Office of Consumer and Business Affairs has recorded 25 complaints against introduction agency operators for the 12 months ending 30 June 1994. Given the number of complaints, it is not considered warranted at this stage to introduce a code of conduct. However, the Commissioner for Consumer Affairs continues to monitor complaints against introduction agencies in South Australia.

FRENCH WINE IMPORTS

In reply to **Hon. T. CROTHERS** (11 April).

The Hon. K.T. GRIFFIN: The Minister for Primary Industries has provided the following response:

Monitoring imports of French wine is a function of the Minister for Small Business, Customs and Construction, the Hon. Chris Schacht, who is responsible for the Australian Customs Service, which administers customs controls in this country.

Primary Industries SA regularly receives reports of import statistics, as does the grape and wine industry. The honourable member can be assured that trends in imports will be watched closely.

Australia is achieving success in export markets due in part to the fact that it is an internationally competitive producer of high quality grapes for wine-making. French imports will meet strong competition in Australia, especially in a fully supplied market.

When market conditions are favourable for imports into Australia, we would expect to see wine in Australia competing with our own. That is exactly what we expect of our export markets.

POISONOUS SUBSTANCES

In reply to **Hon. CAROLINE SCHAEFER** (9 March).

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

The new labelling requirements were developed as a joint project with New Zealand to harmonise the requirements for the two countries in order to make products available in both countries without the need for re-labelling. The legal labelling requirements of Australia, New Zealand, Canada, America, Great Britain and the European Economic Community were considered as well as submissions from interested parties. Much thought went into the development of the proposals and there was consultation with industry, Government agencies and consumer groups.

The decision to delete the requirements for signal words on labels to be printed in red was not taken lightly and, as Australia was the

only country that had a requirement for warnings to be printed in red, it was decided to delete it.

The schedule numbers were originally included on labels not as an indicator of toxicity but as a symbol to alert the seller to the regulations that applied to those products.

The new warnings are less ambiguous and more readily understandable, as they are statements that have some meaning, e.g. pharmacy medicine, prescriptions, poison, etc. Warning statements and safety directions to be used in conjunction with the new labelling are currently being examined by an expert, with the intent being to make the labels easier to understand.

Misuse of pesticide is neither prevented nor caused by the signal headings or labels. In the majority of cases it occurs because of failure to read the labels correctly, or disregard of the directions for use.

The new labelling requirements will be phased in over a five year period commencing on 1 July 1995 and being completed on 30 June 2000. This phasing is to allow both labelling systems to run side by side, thus removing the need for the withdrawal of existing packs, wastage of products and hence an increase in the cost to the community.

A community education program has been recommended as part of the introduction of the new labelling proposals. Part of that program commenced with a presentation to the education providers such as DETAFE, and is obviously beginning to flow on to persons attending various pest control and farm chemical courses. Funding is being sought for a wider community education program to start later this year with the introduction of the first of the new labels.

LEGAL PRACTITIONERS COMPLAINTS COMMITTEE

In reply to **Hon. SANDRA KANCK** (9 February).

The Hon. K.T. GRIFFIN: The first part of the honourable member's question relates to a review of the operation of the committee. As stated in my response, the separation of the committee from dependence upon the Law Society has been a priority and is proceeding at present. Additional resources have been made available to enable the committee to operate independently.

The second part of the question concerns the immunity of complainants to the committee. The functions of the committee are to receive, consider and investigate complaints of unprofessional conduct or overcharging by legal practitioners, and where the matter is capable of resolution by conciliation, to attempt to resolve the matter in this manner. The committee may also admonish the practitioner or lay charges of unprofessional conduct before the Legal Practitioners Disciplinary Tribunal ('the Tribunal'). The tribunal must inquire into the conduct of the legal practitioner, or former legal practitioner, to whom the charge relates and has a number of disciplinary powers, once it is satisfied that a legal practitioner is guilty of unprofessional conduct.

Section 84B of the Legal Practitioners Act 1981 provides that anything said or done in the course of the tribunal's proceedings is protected by absolute privilege.

The position with regard to the committee is not as clear. In cases where the tribunal refers its findings to another body to reach a final decision, the proceedings before the tribunal may often be protected by qualified privilege only, but where the findings of the tribunal are likely to be given great weight by the decision-making body, the proceedings before the tribunal may then attract absolute privilege. In any event, it seems clear, as I stated in my response to the question in Parliament, that a complaint against a legal practitioner to the committee would attract qualified privilege. This is a matter I am having examined to determine whether or not an amendment to the Act is necessary.

I am advised by the committee that it is willing to meet with a possible complainant, prior to the submission of a complaint in writing, in order to assist with the drafting of a complaint.

MARRIAGES

In reply to **Hon. ANNE LEVY** (5 April) and answered by letter dated 4 May.

The Hon. K.T. GRIFFIN: The marriage suite will be located on the second floor of Chesser House, adjacent to the Births, Deaths and Marriages Registration Office, but with a separate entrance.

The suite will consist of an entrance lobby, an ante-room (approximately 6 metres x 3 metres, to enable the celebrant to meet with the couple and their witnesses prior to the marriage ceremony), and the marriage room (approximately 11 metres x 6 metres, with comfortably-spaced seating for 30 guests and additional standing room if required).

The architecture and interior design firm, Woods Bagot, have put a good deal of thought into the design and furnishing of the rooms, and I am confident that those who make use of the civil marriage facilities in Chesser House will be impressed with the result.

Edmund Wright House will be vacated by the Department for Consumer and Business Affairs (Births, Deaths and Marriages) in early June 1995, as a result of a co-ordinated relocation of the Department to Chesser House. Building space inefficiencies and high running costs contributed to this decision.

The future of the building has been generally discussed by representatives of the Asset Management Task Force, the Government Office Accommodation Committee and the Office Accommodation Division of the Department for Building Management, to determine immediate actions after its vacating and a whole of Government approach to its future.

The building, built in 1878, was purchased by Government as recently as 1971 to assist preservation. It is now comprehensively covered by State, local government and National Trust heritage listings, ensuring retained built form in any foreseeable eventuality.

It is intended to commence a due diligence program identifying the building's current condition and state of its essential services, through a building audit process, its leasing competitiveness for providing contemporary office accommodation to either the public service or private sector and general demand for the building to meet alternative uses in the current market.

Once an assessment has been undertaken, commercially responsible action will be instigated. In the meantime, Government agencies, as prospective tenants, shall be invited to inspect the building to assess its appropriateness to their business service needs.

WORKCOVER

In reply to **Hon. M.J. ELLIOTT** (15 February) and answered by letter dated 3 May.

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

In the explanation before asking the question, the honourable member referred to a 'list of the 100 worst performing employers'.

The question then sought clarification of whether or not it is accurate that 100 companies are generating 30 per cent of the claims in South Australia.

That statement is accurate in general terms.

If all employers (exempt and non-exempt) are included, the 100 employers with the most claims account for 49 per cent of the number of claims and 37 per cent of the claim costs ($38m of $102.6m)

If only WorkCover registered employers are considered, the 100 employers with the most claims account for 29 per cent of the number of claims and 22 per cent of the claim costs ($16.1m of $72.7m).

Note—The above figures relate to claims where income maintenance has been paid for more than five days of incapacity.

The claim numbers and costs relate to claims which occurred in 1993-94.

However, it should be noted that the employers with the highest number of claims or with the highest total cost of claims are not necessarily the 'worst performing'. They may simply be the largest employers.

Although WorkCover does not keep specific records of the number of employees, the remuneration on which levies are calculated is a measure of the relative size of the employer.

The 100 employers referred to above (in either grouping) include employers with a very large payroll and understandably, with more employees they are likely to have more claims in sheer numbers than smaller employers.

Some have an extremely low rate of claims per million dollars of remuneration, e.g., 52 of the 100 employers in the category including exempt employers have fewer than two claims per million dollars of remuneration.

The inference therefore cannot be drawn that these are the worst performing employers.

SENTENCING COMMENTS

In reply to **Hon. G. WEATHERILL** (11 April) and answered by letter dated 3 May.

The Hon. K.T. GRIFFIN: Upon reading the *Hansard* of the honourable member's question, it is not clear what point he is seeking to make with respect to the Supreme Court judgment. Unless the honourable member can clarify the question I can take the matter no further.

DOCTORS

The Hon. T. CROTHERS: I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for Health, a question about the numerical oversupply of medical doctors in Australia.

Leave granted.

The Hon. T. CROTHERS: An article on page 13 of the *Advertiser* dated 27 May 1995 and headed 'New Medicare doctors cost an extra $290 000' reveals that this dollar figure is an annual cost for each new doctor who joins the Medicare billing system. These figures were given to a senate committee, which has been set up to look at Federal Health Department expenditure, and were tendered to the committee by a Dr Stephen Duckett, the secretary of the Federal Health Department. Amongst other of Dr Duckett's observations to the committee were his department's estimation that for the year 1993-94 there were some 15 282 full time equivalent non-specialist doctors in Australia and that, furthermore, his department estimated that 12 000 full time equivalent doctors were estimated to be the number required to effectively and efficiently service Australia's 18 million people.

He also said that the present annual intake of medical students was some 1 200 per annum and that the Federal Health Minister would enter into negotiations to try to bring that number down to 1 000 per year from the present figure of 1 200 per annum. Dr Duckett said that, in his view, this factor alone would assist in reducing overall health costs and that in addition to the foregoing the number of overseas trained doctors would be strictly limited to a maximum of 200 per annum and that additionally steps would be taken to restrict the practices of New Zealand trained doctors whose qualifications were accepted here without further examination. His department also estimated that each Australian used 10.1 Medicare services per annum and that a total of $301.36 was expended annually for every Australian. I do not know what effect these figures will have on other members of this Council, but they certainly staggered me. Given the foregoing quotes, I direct the following questions to the Minister:

1. Does he believe that the steps being considered to be undertaken by the Federal Government will have the effect of reducing medical costs and, if not, why not?

2. Does the Minister believe that all Australians, including South Australians, are being overserviced by the medical profession and again, if not, why not?

3. If the Minister believes that South Australians are not being medically overserviced, can he identify the reasons for this being a belief that he holds?

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

SOUTH AUSTRALIAN HEALTH SERVICES BILL

Second reading.

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

That this Bill be now read a second time.

'Over the next 20 years the only constant in a good health service will be constant change.' Those were the prophetic words of the late Sir Charles Bright in his report to the Committee of Inquiry into Health Services in South Australia in 1973. It was his report which laid the foundations for the establishment of the South Australian Health Commission and the progressive inclusion under the umbrella of the South Australian Health Commission Act of publicly funded health services. The purpose of this Bill, approximately 20 years later, is to effect and reflect change.

Over the last 20 years there has been a significant improvement in the health status of South Australians and a steady increase in the level of health service provision. For example, over that period the death rate (age adjusted) has reduced by about 30 per cent, leading to progressive gains in life expectancy. Mortality reductions have occurred for many diseases—about a half for infant mortality; over a third for ischaemic heart disease; over a half for cerebrovascular disease; about a third for pneumonia and allied respiratory infections. In 1993, South Australian life expectancies at birth were 75 years for males and 81 years for females. These are very high by international standards for industrially developed countries and reflect the high living standards and advanced health services in this State.

The Commonwealth Grants Commission has estimated that South Australia spends about 6 per cent more than the national average on health services and this is primarily as a result of above average levels of service delivery. Hospital throughput levels have been increased; new non-hospital services have been introduced. The result is a health system which South Australians, by and large, feel has served them well. Notwithstanding the quality of its health services, there are many challenges facing the South Australian health system, many of them common to other jurisdictions around the nation. Financial realities; keeping pace with the growing health needs of an ageing population; developing more effective coordinated care processes for the sufferers of long-term illnesses; equitable distribution of resources across the community; managing the cost implications of new health technologies; asset redevelopment and upgrading—each represents a significant challenge in its own right; none is exclusive of the other.

Planning and management systems play an important role in determining the effectiveness of the responses to such challenges. There is an acknowledged need to improve organisational and service linkages between health providers in the interests of continuity of care, best practice and administrative efficiencies.

Organisational structures need to establish clear lines of accountability and link resource inputs to health outputs and outcomes. But the means to that end must never become an end in itself—the overriding aim must be better health care for South Australians. That was the theme underpinning the organisational arrangements proposed by the Bright Report 20 years ago; that theme is also central to the organisational changes proposed in this Bill.

As members may be aware, change has been on the agenda for some time. The previous Government launched two discussion papers proposing various forms of reorganisation. A parliamentary select committee was subsequently established. While a number of submissions had been

received, the deliberations of the committee had not been brought to a conclusion at the time of the 1993 State election.

The Government's health policy recognised the need for change and proposed that it should be achieved through a range of measures, both legislative and administrative: the abolition of the SA Health Commission; the introduction of regionalisation and integration of health services; devolution of decision-making into the areas where services are provided; and the introduction of casemix funding and contestability. All of them are integral parts of the overall blueprint which would see South Australia's health services positioned to meet the requirements of the future.

On coming to office, the Government established the Commission of Audit to do a stocktake of the State's finances and to chart the way forward. The Commission of Audit also recognised the need for reform of the State's complex health system. It recommended that the Health Commission be replaced by a department and that the system become more integrated, unified and customer focused if better value for money and world's best practice were to be achieved.

The Government is well down the track with administrative reforms. Casemix funding has been implemented, providing a number of benefits—it provides funding which is directly proportional to the complexity of the hospital workload; it establishes an efficient price for all forms of hospital services; it eliminates the inequities associated with historical funding; it enables managers to compare accurately the value of hospital outputs against the financial and other resource inputs required to produce those services. A contestability policy has been introduced, calling for the establishment of performance benchmarks for internal activities of health units and for the testing of those activities against alternative providers.

These initiatives are aimed at making the State health system more responsive, cost efficient and customer focused than was previously the case. As was indicated at the time of their introduction, they are evolutionary and they will be finetuned in light of experience in practice and comments from the field to ensure they are honed to achieve the best result. Closer involvement with the private sector has been embarked upon, drawing upon the sector's expertise and capacity, in order to pursue more innovative ways of providing better services to the public. Again, the 'bottom line' is quality, efficiency, effectiveness and value for money.

While these major initiatives will do much to enhance the efficiency and quality of health services, major structural reform is required to streamline decision-making, reduce administrative costs, provide greater flexibility in responding to current and future needs and generally to ensure that resultant gains are not diluted through outdated structures and legislation.

To that end, a discussion paper was released in September 1994 outlining a proposed structure for the management of the State health system. Over 160 written submissions were received, indicating broad support for restructuring the system, moving from a commission to a department and introducing regionalisation in country areas. Further consultation was embarked upon to determine the most appropriate way of tailoring the structure to the needs of country regions.

The Bill before members today seeks to establish the legislative framework within which the organisational restructuring will occur. At the outset, it seeks to abolish the South Australian Health Commission. The legislation which established the Health Commission almost 20 years ago was progressive for its time, and I pay a tribute to the many people who have served as members of the Health Commission over the years and who have helped to shape the State's health services.

In order to meet the requirements of the future, a different organisation with increased accountability to Government is required. The Bill therefore seeks to establish a Department of Health under the Government Management and Employment Act. The Chief Executive of the department will be under the control and direction of the Minister and will have specific powers of direction to ensure that the service units comply with Government policy and operate in accordance with service agreements. This will ensure enhanced accountability for expenditure of funds allocated under the State health budget.

The department will work within a refined set of objectives for the health system which will see a greater recognition of the rights and responsibilities of the people for whom the health services are provided; an emphasis on primary health care; higher standards of management and administration, and achievement of best practice; integration and coordination with the private sector where appropriate; commercial exploitation of public health expertise for the benefit of the people of South Australia; and innovation and flexibility in the way services are developed and delivered.

The new department will include the vitally important Public and Environmental Health Service and what is currently known as the Central Office of the commission. Officers and employees of the department will be public servants under the Government Management and Employment Act, and the necessary transitional provisions are included. The Central Office will be reorganised to implement the purchaser/provider model for each of two regions—the metropolitan area, and rural and remote South Australia. It is no longer appropriate to view the role of the State health system as principally that of providing all health services required by the public. Rather, the State health system should concentrate on understanding the health service requirements of the community and then obtaining the necessary services from the most efficient and effective provider of high quality services, whether they be private sector, non-government or traditional public sector organisations.

The key objectives behind the introduction of the purchaser/provider arrangements are:

- to introduce competition into the provision of some public health services and thereby use competitive market forces to drive down the costs of these services while maintaining quality;
- to provide a focal point for consumers to access more directly decisions about service priorities;
- to facilitate a more rapid service response to new or changing health needs;
- to create real purchasing power for budget holders.

The reorganisation will thus see a purchasing function established in the department—a Metropolitan Health Purchasing Unit and a Country Health Purchasing Unit drawing on the current resources of the Metropolitan and Country Health Services Divisions. The funding and purchasing roles will be separated, with the current corporate divisions of the Health Commission assuming a funding role as it relates to general health services. A population based funding allocation model will be developed and implemented, taking into account demographic and other variables, to inform the allocation of resources between metropolitan and country regions.

The Metropolitan Health Purchasing Unit will purchase services from a range of public, private and non-government health service delivery bodies, in line with health service agreements and contracts. In making an assessment of the health needs of the population for which it is purchasing services, the unit will be informed by various planning and advisory mechanisms incorporating community and consumer input, and input from a range of specialist health councils.

The Country Health Purchasing Unit will purchase services from a range of Government and non-government providers including State-wide, country and metropolitan health service units. A country health advisory body modelled on the current Rural Health Reference Group will be established to advise the unit on policy and program issues. Health service units, whether hospitals, community health services or other health service bodies, will take up the role of provider. Provision of services will be guided by the principles of customer focus; quality; efficiency and effectiveness; consistent management performance; and a focus on outputs and outcomes.

The current Act provides for hospital and health services to be incorporated under the Act as separate legal entities. This Bill provides for health services to continue to be incorporated and have boards of directors. Boards have made a contribution to the effective management of health units over the years and their continuation will bring an array of skills and expertise to assist with the management of health services. However, the current fragmentation of the health system into approximately 200 health units works against the provision of integrated and coordinated services for consumers. Provisions are therefore included in the Bill to allow for amalgamation of some existing health units into a smaller number of larger provider bodies.

The primary objective of such amalgamations will be to achieve efficiency in administration and improvements in service delivery which will lead to better health services for South Australians. Within the metropolitan region amalgamations will be fostered for hospital services, primarily to achieve efficiencies in administration and improve service coordination and integration. For the same reasons amalgamations will be pursued for community health services. Statewide services will continue to operate as at present.

Providers of health care in remote and rural South Australia will operate within a framework of seven regions. Within those regions, two options for the organisation of health services have been widely canvassed, with a view to achieving efficiencies in service administration and improving the coordination and integration of services. In many areas of the State, particularly those areas with widely dispersed populations, existing service units have realised that there are advantages, both clinical and financial, in combining or cooperating with other units. The Bill enables them to operate in that way, as clusters of community interest within regions. Indeed, 82 per cent of the 97 per cent of hospital boards which responded to the consultation process have indicated a preference for that method of operation.

In those cases, regional service units will be formed to receive funds from the Purchasing Unit in the Department for Health through a service agreement and to distribute those funds to the various service units in the region according to priorities set by that region. Regional service units will consist of a regional board comprising members from each of the service units or clusters of service units along with community and Aboriginal members. They will be serviced by a small staff who will be drawn from the service units in that region; in other words, there will be no extra layer of administration. By planning at regional level, health services should be more responsive to local needs.

Under this arrangement, service units will still be administered by their boards of directors, they will still be the employer of staff at their service unit and they will still have the responsibility for the day to day management and maintenance of the service unit. Two regions (Hills/Murray Mallee/Southern Fleurieu and Eyre Peninsula) enthusiastically took up the challenge and reached agreement on their board structures. Discussions continued in other regions. In order to maximise the benefits of the reorganisation, interim regional boards are currently being established.

The Bill is also flexible enough to cater for the future situation in which service units may decide to hand over their day-to-day responsibilities to regional service units. The Bill allows regional boards to take on the provision of health services in conjunction with their planning, coordination and financial roles. In those cases, the property of service units would be held by a small board of trustees. The boards of trustees will also have a liaison role with their communities, monitor the quality of patient care and services provided in their hospital and will provide a member of the regional board. This important role will ensure that local input is effective at the regional level.

The Bill continues a number of the provisions of the existing legislation. A power similar to the existing section 58a is included, providing for compulsory administration of incorporated service units or boards of trustees in specific circumstances such as serious contravention of the Act or a constitution or serious financial mismanagement. This power has been used very sparingly in the past, and it is anticipated that will be the case in the future.

Licensing of private hospitals is continued and private day procedure clinics are also brought within the ambit of the provisions. This will ensure that appropriate standards are maintained in what is an emerging area of medicine made possible by technical advances. South Australia is a signatory to the Medicare Agreement. The State's commitment under the agreement to reflect the Medicare principles in State legislation is met in this Bill.

The Government is committed to an efficient and accountable health system which will deliver 'value for money services' while ensuring that the overriding focus of any service must be its customers—the people of South Australia. The legislative reforms proposed by this Bill and the underpinning organisational and management structures reflect that commitment.

I commend the Bill to the Council. Rather than incorporate the second reading explanation, as is the usual practice after a Bill has been debated in the other place, I read it because it was revised after the Bill had been considered in the other place. I now seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

PART 1
PRELIMINARY

Clause 1: Short title

This sets out the title of the proposed new Act.

Clause 2: Commencement

This clause provides for the new Act to come into operation on proclamation.

Clause 3: Objects

This clause sets out the objects of the new Act.

Clause 4: Medicare principles

This clause requires compliance with the Medicare principles.

Clause 5: Interpretation

This clause sets out the definitions that are required for the purposes of the new Act.

PART 2
ADMINISTRATION
DIVISION 1—THE CHIEF EXECUTIVE

Clause 6: Administrative responsibility

This clause provides that the Chief Executive is, subject to control and direction by the Minister, responsible for the administration of the new Act.

Clause 7: Functions of the Chief Executive

This clause sets out the functions of the Chief Executive.

Clause 8: General powers of the Chief Executive

This clause sets out the general powers of the Chief Executive.

Clause 9: Statement of policies and strategies

This clause requires the Chief Executive to prepare, for the Minister's approval, and keep under review a statement of policies, guidelines and strategies for implementing a system of health service delivery in accordance with the objects of the new Act.

Clause 10: Delegation

This clause empowers the Chief Executive to delegate statutory powers.

DIVISION 2—THE DEPARTMENT

Clause 11: The Department

This clause provides for the establishment of a Department under the *Government Management and Employment Act* to assist the Minister and the Chief Executive in the administration of the new Act.

PART 3
INCORPORATED SERVICE UNITS
DIVISION 1—ESTABLISHMENT OF INCORPORATED SERVICE UNITS

Clause 12: Incorporation of service units

This clause provides for the establishment of incorporated service units.

Clause 13: Corporate status and legal capacity of incorporated service unit

This clause deals with the corporate status and general powers of incorporated service units.

DIVISION 2—REGIONAL SERVICE UNITS

Clause 14: Designation of incorporated service unit as regional service unit

This clause provides for the designation of an incorporated service unit as a regional service unit and the definition of the region for which the regional service unit is to be responsible.

Clause 15: Functions of a regional service unit

This clause sets out the functions of a regional service unit.

Clause 16: Assignment of functions to regional service units

This clause provides for the transfer of functions from an incorporated service unit to a regional service unit by agreement between the relevant service units. Under this clause the Governor may establish a board of trustees to administer the privately derived property of a service unit that transfers its health service delivery functions to a regional service unit. Property derived from public funds will vest in the regional service unit.

Clause 17: Board of trustees

This clause deals with the corporate status and general powers of a board of trustees.

Clause 18: Functions of board of trustees

This clause provides that a board of trustees must administer property held for the purpose of health service delivery as directed by the regional service unit or the Chief Executive.

DIVISION 3—AMALGAMATION OF INCORPORATED SERVICE UNITS

Clause 19: Amalgamation of incorporated service units

This clause provides for the amalgamation of incorporated service units.

Clause 20: Rights and liabilities of amalgamated service units

This clause deals with what happens to the property of incorporated service units on amalgamation.

DIVISION 4—CHIEF EXECUTIVE'S POWER OF DIRECTION

Clause 21: Incorporated service units to be subject to direction

This clause sets out the Chief Executive's powers of direction.

DIVISION 5—DIRECTORS OF INCORPORATED SERVICE UNITS

Clause 22: Board of directors

This provides for the administration of an incorporated service unit by a board of directors.

Clause 23: Functions of the board of directors

This deals with the responsibilities and functions of the board.

Clause 24: General duties, etc., of directors and trustees

This deals with the duties of directors.

Clause 25: Training courses for directors

This clause requires the Minister to make appropriate training courses available to directors.

Clause 26: Directors' duties of honesty, care, etc.

This clause requires honesty and a reasonable degree of diligence in the performance of a director's functions.

Clause 27: Conflict of interest

This clause requires disclosure of conflicts of interest.

Clause 28: Extent of liability of directors

This clause makes a director liable to account for profits made through a breach of an obligation as director of the service unit.

Clause 29: Delegation

This clause provides for delegation of power by the board of directors.

Clause 30: Fees

The Minister may, in appropriate cases, approve payment of directors' fees.

Clause 31: Removal of director from office

This clause deals with the Governor's powers to remove a director from office.

DIVISION 6—STAFF OF INCORPORATED SERVICE UNITS

Clause 32: Chief executive officer

This clause provides for the appointment of a chief executive officer of an incorporated service unit on terms and conditions approved by the Chief Executive.

Clause 33: Other staff of incorporated service units

This clause deals with the appointment of other staff by an incorporated service unit.

Clause 34: Staff not to be Public Service employees

This clause provides that the staff of an incorporated service unit are not public service employees.

DIVISION 7—BY-LAWS

Clause 35: By-laws

This clause empowers an incorporated service unit to make by-laws.

Clause 36: Evidentiary provision

This is an evidentiary provision for by-laws dealing with parking offences.

Clause 37: Immunity from liability

This clause provides immunity from personal liability for those employees of a service unit who are authorised to enforce its by-laws.

Clause 38: Expiation of offences against by-laws

This clause provides for expiation of offences against by-laws.

DIVISION 8—FEES

Clause 39: Power to fix fees

This clause empowers the Governor to fix fees to be charged by incorporated service units. The regulations may provide for gratuitous services in appropriate cases.

Clause 40: Recovery of fees

This clause provides for recovery of fees from the patient and, in appropriate cases, from the patient's relatives.

Clause 41: Remission of fee

This clause provides for remission of fees.

DIVISION 9—ACCOUNTS AND AUDIT

Clause 42: Accounts

This clause requires and incorporated service unit to keep proper accounts.

Clause 43: Audit

This clause provides for audit of the accounts by an auditor approved by the Auditor-General.

DIVISION 10—ANNUAL REPORT

Clause 44: Annual report

This clause requires the board of an incorporated service unit to report annually to the Minister on the administration of the service unit. The report must include the audited statement of accounts and statistics of the use of the unit's services.

DIVISION 11—COMPULSORY ADMINISTRATION OF INCORPORATED SERVICE UNIT OR BOARD OF TRUSTEES

Clause 45: Appointment of administrator

This clause provides for the removal of a board of directors and the appointment of an administrator in appropriate circumstances.

DIVISION 12—DISSOLUTION OF INCORPORATED SERVICE UNITS AND

BOARDS OF TRUSTEES

Clause 46: Dissolution

This clause provides for dissolution of an incorporated service unit.

PART 4

PRIVATE HOSPITALS

Clause 47: Obligation to hold licence

This clause requires the operator of a private hospital to hold an licence.

Clause 48: Application for licence

This clause deals with how the application is to be made and the information to be given in the application.

Clause 49: Grant of licence to operate private hospital

This clause provides for the grant of the licence.

Clause 50: Conditions of licence

This clause deals with the conditions on which a licence may be granted.

Clause 51: Annual fee

This clause provides for the payment of an annual fee by the holder of a licence.

Clause 52: Transfer of licences

This clause provides for the transfer of a licence with the Chief Executive's approval.

Clause 53: Suspension or cancellation of licence

This clause provides for the suspension or cancellation of a licence.

Clause 54: Inspection of private hospitals

This clause sets out the powers of inspection of an authorised person.

Clause 55: Appeal to District Court

This clause provides for an appeal to the District Court against a decision of the Chief Executive under the provisions of the new Act dealing with the licensing of private hospitals.

PART 5

MISCELLANEOUS

DIVISION 1—CONFIDENTIALITY

Clause 56: Duty to maintain confidentiality

This clause imposes duties of patient confidentiality.

Clause 57: Disclosure of confidential information for certain purposes

This clause provides for limited disclosure of confidential information for the purposes of epidemiological research and other similar purposes.

DIVISION 2—RIGHTS OF HOSPITALS AGAINST INSURERS, etc.

Clause 58: Definitions

This clause contains definitions required for the purposes of Division 2.

Clause 59: Reports of accidents

This clause provides for reports of accidents resulting in personal injury by the Commissioner of Police and third-party insurers.

Clause 60: Notice to insurer

This clause enables a service unit to give notice of a claim to an insurer or other compensating authority. Service of the notice gives the service unit a preferential claim on insurance payouts and other compensation.

DIVISION 3—INDUSTRIAL REPRESENTATION

Clause 61: Industrial representation

This clause makes the Chief Executive the notional employer of all staff of incorporated service units for the purposes of the *Industrial Relations and Employment Act 1994*.

DIVISION 4—REGISTER OF APPROVED CONSTITUTIONS

Clause 62: Register of approved constitutions

This clause provides for a register of approved constitutions of incorporated service units.

Clause 63: Inspection etc. of approved constitutions

This clause gives rights of public access to the approved constitutions.

DIVISION 5—REGULATIONS

Clause 64: Regulations

This is a regulation making power.

SCHEDULE 1

Repeal and transitional provisions

Clause 1: Repeal

This clause provides for the repeal of the *South Australian Health Commission Act 1976*.

Clause 2: Incorporated hospitals and health centres

This is a transitional provision for the continuance of existing incorporated hospitals and health centres.

Clause 3: Staff of the Commission

This clause deals with the staff of the former Commission.

SCHEDULE 2

Medicare Principles

This Schedule sets out the Medicare principles.

The Hon. BARBARA WIESE secured the adjournment of the debate.

RESIDENTIAL TENANCIES BILL

In Committee.

(Continued from 11 April. Page 1909.)

Clause 29—'Security of premises.'

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

That consideration of this clause be postponed until after consideration of clause 82.

Motion carried.

Clauses 30 to 32 passed.

Clause 33—'Alteration of premises.'

The Hon. ANNE LEVY: I move:

Page 16, after line 33—Insert:

(1A) It is a term of a residential tenancy agreement that the landlord must not unreasonably withhold consent under subsection (1).

This amendment inserts a subclause that is in the current Act, which provides:

It is a term of a residential tenancy agreement that a tenant must not without the landlord's consent make an alteration or addition to the premises.

The current Act states that a landlord must not unreasonably withhold such consent. One can think of many examples where a tenant may wish to make certain perfectly reasonable alterations to the premises at his or her own expense and it is felt that, if the landlord is unreasonable about giving such consent, the tenant should have recourse to the tribunal to ensure that a reasonable request on his or her part can be met. One can think of examples such as a tenant wishing to improve the security of the premises by adding extra locks or a deadlock system but the landlord, for some unknown reason, feeling that he did not wish such deadlocks to be added. I hope that in that case the tribunal would believe that it was an unreasonable refusal on the part of the landlord and would give the tenant the authority to make such alteration to the premises—which, incidentally, become fixtures and ultimately become the property of the landlord.

It is not something the tenant can remove when he or she leaves, so it is an addition which, doubtless, could be to the advantage of the capital value of the premises that the landlord owns. It is basically putting back the provision that a landlord must not unreasonably refuse such permission, as is contained in the current Act.

The Hon. K.T. GRIFFIN: I have always been puzzled by the breadth of the present provision in the Residential Tenancies Act 1978, which is even broader than the provision in the Bill. Under section 50 of the existing Act the tenant shall not, without the landlord's written consent, affix any fixture or make any renovation, alteration or addition to the premises unless the agreement so provides. The landlord shall not unreasonably withhold his consent. In this Bill the Government has tried to limit this to any alteration or addition and, by implication, to exclude reference to 'fixture or renovation' on the basis that it is quite reasonable to renovate by repainting or quite reasonable to make a fixture, but when it comes to alterations or additions, which have the connotation of something of quite significant substance, they are not permitted at all unless the landlord agrees.

It seemed to us that that was a reasonable division between what exists in the present legislation and what we think ought to be the position in relation to ownership; that is, that the landlord owns the premises and it is quite unreasonable to have any provision that would allow, even subject to review, substantial alteration or addition to the landlord's premises. If the landlord agrees, that is a different matter, but to make it subject to the landlord's acting reasonably is, in our view, not an appropriate qualification to place on the responsibility and power of the owner of the premises. That was the rationale for the way in which we drafted it for the purposes of this Bill. It is the Government's view that the amendment is not acceptable, for the reasons I have indicated. Therefore, I indicate opposition to it.

The Hon. SANDRA KANCK: The Democrats will not support this amendment. It seems that an alteration or addition to the premises is something quite substantial and it would seem to be a bit over the top to attempt in one way or another, possibly through the tribunal, to force some alteration onto a landlord.

The Hon. ANNE LEVY: The suggestion that alterations or additions must have the consent of the landlord, even where to refuse it is totally unreasonable, seems extreme. Alterations to premises can be interpreted very broadly and many landlords might well interpret an alteration as being very broad. It seems to me that the addition of a screen door to keep out flies could be classed as an alteration or an addition, but if the back door has no screen door to keep out flies and the tenant wishes, at his or her own expense, to add a screen door to keep out flies and the landlord refuses to give consent for such addition to be made, that could well be classed as unreasonable, and it would not be just in those circumstances for a tenant either to have to move house or to suffer flies coming in because he could not add a screen door.

I very much hope that the Government and the Democrats will reconsider this matter. Certainly, there could be cases where an addition or alteration could quite justifiably be refused by a landlord and, in such cases, one would expect the tribunal to uphold the view of the landlord that it was an unreasonable addition to his property. But some additions or alterations are not unreasonable at all. The example I have given is a fair one and, if a landlord refused permission for a tenant to add, at his own expense, a flyscreen door to the back door, I hope that in that case the tribunal would say that the landlord was behaving unreasonably and would give permission for adding a flyscreen door to the premises.

I cannot understand why any landlord would refuse permission to add a flyscreen door, but maybe landlords do refuse such permission and it would seem that the tenant for his own comfort and safety would have just cause to go to the tribunal and suggest that the landlord was behaving unreasonably and that he should be able, at his own expense, to add a flywire door.

I ask that both the Government and the Democrats give consideration to not allowing unreasonable refusals to seriously inhibit the comfort or safety of the tenant when he is prepared to make alterations or additions at his own expense.

The Hon. K.T. GRIFFIN: I draw the honourable member's attention to the fact that, under clause 30 of the Bill, there is a requirement to ensure that the premises are in a reasonable state of cleanliness when the tenant goes into occupation of the premises. Under clause 31, the premises have to be in a reasonable state of repair at the beginning of the tenancy. The landlord has an obligation to keep them in a reasonable state of repair, having regard to their age, character and prospective life, and will comply with statutory requirements affecting the premises. I do not know whether a flywire screen is a statutory requirement for health purposes, but we are saying that the premises do have to meet certain standards and that we sought to reduce the breadth of the provision from what is in the present Act and apply it to alterations or additions, which have the connotation of something of significance. It is our very strong view that tenants should not have the right to make those alterations or, if there is a disagreement with the landlord, ultimately to have the opportunity to take the matter to the tribunal and put the landlord's position to the test.

The Hon. R.D. LAWSON: I think the Hon. Anne Levy's obsession with flyscreens is perhaps not an appropriate example in support of her case. For example, one would have thought that a landlord ought to have the opportunity to refuse a tenant the opportunity to put a flyscreen door on the front door of the premises. One would have thought that a landlord who might be, for example, the owner of a heritage cottage in the south-eastern corner of the city could say, 'No, I don't want to have an aluminium flyscreen door on the front of this cottage. For aesthetic and other reasons I simply don't want that to happen, and I don't want you ruining the door jambs by installing such a thing.' In certain circumstances, if it is a reasonable proposal relating, for example, to the back door, the landlord would no doubt agree and there really would be no issue to it. I support the clause as it stands, and I do not support the amendment.

Amendment negatived.

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

Page 16, line 35—After 'would' insert 'cause'.

This is purely of a drafting nature.

Amendment carried; clause as amended passed.

Clause 34—'Tenant's conduct.'

The Hon. ANNE LEVY: I move:

Page 17, lines 10 to 13—Leave out paragraph (c) and insert—

(c) the tenant must not cause or permit an interference with the reasonable peace, comfort or privacy of another person who resides in the immediate vicinity of the premises.

Clause 34(c) of the Bill provides:

If the premises are adjacent to other premises occupied by the landlord or another tenant of the landlord, the tenant must not cause or permit an interference with the reasonable peace, comfort or privacy of the landlord or the other tenant in the use of the other premises.

I am suggesting that this be replaced by saying that the tenant must not cause or permit an interference with the reasonable peace, comfort or privacy of another person who resides in the immediate vicinity of the premises. This would apply not only to premises inhabited by the landlord or premises inhabited by another tenant of the same landlord but to anyone who lives in close proximity to the premises the tenant occupies. This could apply to people next door, just as much as to people in the same block of flats, let us say, owned by the same landlord. It seems to me that we need to consider the peace, comfort and privacy of all people who live in the vicinity, not only those who have some financial relationship with the tenant.

The Hon. K.T. GRIFFIN: I am happy to indicate support for this provision. It is a reasonable approach and certainly consistent with what the Government believes ought to be the obligations of tenants.

Amendment carried; clause as amended passed.

Clause 35 passed.

Clause 36—'Right of entry.'

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

Page 18, line 7—After 'are to' insert 'be'.

This is essentially of a drafting nature.

The Hon. ANNE LEVY: I am happy to support the amendment. While we are on clause 36, will the Attorney remind us what limit is suggested to be fixed for subclause (3)(a)?

The Hon. K.T. GRIFFIN: Obviously, no financial decision has been taken until this Bill passes or does not pass, as the case may be. The discussion so far has been in relation to the 136 kilolitre limit that presently applies as the appropriate level. That may be amended, subject to whatever discussions may occur in the future. That is the figure we discussed as we were talking about putting some provision such as this in the Bill.

The Hon. ANNE LEVY: I take it that the principle to which the Minister is referring is that the landlord would bear the rates and charges for water up to the limit for which water is available at a much cheaper rate, say, 20¢ a kilolitre but that, once the price of water passes this limit and rises to 86¢ or 88¢ a kilolitre, that would be expected to be a charge on the tenant. The suggested limit is 136 kilolitres at the moment, where the water price changes from a low figure to a much higher figure per kilolitre. It may be that that 136 would change in future, so there would be a different demarcation between the water at a much cheaper rate and at a much more expensive rate.

The Hon. K.T. GRIFFIN: My recollection is that that is basically the position, but it is some time since those discussions occurred so I am not able to say without any doubt that that is the position. However, that is certainly my recollection of the tenor of the discussions at the time. Obviously, this has been brought about by the fact that there is no longer such a thing as excess water, and there had to be some basis upon which one could say that this is a reasonable amount or limit which the landlord should bear and after that it should be akin to excess water, which is really the responsibility of the tenant, because the tenant turns the taps on or off as the case may be. However, I say again that my recollection of the discussions at the time is that it was considered that the level up to which a cheaper rate was charged for water should be borne by the landlord, and after that it should be something akin to excess water at the higher rate. That was the principle, but the parameters might be a bit blurred.

Amendment carried; clause as amended passed.

Clauses 37 to 41 passed.

Clause 42—'Termination of residential tenancy.'

The Hon. ANNE LEVY: I move:

Leave out paragraphs (a), (b), and (c) and insert—

(a) the landlord or the tenant gives notice of termination under this Act and—
  (i) the tenant gives up possession of the premises on or after the expiration of the period of notice required under this Act; or
  (ii) the tribunal terminates the tenancy under section 50; or
(b) the tenancy is for a fixed term, the fixed term comes to an end, and—
  (i) the tenant gives up possession of the premises; or
  (ii) the tribunal terminates the tenancy under section 51; or
(c) the tribunal terminates the tenancy under another section of this Act; or.

This amendment is consequential on amendments which were carried earlier by this Committee. They relate to the maintenance of the existing Residential Tenancies Tribunal and the procedures for terminating a tenancy. This amendment defines when and how a tenancy is terminated and it restores what is in the current Act. Basically, this amendment plus others, which relate to the same question, mean that the landlord need give only one notice to the tenant to terminate a tenancy instead of two as suggested in the Bill.

The Hon. K.T. GRIFFIN: I acknowledge what the honourable member has indicated, that this is a reflection of the provisions in the current Act, except I think the honourable member in subsequent amendments has reduced the time period from 14 days to seven. It is the first of a number of amendments to be moved by the Opposition that attempt to amend the termination procedures proposed by the Government in this Bill. We consider the termination procedures in the Bill to be a considerable improvement on the current system, and from our consultation they are well received by landlords.

One of the most common and prevalent complaints received from landlords by the Government has been in connection with the procedure and the delay involved in the termination of residential agreements. Under the current Act, I think it is important to recognise that termination does not occur until either the landlord or the tenant gives notice of termination and either the tenant delivers up vacant possession or the tribunal makes an order terminating the agreement. Under the Bill, a residential tenancy agreement can terminate or be terminated upon the service of a prescribed notice of termination upon the tenant without the necessity for the tenant actually to deliver up vacant possession or for an order by the tribunal to terminate the agreement.

I think it important to recognise that the new system involves a couple of steps when a landlord seeks to terminate. The first is that, where there is a breach by a tenant of a residential tenancy agreement, the landlord can serve on the tenant a notice in the prescribed form which specifies the breach. The notice requires the tenant to remedy the breach within a specified period, which must be at least seven days from the date on which the notice is given. So there is actually a notice about the breach and a requirement to remedy that. If one notice is about trying to remedy a breach, then it seems to me that that notice is an appropriate form of notice to give. Of course, it is flexible, because the landlord can say, 'Rather than seven days minimum, I'll give you 15 days or 21 days to fix the breach and, if you don't, we'll give you notice of termination.'

The second step is that if the tenant fails to remedy the breach within the specified period the landlord may serve on the tenant a notice of termination which requires the tenant to give up possession of the premises at the end of a specified period, which must be a period of at least seven days from the date on which the notice is given. This results in the reduction in the existing number of days notice required for termination. I acknowledge that the honourable member's scheme, whilst adopting the present Act's provisions, does in fact accommodate a reduction in the period for notice. The structure empowers the landlord to serve notice on the tenant without tribunal involvement until the point is reached where the tenant fails to give vacant possession of the property.

It should be pointed out that the rights of tenants have not been overlooked in this new procedure. They will have the opportunity at any time after receiving a notice and before giving vacant possession to the landlord to apply to the tribunal to have some changes made in the outcome. In summary, the new termination procedure reduces the time

period necessarily involved in obtaining vacant possession and results, I would suggest, in the tribunal not being involved at an early stage in the termination procedures but only at the end when an order may be required.

The Hon. ANNE LEVY: I reiterate that, despite what the Attorney says, the current method of termination with the alteration I propose is to be preferred to the one proposed in the Bill. Basically, the Attorney is requiring that the landlord must give two separate notices to the tenant—one to say there is a breach, and then, if the breach is not remedied at least seven days later, another notice to the tenant terminating the tenancy—whereas under the current system, which I am seeking to restore, the landlord must give only one notice to the tenant. If the tenant does not take any notice of it, does not leave the premises, or pay the back rent, or whatever the breach may be, the landlord can go to the tribunal. With the time alteration that I propose, there will be no difference in time between the time that the breach occurs (say, not paying rent) and the time that the matter can be heard by the tribunal—that is, if the tenant does not remedy the breach.

The Hon. K.T. Griffin: The rent has to be unpaid for 14 days, and then the seven days.

The Hon. ANNE LEVY: Then seven days, which makes a total of three weeks. The Government says that if there is a breach for seven days, that is a week unpaid rent, then you give one notice; a week later you give another notice; and then a week later you go to the tribunal. The total is three weeks in both systems, but the landlord has had to give two notices instead of one. As these notices are to be prescribed, or at least have to contain certain details and so on, if the landlord has to give two notices that is twice as much work and twice the chance of making a mistake in some way which will make it an invalid notice. It would seem to me that the one notice is very much to be preferred, particularly as the time from the breach—be it non-payment of rent—to the time of going to the tribunal will be identical in both systems.

The Hon. SANDRA KANCK: The Democrats support the Opposition's amendment.

The Hon. K.T. GRIFFIN: In terms of the non-payment of rent, if the rent is not paid on the due date then we do not have the seven days minimum for non-payment of rent. It can be one day in arrears and then the notice can be given. Whereas, under the honourable member's proposition, it is 14 days in arrears and then seven days to deliver up possession. It is possible under the Government provisions to deal with the issue of unpaid rent within something like 15 or 16 days, rather than the 21 days minimum under the honourable member's proposition.

Amendment carried.

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

Page 21, line 18—Leave out '59' and insert '58'.

It is typographical.

Amendment carried.

The Hon. ANNE LEVY: I move:

Page 21, after line 18—Insert—

(2) If a residential tenancy continues beyond the day on which it would under the terms of the residential tenancy agreement have terminated by effluxion of time or the happening of an event, then the same terms as last applied to the tenancy before that day continue to apply.

(3) The tribunal may, on application by the landlord or tenant, modify a term that would otherwise apply under subsection (2).

I do not think this would be, in any way, controversial. It is consequential. This definition more or less occurs elsewhere in the Bill, anyway. It states that, if a residential tenancy continues beyond the day on which it would under the terms of the agreement have terminated by effluxion of time or the happening of an event, then the same terms as last applied continue to apply, unless, of course, action has been taken by either landlord or tenant to alter the terms, but they continue to apply unless definite action has been taken to alter them.

The Hon. K.T. GRIFFIN: This is largely consequential on the amendment of the honourable member which has just been carried. Whilst I have some difficulty with the whole proposition, I have to at least acknowledge that it is consequential.

The Hon. R.D. LAWSON: One of the infirmities of a clause, such as that proposed by the Hon. Anne Levy, arises if the residential tenancy agreement was an agreement which contained a right of renewal. So that if the initial term was, say, three years with a right of renewal for a further three years, this clause would enable that right of renewal clause to operate yet again merely by the effluxion of time. So that if the tenant stayed in possession after the expiration of the six years, he or she would be a tenant under the same terms and he or she would have a further right of renewal for a further three years. It is usual in leases to contain a clause such as this, a holding over clause, which specifically provides that it does not apply in relation to a right of renewal.

The Hon. ANNE LEVY: It is the clause in the existing legislation word for word and that, if in circumstances where it was reasonable to renegotiate the terms of the residential tenancy, the tenant refused the landlord's request to do so, the landlord can always go to the tribunal to achieve any reasonable changes to the terms if they have not been able to be negotiated by agreement.

Amendment carried; clause as amended passed.

New clause 42A—'Application of part to SAHT.'

The Hon. ANNE LEVY: I move:

Page 21, after clause 42 (and before line 19)—Insert new clause as follows:

42A. (1) This part, other than sections 44 and 46, extends to residential tenancies agreements, and residential tenancies, under which the South Australian Housing Trust is the landlord.

It is consequential on the argument we had in relation to clause 5 regarding the application of part of this legislation to the Housing Trust. There is no suggestion of course that the whole of the legislation applies to Housing Trust tenants, but it is suggested that part of the legislation should apply to the Housing Trust. This details which sections will apply to the Housing Trust. This is under part 4, the termination of residential tenancy agreements. This whole part deals with termination of tenancy and—

The Hon. K.T. Griffin interjecting:

The Hon. ANNE LEVY: I want to put in 42A, which is indicating which bits of the part 4 relating to termination will apply to Housing Trust tenants and which bits do not. I know the Attorney is not very keen on this, but it was decided under clause 5 that there should be parts of this legislation which apply to Housing Trust tenants.

The Hon. K.T. GRIFFIN: I acknowledge that it is consequential on the amendments in clause 5 relating to the coverage of the Housing Trust by this Bill. I did indicate then, and I reiterate for the record, that the Government is not at all supportive of the propositions being proposed. However, we acknowledge at least for the purpose of consideration in this Chamber, we do not have the numbers to have our view carried on this particular issue.

New clause inserted.

Clause 43—'Notice of termination by landlord on ground of breach of agreement.'

The Hon. ANNE LEVY: I move:

Leave out this clause and insert new clause as follows:

Notice of termination by landlord on ground of breach of agreement

43. (1) If the tenant breaches a residential tenancy agreement, the landlord may give the tenant a notice—

(a) specifying the breach; and

(b) requiring the tenant to give up possession of the premises at the end of a specified period (which must be a period of at least seven days) from the date the notice is given.

(2) If notice of termination is given under this section on the ground of a failure to pay rent—

(a) the notice is ineffectual unless the rent (or any part of the rent) has remained unpaid in breach of the agreement for not less than 14 days before the notice was given; and

(b) the notice is not rendered ineffectual by failure by the landlord to make a prior formal demand for payment of the rent.

(3) If notice of termination is given under this section in respect of a residential tenancy agreement that creates a tenancy for a fixed term, the notice is not ineffectual because the day specified as the day on which the tenant is to give up possession of the premises is earlier than the last day of that term.

(4) Failure by a tenant under a residential tenancy agreement that creates a tenancy for a fixed term to give vacant possession of the premises at the expiration of the term does not constitute a breach of the agreement.

This is more or less consequential on the amendment to clause 42. It is reinstating the existing procedure for terminations, with the one change of seven days' notice to leave the premises instead of the existing 14 days provided for in the Act. I am suggesting changing that period from 14 days to seven days, but maintaining the 14 days if the 14 day period before notice of a breach can be given relates to a breach where there is failure to pay rent. I do this on the basis that many people receive either their pensions or their wages every fortnight, and if someone has had some financial stress and has been unable to pay the rent for some reason—either good or bad—they should have 14 days to remedy the situation. The 14 day period is bound to include a day on which they receive either pension benefit or wages to enable them to be financially able to meet their obligations.

The Hon. K.T. GRIFFIN: I acknowledge that this is consequential on an earlier amendment. There will be a number of these throughout the rest of the amendments. However, I want to make a quick point in relation to the non-payment of rent. I would have thought that it was unnecessary to have that provision for rent to be in arrears for 14 days before notice to deliver up the possession of the premises can be given, because the very length of the notice will give adequate time within which to pay the arrears of rent. If the honourable member's example is applied, even if that were reduced to seven days, there would still in fact be 21 days between the notice and the actual termination within which the pension or whatever should well have been paid. So I have difficulty with that, but that is something we will talk about at a later stage.

The Hon. SANDRA KANCK: The Democrats support the amendment, as it is a more socially just way to go about it.

Amendment carried.

Clause 44—'Termination because possession is required by the landlord for certain purposes.'

The Hon. ANNE LEVY: I move:

Page 22, lines 18 and 19—Leave out ',by notice of termination given to the tenant, terminate a periodic residential tenancy' and insert 'give notice of termination of a periodic residential tenancy to the tenant'.

This amendment is consequential on the amendments we have had earlier.

Amendment carried.

The Hon. SANDRA KANCK: I move:

Page 22, line 30—Leave out '60' and insert '90'.

The reason that I am moving this amendment, which is extending the period of time that is available to the tenant to vacate the premises up to 90 days, really stems from the reasons that are there in the first place for the landlord giving the notice. At no stage is there any indication in this clause that the tenant has done anything wrong, that they have misbehaved or that they have damaged the premises. It is simply, as much as anything, for the convenience of the landlord. It is the sort of thing that happens when perhaps the landlord's son or daughter has been at university in another State and returns to Adelaide and the landlord decides for convenience to put that child into the particular unit or house or whatever it might be, and it is not likely to be something of great urgency. It seems to me that, where quite clearly the person has not in any way damaged the place in which they are living, there are not good reasons to turf them out in a hurry. I expect that once most people in this situation are given notice they would be finding a place fairly quickly, but if they are unable to they should not be having to shift out quickly just at the whim of the landlord.

The Hon. K.T. GRIFFIN: I oppose the amendment. The period of 60 days in the Bill is the same period as is prescribed in the current Act. I suggest that the Hon. Sandra Kanck has really failed to demonstrate a good reason for this period to be increased. If one looks at clause 44 of the Bill, one will see that the various grounds upon which the landlord may give the 60 days' notice are set out. I think they are similar to those in the present Residential Tenancies Act, and I would have thought that it is not unreasonable to leave the period at 60 days. As I have said, there has been no complaint to the Government about that period being inadequate. Sometimes there have been complaints by landlords that it is over-generous and that it ought to be reduced, but we have resisted that and determined that we would stay with the period of 60 days.

The Hon. ANNE LEVY: I cannot support a change from the current period of 60 days to 90 days. I note that one of the reasons for which the landlord may give this notice to the tenant is because the landlord is selling the property. When people sell property the buyer expects to have vacant possession, and that may well be the reason for which the new owner has purchased it. Also, the buyer expects to have vacant possession on settlement day. Whilst settlement day sometimes may be 90 days after sale, it is generally much less than the 90 days or three months, which would be the case if the Hon. Sandra Kanck's amendment were successful. It often is one month to settlement day and, even with the existing legislation, it means that if the buyer wants vacant possession a landlord who sells premises will have to postpone settlement date for two months instead of the one month, which is quite common, so that the new owner can in fact have vacant possession. While it may be possible to extend a one month settlement to a two month settlement, I think that it could be regarded as unreasonable to extend it to a three month settlement, both by the landlord who may want

the cash for some good reason and by the new buyer who may want vacant possession to be able to live there. So I think it is probably advisable to keep the current 60 days.

The Hon. Ms Kanck's amendment negatived; clause as amended passed.

New clause 44A—'Notice of termination by South Australian Housing Trust.'

The Hon. ANNE LEVY: I move:

Page 23, after line 4—Insert new clause as follows:

44A (1) If the South Australian Housing Trust is the landlord under a residential tenancy agreement, the trust may give notice of termination of the tenancy on a ground prescribed by the regulations.

(2) If the South Australian Housing Trust gives notice of termination on a prescribed ground under this section, the period of the notice must be not less than 120 days or, if a greater period is prescribed by regulation in relation to that ground, not less than that period.

This amendment is consequential on earlier amendments.

The Hon. K.T. GRIFFIN: I oppose the amendment but acknowledge that it is consequential.

New clause inserted.

Clause 45—'Termination of residential tenancy by housing cooperative.'

The Hon. ANNE LEVY: I move:

Page 23, lines 7 and 8—Leave out ', by notice of termination given to the tenant, terminate the tenancy' and insert 'give notice of termination of the tenancy to the tenant'.

This amendment is consequential on earlier amendments.

Amendment carried; clause as amended passed.

Clause 46—'Termination by landlord without specifying a ground of termination.'

The Hon. ANNE LEVY: I move:

Page 23, lines 14 and 15—Leave out ', by notice of termination given to the tenant, terminate a residential tenancy' and insert 'give notice of termination of a residential tenancy to the tenant'.

This amendment is consequential.

Amendment carried.

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

Page 23, line 21—Leave out '20' and insert '19'.

This is a drafting amendment.

Amendment carried.

The Hon. ANNE LEVY: I move:

Page 23, line 22—Leave out '90' and insert '120'.

This amendment returns to the existing situation which applies under the current legislation. We are now considering a case where a landlord wishes to terminate a tenancy for no reason other than that he wants to terminate it: there has been no breach; he does not want to live there himself; his mother-in-law does not need it—he just wants, for no obvious reason, to get a tenant to leave. Currently he has to give 120 days notice. For some reason the Attorney is proposing to change that from 120 days to 90 days, but I do not see that this has been in any way justified. I have seen no reason for changing it. I propose that we revert to the existing situation of 120 days.

The Hon. K.T. GRIFFIN: I oppose the amendment. It is acknowledged that the 120 days is in the current Act. That, I think, was always an arbitrary figure—and there are plenty of arbitrary figures in this legislation. The Government has taken the view, in light of representations made particularly by landlords, that the 120 days is inordinately long. It would seem to us, in the context of the rental market, that the 90 days or three months is not an unreasonable period in which to find alternative accommodation. Accordingly, we have decided that we should support 90 days as being the appropriate time within which a tenant may be required by a landlord for no reason to find alternative accommodation. The general concern of landlords has been that in the existing Act a number of periods are too long to enable them to properly manage and deal with their property. They are, after all, providing a public service. In our view it is not unreasonable to say that 90 days rather than 120 days is the period within which a tenant should be required to find alternative accommodation if the landlord wishes to have vacant possession of the premises without having to specify a reason.

The Hon. SANDRA KANCK: The Democrats oppose the amendment, even though I lost the amendment a few minutes ago in which I specified 90 days because I felt that 90 days was a reasonable time, and I still feel that 90 days is a reasonable time.

Amendment negatived; clause as amended passed.

Clause 47—'Limitation of right to terminate.'

The Hon. ANNE LEVY: I move:

Page 23, lines 27 and 28—Leave out 'terminate the tenancy by' and insert 'give'.

This amendment is consequential.

Amendment carried.

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

Page 23, line 30—Leave out '20' and insert '19'.

This is a drafting matter.

Amendment carried; clause as amended passed.

Clause 48—'Notice of termination on ground of breach of agreement.'

The Hon. ANNE LEVY: We oppose this clause. It is consequential: with the changes which have already been agreed to, it is not necessary to have a separate clause dealing with the case of where a landlord breaches a residential tenancy agreement, because the earlier amendments have allowed for the case of either a landlord or tenant breaching an agreement and the other giving notice. It is consequential on earlier amendments. It does not indicate that we are opposing the situation where a tenant can give notice to a landlord because the landlord has breached the agreement. That is covered in other clauses.

Clause negatived.

Clause 49—'Termination by tenant without specifying a ground of termination.'

The Hon. ANNE LEVY: I move:

Page 24, lines 25 and 26—Leave out ', by notice of termination given to the landlord, terminate the tenancy' and insert 'give notice of termination of the tenancy to the landlord'.

This amendment is consequential.

Amendment carried; clause as amended passed.

Clauses 50, 51 and 52.

The Hon. ANNE LEVY: I move:

Clauses 50, 51 and 52—Leave out these clauses and insert new clauses as follows:

Application to Tribunal by landlord for termination and order for possession

50.(1) If a landlord or a tenant under a residential tenancy agreement gives notice of termination to the other under this Act and the tenant fails to give up possession of the premises on the day specified, the landlord may, within 30 days after that day, apply to the Tribunal for an order terminating the tenancy and an order for possession of the premises.

(2) The Tribunal must, on application under this section, make an order terminating the tenancy and an order for possession of the premises if it is satisfied—

(a) that notice of termination has been given in accordance with this Act; and

(b) if the notice was given by the landlord on a particular ground prescribed by this Act, that the landlord has established that ground and, in the case of notice on the ground of a breach by the tenant of a term of the agreement, that the breach is in the circumstances of the case sufficiently serious to justify termination of the tenancy.

(3) However the Tribunal may—

(a) except where the premises are the principal place of residence of the landlord, suspend the operation of orders made under subsection (2) for a period not exceeding 90 days if it is satisfied that it is desirable to do so having regard to the relative hardship that would be caused—

(i) to the landlord by suspending the orders; or

(ii) to the tenant by not suspending the orders;

(b) refuse to make orders under subsection (2) if it is satisfied—

(i) that the landlord was wholly or partly motivated to give the notice by the fact that the tenant had complained to a governmental authority or taken steps to secure or enforce his or her rights as a tenant; or

(ii) in the case of notice given by the landlord on the ground of a breach by the tenant, that the tenant has remedied the breach.

(4) If in proceedings on an application under this section the Tribunal is satisfied that the tenant had, within the period of six months before notice was given by the landlord, complained to a governmental authority or taken steps to secure or enforce his or her rights as a tenant, the burden lies on the landlord to prove that he or she was not wholly or partly motivated to give notice by that fact.

(5) Subject to subsection (3)(a), if the Tribunal terminates a tenancy and makes an order for possession of the premises under this section, the Tribunal must specify the day as from which the orders will operate, being not more than seven days after the day on which the orders are made.

(6) The Limitation of Actions Act 1936 does not apply to an application under this section.

Application to Tribunal for termination and order for possession in relation to fixed term tenancies

51.(1) If a residential tenancy agreement creates a tenancy for a fixed term and the tenant fails to give up possession of the premises on or after the expiration of the term, the landlord may, within 30 days after the expiration of the term, apply to the Tribunal for an order terminating the tenancy and an order for possession of the premises.

(2) The Tribunal must, on application under this section, make an order terminating the agreement and an order for possession of the premises.

(3) However, except where the premises are the principal place of residence of the landlord, the Tribunal—

(a) may suspend the operation of orders under subsection (2) for a period not exceeding 90 days if it is satisfied that it is desirable to do so having regard to the relative hardship that would be caused—

(i) to the landlord by suspending the orders; or

(ii) to the tenant by not suspending the orders; and

(b) must refuse to make the orders under subsection (2) if the term of the tenancy under the agreement is less than 120 days unless it is satisfied—

(i) that the landlord genuinely proposed, at the time that he or she entered into the agreement, to use the premises after the expiration of the term for purposes inconsistent with the tenant continuing to occupy the premises; or

(ii) that the tenant of his or her own initiative sought a tenancy of a term of less than 120 days.

(4) Subject to subsection (3)(a), if the Tribunal terminates a tenancy and makes an order for possession of the premises under this section, the Tribunal must specify the day as from which the orders will operate, being not more than seven days after the day on which the orders are made.

(5) The Limitation of Actions Act 1936 does not apply to an application under this section.

Tribunal may terminate tenancy where tenant causing serious damage or injury.

52.(1) The Tribunal may, on application by the landlord under a residential tenancy agreement, terminate the tenancy, if it is satisfied that the tenant has intentionally or recklessly caused or permitted serious damage to property or personal injury.

(2) If the Tribunal terminates a residential tenancy agreement under this section, the Tribunal must also make an order for immediate possession of the premises.

Tribunal may terminate tenancy in case of undue hardship

52A.(1) The Tribunal may, on application by the landlord or a tenant under a residential tenancy agreement, terminate the tenancy, if it is satisfied that the continuation of the tenancy would result in undue hardship to the landlord or the tenant and that it is reasonable to make application under this section.

(2) If the Tribunal terminates a tenancy under this section, the Tribunal—

(a) must also make an order for possession of the premises and specify a day from which the orders will operate; and

(b) may make orders compensating the landlord or the tenant for loss and inconvenience resulting, or likely to result, from the early termination of the tenancy.

Tribunal may terminate tenancy for breach of agreement by landlord

52B.(1) The Tribunal may, on application by the tenant under a residential tenancy agreement, terminate the tenancy if it is satisfied the landlord has breached the agreement and the breach is in the circumstances of the case sufficiently serious to justify termination of the tenancy.

(2) If the Tribunal terminates a residential tenancy agreement under this section, the Tribunal must also make an order for possession of the premises and specify a day from which the orders will operate.

My amendment seeks to delete these clauses and replace them with what is in the current legislation. It could be regarded as consequential to retaining the Residential Tenancies Tribunal and retaining the existing system for evictions when there are breaches of the agreement between landlord and tenant.

The Hon. K.T. GRIFFIN: I regard this next series of amendments as consequential. They are tribunal driven and unnecessarily bureaucratic, but I acknowledge that I have not been successful in persuading the majority of the Committee that it should support the Government position and, in view of that, I have to concede that these amendments should pass on the basis of the comprehensive framework, but they will be revisited.

Amendment carried; new clauses 50, 51, 52, 52A and 52B inserted.

New clause 52C—'Tribunal may terminate tenancy where tenant's conduct unacceptable.'

The Hon. ANNE LEVY: I move:

Tribunal may terminate tenancy where tenant's conduct unacceptable

52C.(1) The Tribunal may, on application by an interested person, make an order terminating a residential tenancy and an order for possession of the premises if it is satisfied that the tenant has—

(a) used the premises, or caused or permitted the premises to be used, for an illegal purpose; or

(b) caused or permitted a nuisance; or

(c) caused or permitted an interference with the reasonable peace, comfort or privacy of another person who resides in the immediate vicinity of the premises.

(2) If the Tribunal terminates a tenancy and makes an order for possession under this section, the Tribunal must specify the day as from which the orders will operate, being not more than 28 days after the day on which the orders are made.

(3) In this section—

'interested person' means—

(a) the landlord; or

(b) a person who has been adversely affected by the conduct of the tenant on which the application is based.

This new clause is not identical with what is in the existing legislation but follows from the amendment which we moved to clause 34 a few minutes ago. It is suggesting that tenancy can be terminated where the tenant's conduct is unacceptable.

This is on application by an interested person, which includes all people to whom the tenant has a duty not to cause annoyance or irritation under clause 34. It is not just on the application of the landlord, as in the existing legislation, but is on the application of any interested person, and the 'interested person' relates to clause 34, where the tenant must not interfere with the peace, comfort or privacy of anyone in the immediate vicinity and not just the landlord. I draw this new clause to the attention of the Committee because it is different from the existing legislation where only the landlord can take this action. We feel that, if tenants have a duty not to interfere with the comfort and privacy of anyone living in the immediate vicinity, they should have this remedy and not just the landlord.

New clause inserted.

Clause 53—'Form of notice of termination.'

The Hon. ANNE LEVY: I move:

Page 25, line 34—Leave out 'the termination of the tenancy is to take effect and the tenant' and insert 'the tenant is'.

This amendment is consequential.

Amendment carried.

The Hon. ANNE LEVY: I move:

Page 26, line 8—Leave out 'the termination of the tenancy is to take effect and the tenant' and insert 'the tenant is'.

This amendment is consequential.

Amendment carried; clause as amended passed.

Clause 54 passed.

Heading.

The Hon. ANNE LEVY: I move:

Page 26, line 20—Leave out 'REPOSSESSION OF PREMISES' and insert 'MISCELLANEOUS'.

I wish to move this amendment because subsequent amendments deal with other matters. The Bill has a division on 'Repossession of premises' and a division on 'Abandoned goods'. I propose replacing those two headings with a heading 'Miscellaneous', which will cover repossession of premises and abandonment of goods but also cover matters such as bailiffs, which is the main one. From a drafting point of view it seemed better to have one heading 'Miscellaneous' which will cover three different topics than to have three different divisions each with its own heading. It does not make much difference to the law, but it was certainly suggested by Parliamentary Counsel as being a neater and tidier way of having the legislation.

Amendment carried.

Clause 55—'Order for possession.'

The Hon. ANNE LEVY: I move:

Leave out this clause and insert new clause as follows:

Compensation to landlord for holding over

55. (1) If a tenant fails to comply with an order for possession made by the tribunal, the landlord is entitled to compensation for loss caused by that failure.

(2) The tribunal may, on application by the landlord, order the tenant to pay to the landlord compensation to which the landlord is entitled under this section.

This is consequential on the amendments we moved earlier.

Amendment carried.

Clause 56—'Abandoned premises.'

The Hon. ANNE LEVY: I move:

Page 27, after line 19—Insert:

(3) If a tenant has abandoned premises, the landlord is entitled to compensation for any loss (including loss of rent) caused by the abandonment.

(4) However, the landlord must take reasonable steps to mitigate any loss and is not entitled to compensation for loss that could have been avoided by those steps.

(5) The tribunal may, on application by the landlord, order the tenant to pay to the landlord compensation to which the landlord is entitled under this section.

Here we are dealing with the situation where the tenant has abandoned the premises and just vanished. Clause 56 provides that the tribunal may declare that they have been abandoned, so the landlord has every right to take possession of the premises, since the tenant has abandoned them. The additions are in the existing legislation, and they indicate that, if the tenant has abandoned premises, the landlord is entitled to compensation for damages suffered as a result of the abandonment.

The Hon. K.T. GRIFFIN: It is correct that this really picks up provisions in the existing Act. I am at a loss to remember why we did not pick them up in this clause. On the basis that I cannot remember the reason, I indicate that I have no opposition to the amendment.

Amendment carried; clause as amended passed.

Clause 57 passed.

Clause 58—'Forfeiture of head tenancy not to result automatically in destruction of right to possession under residential tenancy agreement.'

The Hon. ANNE LEVY: I move:

Page 27, line 30—Leave out 'in defeasance of' and insert 'so as to defeat'.

This is not consequential on anything except a plea from people who have read the Act to use simpler English. 'Defeasance' may be an English word which is used in legal circumstances, a word in good standing with clear meaning to lawyers, but it can be found that it is not in common usage and several people have expressed to me their disappointment at using words that one needs legal knowledge to understand. I suggest that changing 'in defeasance of' to 'which defeats' will mean exactly the same thing and be more intelligible to non-legally trained people when they attempt to read the legislation.

The Hon. K.T. GRIFFIN: I cannot let the moment go. I am perfectly relaxed about the provision already in the Bill. I will not oppose the amendment. Just because words might have some legal connotation does not mean that that connotation does not make sense to other people and that therefore we ought to reframe it. To most people who understand the English language 'in defeasance of the tenant's right' really means the same as what the honourable member is suggesting by way of her amendment, and both are perfectly intelligible.

Amendment carried; clause as amended passed.

Heading—'DIVISION 7—ABANDONED GOODS.'

The Hon. ANNE LEVY: I move:

Page 28, line 3—Leave out this heading.

Since we have put in 'Division 6—Miscellaneous', we do not need the division 7 heading.

The Hon. K.T. GRIFFIN: I will not make a big thing of it, but I oppose the amendment. It is just commonsense. These provisions relate to abandoned goods, so why not say so? Even though the previous provision might be 'Miscellaneous' and someone cannot think of any better title for that, this division relates to abandoned goods, so let us say so.

The Hon. SANDRA KANCK: The Democrats oppose the amendment.

The Hon. ANNE LEVY: I point out that, if division 6 becomes 'Miscellaneous', and division 7 is 'Abandoned goods', I have clauses to move later after clause 59 which relate to bailiffs. Bailiffs can hardly come under the heading

of 'Abandoned goods'. I can see a point in having a division headed 'Abandoned goods', but then any clauses on bailiffs would have to go back after clause 58. Instead of being clauses 59(a), (b) and (c), it would have to be clauses 58(a), (b) and (c) to come under the heading of 'Miscellaneous', as bailiffs can hardly come under the heading of 'Abandoned goods'. There would have to be some drafting sorting out. I am not fussed, but Parliamentary Counsel will want the Bill to look neat and tidy.

The Hon. K.T. GRIFFIN: I acknowledge the point. It really is a matter of drafting. I suggest that we just proceed. We should leave in this heading of 'Abandoned goods' with the subsequent clauses, even though logically they might not be 'Abandoned goods'. If we can get advice on putting in another heading, we can rejig it when we get to a conference. The Bill will go to a conference, and all those small things can be picked up and resolved at that point. I understand the point the honourable member is making, but I think it can be resolved at a later stage.

Amendment negatived.

The Hon. SANDRA KANCK: I move:

Page 28, line 13—Leave out '60' and insert '90'.

When I first read this clause on abandoned goods, it seemed to be quite reasonable, but then I started thinking about the reasons why someone would simply walk out of premises and abandon goods. Obviously, one could jump to the conclusion in the first instance that they were behind in their rent and skipped the place so that they did not have to pay it. However, I thought there could be other reasons. I thought of women who are perhaps being stalked by a former partner. I know of cases where women have simply packed up, taken as much as they can in their car and left the premises overnight. They have had to leave goods in a place which they have been forced to leave because they are being stalked. I do not know what other situations there might be, but in that instance it would not be easy to track down that person. Sometimes they may have even left the State. In many cases, they are trying to maintain their anonymity in one way or another, so it seemed to me to be reasonable in those sorts of circumstances to extend the period from 60 days to 90 days.

The Hon. K.T. GRIFFIN: I oppose the amendment. If one looks at the structure of clause 59, it is clear that, when premises have been abandoned, the landlord can remove and destroy or dispose of goods if they are perishable foodstuffs or if their value is less than a fair estimate of the cost of their removal, storage and sale. That can be done when at least two days have passed since the landlord took possession. If there are goods that are not liable to destruction or disposal, the landlord must store them in a safe place—and there is a cost involved. Within seven days of storing the goods, the landlord is required to give notice to the tenant if the tenant has left a forwarding address, or, if not, to another person who, to the knowledge of the landlord, has an interest in the goods, and publish a notice in a newspaper circulated generally throughout the State.

If the goods are not reclaimed within 60 days, the landlord can have them sold by public auction. I suggest that 60 days is more than enough time. I acknowledge that there may be rare cases, such as those referred to by the Hon. Sandra Kanck, but one must be realistic. The landlord should not continue to incur costs for yet a further 30 days after the mandatory 60 day period if the notice and advertisement provisions have been complied with and no-one has come out of the woodwork to claim the goods during that 60 day period.

The Hon. ANNE LEVY: I presume that, as the Attorney says, there is a cost involved in storage. If the period for which the goods must be stored is extended from 60 days to 90 days, there will be an added cost, but if that added cost is such that the value of the goods will not cover the cost of the storage the goods can be destroyed after two days. According to this provision, the landlord would have the right to destroy not only perishables but non-perishables, the value of which is such that storing or advertising them would cost more than they are worth. There may be goods of a marginal value which would have to be kept for 60 days so that the person could claim them, but if the period were extended to 90 days the cost of storage would increase so that the goods may not be worth the extra cost of storage and may, in fact, be destroyed after two days.

The Hon. K.T. Griffin: I agree that is a proper interpretation.

The Hon. ANNE LEVY: I wonder whether the Hon. Sandra Kanck realises that extending the period from 60 days to 90 days, which obviously would protect a diamond necklace if anyone had abandoned one, may result, after two days, in the destruction of goods which would otherwise be stored for two months. The cost of storing the goods (say, an old couch) for three months may be more than they are worth, so the landlord would have the right to destroy them after only two days, thereby limiting the opportunity for a woman such as in the case mentioned by the honourable member to be able to recover them later when things have settled down a bit.

The Hon. SANDRA KANCK: I must admit that that possible interpretation had not crossed my mind. I was simply thinking in terms of giving a woman in that situation an opportunity, but there is a chance that it will increase the risk of loss.

The Hon. Anne Levy: Often their chattels are not worth very much.

The Hon. SANDRA KANCK: That is probably true if they have had to leave them in that situation. Perhaps it might be better if my amendment were defeated.

Amendment negatived.

The Hon. SANDRA KANCK: I move:

Page 28, line 14—Leave out 'seven' and insert '14'.

I cite the same example. I feel that a woman who has been forced to flee premises may not be in a position within seven days to check newspapers to see whether her goods have been advertised, so I think it would be fairer to make it 14 days.

The Hon. K.T. GRIFFIN: I do not agree with the amendment. The object that the Government was seeking to achieve was that when the premises had been vacated the landlord had the obligation to give as early notice as possible on the basis that it was in the tenant's interest that that notice be given. From the landlord's point of view, I suppose it does not really matter whether it is seven or 14 days, because if it were 14 days the landlord must within 14 days of storing the goods do certain things, so it would still be possible for the landlord to do it on the day after. It is not a minimum period; it is a maximum period. I suggest that all it does is give more flexibility to landlords. In that respect, I probably should support it, but I want to take a reasonable view, and the view the Government has taken is that seven days ought to be the maximum within which the public notice is given.

The Hon. ANNE LEVY: I agree with the Attorney: this is not a minimum but a maximum period. Under either version, there would be nothing to stop the landlord from giving the notice on the very next day. Allowing him 14 days in which to give the notice is perhaps giving him longer. There may be people wondering what has happened to, say, the old couch, the cracked chair or the diamond necklace, and the landlord should have a duty within a fairly short period of time to insert a public notice. He should not let it drag on and on if someone may be concerned about it.

But, after all, in relation to the hypothetical case the honourable member raised of a woman who had to flee because of a domestic situation, she does have two months in which to claim her goods. One would hope things had settled down within that time and that she would be able to claim her goods in that time. They cannot be sold until after the two months. The fact that they have been stored is what is being given notice of, not that they are about to be sold. There is the two month period before any sale can take place. I do not see any advantage in changing it from seven to 14 days because under either it can still happen the next day.

Amendment negatived.

The Hon. ANNE LEVY: I move:

Page 28, after line 30—Insert—

(ia) the reasonable costs of giving notice under subsection (2)(b); and.

This is where the goods have been abandoned, advertised, not claimed, the landlord sells them by public auction and he can reimburse himself from the proceeds of the sale of the costs which he has undergone. What has been mentioned is that he can retain from the proceeds of the sale the costs of removing, storing and selling the goods and anything still owing to him under the tenancy agreement, but it is fair that he can also reimburse himself for the cost of placing the advertisements. It may not be a significant cost, but I see no reason why the landlord should not be recompensed.

The Hon. K.T. GRIFFIN: There was no intention not to allow the landlord to be recompensed. I took the view that that was adequately covered by subclause (6)(a)(i). I am not worried. If members want to have this in as an extra precaution against my perhaps misinterpretation of subparagraph (i) I am happy to allow it to go in, but I did not think it was necessary because I thought that was adequately covered.

Amendment carried.

The Hon. ANNE LEVY: I move:

Page 29, line 2—Leave out 'in defeasance of' and insert 'which defeats'.

It is another 'in defeasance of' changed into 'which defeats'.

Amendment carried; clause as amended passed.

New clauses 59A and 59B.

The Hon. ANNE LEVY: I move:

Page 29, after line 8—Insert new clauses as follows:

Bailiffs

59A. (1) The Governor may appoint a person to be a bailiff of the tribunal.

(2) The office of bailiff may be held in conjunction with another office in the public service of the State.

(3) A bailiff is entitled to remuneration and expenses determined by the Minister.

Enforcement of orders for possession

59B. (1) If an order for possession of premises is made by the tribunal and the person in whose favour the order was made advises the tribunal that the order has not been complied with, a bailiff of the tribunal must enforce the order as soon as is practicable thereafter.

(2) A bailiff enforcing an order for possession of premises may enter the premises, ask questions and take all steps as are reasonably necessary for the purpose of enforcing the order.

(3) A member of the police force must, if requested by a bailiff, assist the bailiff in enforcing an order for possession.

(4) In the exercise of the powers conferred by this section a bailiff may use the force that is reasonable and necessary in the circumstances.

(5) A person must not hinder or obstruct a bailiff in the exercise of the powers conferred by this section.

Maximum penalty: $1 000

(6) A person questioned pursuant to this section must not refuse or fail to answer the question to the best of his or her knowledge, information and belief.

Maximum penalty: $1 000

(7) However, a person is not obliged to answer a question under this section if to do so might tend to incriminate the person or to make the person liable to a penalty, or would require the disclosure of information that is privilege under the principles of legal professional privilege.

(8) A bailiff or a member of the police force assisting a bailiff incurs not civil or criminal liability for an honest act or omission in carrying out or purportedly carrying out official functions under this section.

These clauses relate to bailiffs. This is consequential on earlier amendments. If the Residential Tenancies Tribunal is to continue in its present form it needs to have a bailiff, as it does now. Consequently, the provisions of 59A and 59B need to be inserted into the legislation to cover the necessity for a bailiff.

The Hon. K.T. GRIFFIN: It is consequential because if the structure of the tribunal proposed by the Government had been accepted it would have been automatically covered as an incident of being under the umbrella of the Courts Administration Authority and the court.

New clauses inserted.

Clause 60 passed.

Clause 61—'Application of income.'

The Hon. ANNE LEVY: I move

Page 30, after line 20—Insert—

(da) on research, approved by the Minister on the recommendation of the tribunal, into—

(i) the availability of rental accommodation within the community;

(ii) areas of social need related to the availability (or non-availability) of rental accommodation or particular kinds of rental accommodation; and.

This refers to the application of income from the residential tenancies fund. The residential tenancies fund is the collection of all the bond moneys paid by all tenants. The interest on that money is the income which is being applied under this clause. The amendment is reinstating two possible uses of this income which are in the existing legislation but which the Bill before us was omitting. I felt that if there was spare money in the fund it may be highly desirable to do some research on the availability of rental accommodation within the community. This could be a key matter to be determined which could be very influential in forming Government policy, and likewise areas of social need related to the availability of rental accommodation. Such research should be a possible application of the income from the residential tenancies fund as it is at the moment.

The Hon. K.T. GRIFFIN: I have some hesitation in supporting this, but it is not a big issue. As a Government we took the view that we ought to be looking carefully at the way in which the residential tenancies fund could be expended. Quite obviously paragraph (d) of the clause is retained because the money can be expended towards the costs of projects directed at providing accommodation or assistance

related to accommodation for the homeless or other disadvantaged sections of the community. But whilst research may be helpful, it seemed to us that that provision in the existing Act was particularly wide. As I say, I am not going to raise a major objection to it.

The Hon. ANNE LEVY: I point out that, while it is not a matter of extreme importance as I am quite happy to agree, I do not think the Minister can legitimately say it is extremely wide. The research into the availability of rental accommodation firstly must be recommended by the tribunal if it feels that this information is desirable and, secondly, has to be approved by the Minister before the income can be expended in this way. While I think it is desirable for it to be possible for such research to be financed from income from the fund, it is going to require the concurrence of both the tribunal and the Minister before it can occur, so I do not think anyone can suggest that it is going to be done irresponsibly.

The Hon. SANDRA KANCK: It seems to me that as it is currently worded this really is an 'in principle' issue more than anything else. It is not forcing anyone into anything, and the Democrats are quite happy to support the amendment.

Amendment carried; clause as amended passed.

Clauses 62 to 67 passed.

Clause 68—'Stay of proceedings.'

The Hon. ANNE LEVY: I oppose this clause and submit that this is consequential on amendments we have moved earlier relating to the procedures of the existing Residential Tenancies Tribunal. Currently the tribunal has the power to adjourn proceedings and attempt conciliation if it feels that this is going to lead to a speedy and just result. That provision has already been inserted, so we do not need this clause. That is not to say that I am opposed to mediation.

Clause negatived.

Clause 69 and 70 passed.

Clause 71—'Jurisdiction of the Tribunal.'

The Hon. ANNE LEVY: I move:

Page 32, line 25—Leave out 'JURISDICTION' and insert 'POWERS.'

There is a considerable difference between these two words, but this amendment was recommended by Parliamentary Counsel as a neat way of proceeding.

Amendment carried.

The Hon. ANNE LEVY: I move:

Page 33, line 3—Before 'declare' insert 'terminate a residential tenancy or'.

This is a consequential amendment.

Amendment carried.

The Hon. ANNE LEVY: I move:

Page 33, line 3—Leave out 'agreement'.

This is a consequential amendment also.

Amendment carried; clause as amended passed.

Clauses 72 and 73 passed.

Clause 74—'Substantial monetary claims.'

The Hon. ANNE LEVY: I oppose clause 74 because it is already covered in earlier amendments which have been accepted by the Committee. So, this is consequential on earlier amendments.

Clause negatived.

Clause 75—'Representation in proceedings before the Tribunal.'

The Hon. ANNE LEVY: I move:

Page 34, line 6—Leave out ', at a pre-trial conference.'

This amendment is consequential on previous amendments.

Amendment carried.

The Hon. ANNE LEVY: I move:

Page 34, line 9—Leave out paragraph (a).

This clause allows a party in a tenancy dispute to be represented by a lawyer if it involves a monetary claim for more than $5 000. It is highly desirable to keep lawyers out of the Residential Tenancies Tribunal, and it seems to me that it would be undesirable to let them in in a back door manner in these circumstances. The Residential Tenancies Tribunal has a financial limit on the claims with which it can deal, and admittedly they are greater than $5 000 but, if people who are dissatisfied with the judgment made in the Residential Tenancies Tribunal feel that they could be better represented or have their case better understood if they were represented by a lawyer, they always have the right to appeal. Any decision from the Residential Tenancies Tribunal can be appealed to courts where lawyers will be involved. However, as much as possible we should keep lawyers out of the tribunal, although I admit that there will be cases in which it will be desirable for the tribunal itself to agree that legal representation should be allowed. It is much better to have representation when the tribunal itself agrees it is desirable, rather than setting just a financial limit to determine whether or not a lawyer can be present.

The Hon. K.T. GRIFFIN: It is correct to say, under the honourable member's amendments, that there is an appeal to the District Court from a decision or order of the tribunal made in the exercise or purported exercise of its powers under this Act (that is, new clause 10MA); and then there is provision for a rehearing. I suggest that it is inappropriate to rely on appeals to resolve issues which could have been resolved in the proceedings before the tribunal if the parties had been adequately represented. The major reason why the Government sought to put in this limit of $5 000 was because the presiding member of the tribunal, even under the honourable member's amendments which have now been carried, has the same qualifications as a magistrate. So, this tribunal is operating at the same level as a Magistrates Court, although in a different jurisdiction.

There is the limit of $30 000 on the monetary claim which can be litigated in the tribunal if the parties wish a claim for a larger sum to be taken to another body, which will be a court. In the Magistrates' jurisdiction, in the minor civil claims division, $5 000 is the monetary limit below which parties are not permitted to be represented by legal practitioners unless some special circumstances apply, but over $5 000 they can be represented. It does not seem to me to make any difference as a matter of principle whether you make a claim for $20 000 or $25 000 in the Magistrates Court or in the Residential Tenancies Tribunal. The fact that it might be made in the tribunal and arise from a tenancy is, I suggest, irrelevant to the issue which has to be determined. If one agrees with that one has to concede that, if in the mainstream courts legal representation is permitted for any claim over $5 000, the same ought to apply before the Residential Tenancies Tribunal. That was the logic of putting in this provision. It does not say that you cannot be represented by a legal practitioner if your claim is $4 000 or $3 000, but you have to satisfy certain criteria which are specified in subclause (2); but if it is over $5 000—because $5 000 is a large amount of money to many people—you ought to be entitled to be properly represented if you so wish before this tribunal. I very much oppose the amendment of the honourable member, on the basis of that logic.

The Hon. SANDRA KANCK: I have a fear, with regard to the wording 'a party to a tenancy dispute may be represented by a lawyer', that 'may' will become almost obligatory; and I will do almost anything to prevent that occurring. It is bad enough to consider it in other circumstances, but we want a tribunal which is user friendly and introducing lawyers will not create that user-friendly tribunal.

The Hon. K.T. GRIFFIN: It is not necessarily user friendly now. I indicated in the course of the debate that a number of complaints are received about the operation of the tribunal. It seems to me that what you are really doing is putting a member of the tribunal in a position of being more than a mediator or arbitrator, as someone who has to determine the relative positions of both landlord and tenant, particularly if there is a large sum of money involved, $25 000—and remember that that is what this provides. The Parliament in its wisdom has said that in the Magistrates Court for minor civil claims up to $5 000 you cannot be represented unless certain fairly strict prerequisites are satisfied, and over that it ceases to be a minor civil claim and you can be represented.

The clause provides that the proceedings involve a monetary claim for more than $5 000. So, if you are claiming $7 000, $8 000 or $10 000 and happen to have the bad luck to be claiming that money as a result of a residential tenancy issue and have to make the claim in the Residential Tenancies Tribunal you cannot be represented, whereas if it was any other claim for that amount of money in the ordinary life of the community you could go to a Magistrates Court and you are entitled to be represented, if you so wish: you do not have to be, but if you so wish you can be. All we are saying is, in the context of a residential tenancy, that $5 000 ought to be the limit above which you are entitled to representation and assistance if you want to pursue your hearing before the tribunal.

I think it is an important issue of consistency which will not militate against the proper and effective workings of the tribunal which, under the legislation, is required to act in accordance with equity and good conscience and not have regard to and be bound by unnecessary technicality. In any event, as I understand it, the majority of the claims are below $5 000 anyway where they are a monetary claim; and if they are not a monetary claim for $5 000 or more there will not be any representation, anyway. I would have thought that, where you have a claim such as this and it is crystallised as a monetary claim, the rules which apply in the general courts, and in the Magistrates Court in particular, ought equally to apply in terms of the right to representation in the Residential Tenancies Tribunal.

The Hon. R.D. LAWSON: I oppose this amendment. The Hon. Sandra Kanck mentioned that she wanted a tribunal which was user friendly. I think that that is a sentiment that everybody would agree with. But usually those who seek to exclude lawyers from the process do so because they believe that lawyers are very expensive, that they complicate proceedings and that, thereby, tenants and those who are not in the strongest economic position will be prejudiced. In fact, the reverse is the case. Over a number of years I have seen people who have had complaints about the way in which matters were dealt with in the tribunal. It is usually tenants who say that the landlord was highly articulate and experienced in dealings in the tribunal and the tenant was attending the tribunal for his or her first and only appearance and felt that they were unable to get their point over to the tribunal and were most distressed by the result. They may have had a good case or a bad case, but they felt they were unable to articulate it; they felt that the tribunal did not understand their case.

These are people who have asked for representation in the first place and have been refused it by a landlord who is quite comfortable in the environment of the tribunal. We found exactly the same thing in relation to other disputes where lawyers have been excluded, for example, in small claims, and insurance companies invariably are represented by non-lawyers who become highly experienced and have a great advantage in that environment over consumers who are making their only appearance. So those who, in the interests of helping tenants or consumers, seek to exclude lawyers invariably in all cases are not doing them any favour at all. I adopt what the Attorney has said in relation to proceedings which involve monetary claims for more than $5 000. Frankly, I think it is undesirable to exclude lawyers from the tribunal generally, but this decision has been made and it is embodied in clause 75 of the Bill, which gives lawyers an entitlement to appear, if required, only in relation to claims over $5 000.

Bearing in mind the other tribunals in which lawyers have that right of appearance; bearing in mind also that this tribunal has a substantial jurisdiction in this matter; and bearing in mind that many residential tenancy matters can become highly complex, it is in my view quite appropriate to maintain the provision as it stands in the Bill.

The Hon. ANNE LEVY: I feel like asking the Hon. Robert Lawson whether he would be happy to amend the amendment so that lawyers can appear only for the tenant if it involves $5 000 but be prohibited from appearing for the landlord, after the supposed tale of woe he has illustrated. I suggest that he would not agree to that but would want equality between tenant and landlord in being able to be represented by a lawyer. He is ignoring the fact that, while there may be a difference between tenant and landlord in familiarity with the tribunal and perhaps in being articulate, there is often a great difference in financial backing and, in fact, while the landlord may be more articulate than the tenant, the landlord is also far more able, in most cases, to pay for a lawyer than is the tenant, so we are likely to replace the landlord with a lawyer but not the tenant, which will increase the inequality between the parties involved in a residential tenancies dispute.

That is not to say that I am opposed to the other subclauses here, which allow lawyers to appear under certain circumstances. I am sure everyone agrees that they are perfectly reasonable situations where a lawyer can appear for either side. However, to base the decision on whether a lawyer can appear purely on monetary value is giving a wrong sense of values. The other situations include those where everyone agrees that lawyers are desirable or if someone cannot present his case adequately—in the case of mental disability or some such, or where one of the parties happens to be a lawyer, which is fair enough as he should be matched by another lawyer. Except for those situations we should not determine whether or not lawyers are present merely on an intermediate monetary value that occurs somewhere in the range which the tribunal can determine.

The Attorney is still considering that the tribunal will be as he proposed in this Bill, namely, a division of the Magistrates Court and run like a court. He argues by analogy with the courts as if this was like a court. We are trying to make this a separate Residential Tenancies Tribunal and the analogy of what happens in the civil courts strikes me as

misunderstanding the difference we are trying to make between courts on the one hand and the Residential Tenancies Tribunal on the other.

The Hon. K.T. GRIFFIN: The analogy is quite appropriate. If you are talking about $10 000, that is the same amount to ordinary people whether it results from a residential tenancy dispute or from another contractual dispute. The money is the same: it does not change its context or its value because it happens to arise from a residential tenancies dispute, although one's rights change because, if it happens to arise from a residential tenancies dispute, you have to bring the claim in the Residential Tenancies Tribunal and you cannot get any help to bring the claim and to pursue it in the tribunal. I am not mistaking the tribunal for the court or *vice versa*, but if you look at the issue and it is a claim for, for example, $10 000, you are likely to be less favourably treated in terms of your rights of representation if you go to the Residential Tenancies Tribunal than if you go to the Magistrates Court.

That is the point I am making, and it is a simple issue that I would have thought every fair-minded person ought to accept as a reasonable analogy. It is money, it is the same value and that is all we are talking about. We are not talking about other aspects of disputes where there is no monetary claim or where the monetary claim is less than $5 000. That is heard in the Residential Tenancies Tribunal with no lawyers, but if you have a claim for in excess of $5 000 in the Magistrates Court, if it is a contract or dispute you have with your neighbour, you can be adequately represented, because it is no longer a minor civil claim. The Parliament has already recognised that as a distinction between representation and no representation. I would have thought that it was common sense to apply the same principle in this context.

The Hon. R.D. LAWSON: Having heard the Attorney, I mention that it is not only the tenant who is disadvantaged. I recall a particular case in which a landlord—a migrant without a strong grasp of the English language—was in dispute with a university academic who had occupied a house that the landlord owned. The landlord was not a professional landlord. He consulted his local neighbourhood legal centre, which agreed to represent him. A person from the legal service came along to the tribunal but the academic, who was handling his own case, objected. The tribunal upheld the tenant's claims. Usually, the tribunal does not permit legal representation in the absence of agreement. So the landlord, disadvantaged as he was, had to present a case. He did not have a strong grasp of the principles. The academic, from the transcript, had a very strong grasp of the principles and presented a case that resulted in a judgment for several thousand dollars being awarded against the landlord.

He felt grossly aggrieved by that and felt that his case would have been presented better, as it would have been, by a legal practitioner. He was prepared to do that at his own expense and, having regard to the potential liability, it was perfectly reasonably that he should have that right. He was disadvantaged. It is not always the case that it is the tenant who is disadvantaged. When one talks about the Residential Tenancies Act, one tends to think of the big landlords who own blocks of flats and many premises, and one tends to think of tenants as people who are socially and economically disadvantaged. That sort of generalisation is entirely inappropriate. There are people who are landlords and let only one house, their own residential house.

The Hon. Anne Levy interjecting:

The Hon. R.D. LAWSON: You cannot generalise. There are academics who rent, just as there are highly experienced and wealthy people with resources who are landlords. There are also people in the same category who are tenants. Many tenants are quite well qualified and do not require professional assistance. On the other hand, many do need legal assistance. We are talking about serious disputes here.

Amendment carried; clause as amended passed.

Clause 76—'Remuneration of representative.'

The Hon. ANNE LEVY: I move:

Page 34, line 34—Leave out ', at a pre-trial conference'.

This is consequential.

Amendment carried; clause as amended passed.

Clauses 77 to 79 passed.

Clause 80—'Exemptions.'

The Hon. ANNE LEVY: I move:

Page 36, line 20—Leave out all words in this line and insert 'The regulations may—'.

Under the Bill before us the Minister may, simply by publishing an order in the *Gazette*, exempt agreements or premises of a particular class from all the provisions of this Act. Just by publishing something in the *Gazette* he can exercise ministerial *fiat* and say, at a stroke, that all two-storey houses are exempt from all provisions of this legislation. There would be nothing to stop his doing that. Not that I am suggesting that the current Minister would be as irresponsible as that, but we do not write legislation in such a way that it can be abused. It is very much better to say that the regulations can exempt agreements or premises of a specified class from the provisions of this Act. So, there will be some supervision of whatever exemptions the Minister wishes, and Parliament will have the right to say whether it agrees or disagrees with that class of exemption being granted.

It is highly desirable that Parliament have supervision rather than the Minister, by administrative *fiat*, being able to exempt virtually anything from the whole legislation. We might as well not have the legislation if the Minister can exempt anyone or anything from it without Parliament's having the review of it by means of regulations.

The Hon. K.T. GRIFFIN: The object of this was really to pick up on provisions that the previous Government had inserted in the Support of Residential Facilities Act. That was a Bill which passed within the past year or so of the previous Government's Administration. There is really no magic to it. It is acknowledged that the Minister may exempt agreements or premises of a specified class or specified provisions of this Act and vary or revoke an order, whereas previously the tribunal may have had that power under section 91 of the principal Act. Of course, we are taking out the tribunal and trying to make this more user-friendly and administratively simple, and we took the view that the Minister could usefully exercise that power. Again, as I said, there is a precedent for it in the previous Government's Support of Residential Facilities Act, which deals with quite extensive residential facilities for persons who are disabled.

The Hon. SANDRA KANCK: The Democrats support the amendment.

Amendment carried.

The Hon. ANNE LEVY: I move:

Page 36, line 25—Leave out paragraph (c).

This is consequential on the previous amendment.

Amendment carried; clause as amended passed.

New clause 80A—'Tribunal may exempt tenancy agreement or premises from provision of Act.'

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

Page 36, after line 25—insert new clause as follows:

(1) The tribunal may, on application by an interested person, if the tribunal considers it necessary or desirable in the circumstances, order that a provision of this Act will not apply in relation to a residential tenancy agreement or prospective residential tenancy agreement or to particular premises, or will apply in a modified manner (and the order will have effect accordingly).

(2) An order may be made on conditions that the tribunal considers appropriate.

(3) A person must not contravene a condition to an order.

Maximum penalty: $2 000.

It is intended to extend the powers provided under the Bill to give the tribunal power to exempt a tenancy agreement or premises from a provision of the Act. As I indicated previously, section 91 of the existing Act provides that the tribunal has power to exempt tenancy agreements or premises from the provisions. The amendment will bring the provisions of this Bill more closely in line with the provisions of the Retail Shop Leases Act, which we have passed. The only difference between my amendment and that of the Hon. Anne Levy is the amount of the penalty. It seems to us that a $500 penalty is appropriate in these circumstances.

The Hon. ANNE LEVY: Obviously, I support the amendment, since it is identical to the one that I have moved. In relation to the proposed penalty of $2 000, in my amendment I did not ask for it specifically to be $2 000, it was—

The Hon. K.T. Griffin: I think $500 is in the Retail Shop Leases Act.

The Hon. ANNE LEVY: Parliamentary Counsel suggested this penalty in line with some other penalties. It was certainly not an instruction from me as to why it came up at $2 000 as opposed to $500.

The Hon. K.T. Griffin: It is $500 in the Retail Shop Leases Act.

The Hon. ANNE LEVY: Why is it $2 000? Is there no good reason? I can assure the Attorney that I did not specifically request $2 000 as a penalty for this amendment. I am quite happy to support his amendment.

New clause inserted.

Clause 81 passed.

Clause 82—'Regulations.'

The Hon. ANNE LEVY: I move:

Page 37, lines 5 and 6—leave out paragraph (b) and insert:

(b) Allow for a matter to be determined at the discretion of the Minister, or confer other forms of discretionary power on the Minister.

The Bill provides that the regulations can provide that a matter or thing is to be determined, dispensed with, or regulated by the Minister. I am suggesting that the regulations may allow for a matter to be determined at the discretion of the Minister or confer other forms of discretionary power on the Minister. It is quite obvious that there are occasions where ministerial discretion is highly desirable, but I am suggesting that this discretion should be governed by the regulations, so that Parliament can look at the regulations and say, 'Yes, we agree that the Minister should have discretion on this' or, 'No, we don't agree that the Minister should have discretion on that', and so allow or disallow the regulations. I presume that is the difference between the two, but I am not a lawyer.

The Hon. K.T. GRIFFIN: There was certainly no sinister intention proposed in relation to this provision. It was drafted in a style similar to other pieces of legislation which have been dealt with during the past three or four years. There is a similar provision in the Supported Residential Facilities Act of 1992, but the Minister is not referred to, rather a prescribed person. In the Retirement Villages Act, there is a similar provision to the one which appears in clause 82, except in that Act it is the Registrar-General or the Commissioner for Consumer Affairs as opposed to the Minister, but it is in almost identical language apart from the person who exercises the power or upon whom power is conferred. A more recent example is the Passenger Transport Act of 1994.

I would have thought that if the Minister is authorised to do something by regulation, the matter or thing must be identified and the scope of the authority of the Minister must be determined by regulation. That is what the drafting means. The regulations cannot baldly say that the Minister can dispense with compliance with a certain section. I would have thought that it needs to be much more specific even in the form of the drafting in the Bill, which states:

(b) provide that a matter or thing is to be determined, dispensed with or regulated by the Minister.

It is much more specific. I support what I understand is the more modern drafting frame of this sort of provision, and I refer particularly to those precedents from 1992 to the present.

The Hon. SANDRA KANCK: It does not make much difference either way. I will probably come down in favour of the original rather than the amendment.

Amendment negatived; clause passed.

Clause 29—'Security of premises'—reconsidered.

The Hon. R.D. LAWSON: I move:

Page 15, after line 11—insert—

(4) The regulations may prescribe conditions under which a landlord may limit the landlord's civil liability under section (1)(a) and, if a landlord complies with those conditions, the maximum amount that a tenant may recover if it is found that the premises are not reasonably secure.

Two amendments to this clause standing in my name were discussed previously in Committee. I have today circulated this further amendment to insert a new subclause (4). It will be recalled that clause 29 provides that it is a term of a residential tenancy agreement that the landlord will provide and maintain the locks and that neither the landlord nor the tenant will alter or remove a lock or security device. As was previously mentioned, although the Act does not specifically provide—neither does this Bill—that any civil liability is imposed upon the landlord for a breach of that obligation, there does, in fact, exist a civil liability—and the tribunal has so held.

I have mentioned previously that there are a number of cases in which landlords through no apparent fault of their own have been found to be liable for very substantial damages. For example, in one case, a previous tenant had made a copy of a key. The landlord, who was not specifically aware of that, was not requested to and did not change the lock. Entry was gained, and the tribunal concluded that the entry had been gained with a copy of a key made by a previous tenant. The tribunal held that the landlord was liable for several thousand dollars for a collection of CDs that was stolen.

In order to overcome what seems to be the unlimited liability of a landlord in circumstances where there is really no moral turpitude on the part of the landlord, I suggest that the regulations should prescribe conditions under which a landlord may limit his or her liability by specifying the

amount and by, for example, prescribing the circumstances or conditions under which a landlord may limit his civil liability. The regulations could require that the landlord give specific notice to the tenant setting out precisely the exemption, saying that the landlord's liability for lost goods will be limited to, say, $2 000 or some other prescribed amount.

A provision such as this is necessary, because it seems to me that the requirement to maintain locks and premises in a secure form is a difficult requirement in many cases. For instance, take the case of someone who is leaving the State on study leave for a year. They have an old house that has not been particularly prepared for letting. The locks on windows are standard devices, not the latest deadlocks, but for all intents and purposes the house is reasonably secure. The new tenant is quite content with the locking arrangements and says, 'I am quite satisfied, I don't need deadlocks', but it transpires that, unknown to the landlord who never had occasion to open it, the lock on the back window was broken. It may have been known to the tenant when he moved in and went around and opened the windows. He noticed that the lock was broken, but was unconcerned by that fact.

In those circumstances, why should the landlord be liable for an unlimited amount in consequence of an intruder gaining entry through that window? Why should the tenant be able to say, 'I didn't have any burglary insurance because the only way they can get in is through the windows or by forcing locks, and in those circumstances it is quite likely that I will be able to pick that up from my landlord. Why should I bother with insurance, why should I address the issue?' I am not suggesting that many tenants would be that cynical, but this Act without some amelioration allows that to occur. Most people would say that tenants ought to take reasonable precautions to insure their goods, certainly if they are of substantial value. My amendment accommodates that situation by allowing conditions to be prescribed by regulation and the maximum exposure of a landlord to be regulated. Whether or not that maximum amount would be a dollar amount—for example $1 000, $2 000, $5 000, or whatever it is—or whether it be related to the rent payable—for example one month's rent, four weeks' rent or three months' rent—would be a matter for the executive Government in making the regulations which would, of course, come before this Parliament in due course. I commend the amendment.

The Hon. ANNE LEVY: I oppose this amendment. While I appreciate the problem that the honourable member is discussing, he is overlooking the effects which this could have in other cases. The honourable member agreed that the landlord will provide and maintain locks and other devices that are necessary to ensure the premises are reasonably secure. It seems to me that the case the honourable member is describing is an older house, which, as he said, was reasonably secure except that there was a lock broken on one window. If someone is letting a house it is not too much to ask that they check that all the window locks are working. It is something one does when one goes away on holiday—whether or not you are letting your house, you go around to check whether all the locks are working. That is prudent behaviour. It would seem to me that it is not unreasonable to ask a landlord to check the locks on the bathroom window before he lets the place.

But, at the other extreme, what he is suggesting, it seems to me, could lead to a situation where a landlord limits his liability simply by handing a notice to the tenant saying, 'I have no liability for anything you lose' and that the landlord then need not bother checking security. There could be broken locks on every window or the flimsiest of locks. At any tenant's loss the landlord would shrug his shoulders and say, 'I told you I have no liability. It is one of the conditions of this tenancy, so tough luck.' Furthermore, the Hon. Robert Lawson suggests that there may be tenants who would say, 'I do not need to have insurance because the landlord will be covering all my losses should I be burgled.' I do not think that that could be taken as true at all. The landlord's responsibility is to provide reasonably secure locking. If someone comes and jemmies open a door, which has been locked with a perfectly reasonable lock, that cannot be attributed to the landlord because it was reasonably secure and the tenant would obviously be bearing that loss himself if he were not insured. If the tenant should accidentally leave a door unlocked and in consequence is burgled, that again would not be the landlord's liability at all because he had provided the means to make the place reasonably secure. But if the tenant does not avail himself of that reasonable security or if the burglar overcomes the reasonable security—be it with a jemmy or dynamite or whatever else he might choose—that could not be held to be the landlord's liability.

I fear that what the Hon. Mr Lawson is proposing will lead to a situation where landlords will be very careless of the security they provide in the premises and be able to wash their hands of liability which should rest with them. It is their responsibility to see that premises are reasonably secure and if they do not do that I see no reason why they should avoid the consequences of it. Provided the landlord has ensured that the premises are reasonably secure, then he will not be held liable if there is a burglary which overcomes the reasonable security he has provided. That is a risk we all run.

The Hon. R.D. LAWSON: The honourable member has misunderstood the purport of this amendment. It is not to facilitate landlords avoiding liability by simply giving notice saying that they accept no liability. The amendment is to enable regulations to be made prescribing the conditions. Obviously one of the conditions under which any landlord would be permitted to limit his civil liability would be a requirement that he give notice of the fact that he is limiting it so that the tenant can make appropriate arrangements. The honourable member says the landlord will be able to escape liability by simply giving a notice saying he is not liable. That is not the intent of the Bill. I do not imagine for a moment that the Government would make regulations or that this Parliament would not disallow regulations which simply allowed landlords to avoid liability by simply giving a notice and saying that they were not liable.

It is not intended that this be some unilateral decision of the landlord. It is intended that the Government will make a regulation which will balance the interests of both landlord and tenant in the particular situation. The Hon. Anne Levy in saying that this is simply a method by which landlords can avoid liability is misconstruing the amendment.

Secondly, the honourable member pointed out that landlords will simply be able to avoid their obligations, which are, as the Act says, to provide and maintain locks. But the difficulty is, in practical terms, where the landlord lets premises for a year and goes away leaving an agent, no doubt, to collect the rent, but is not regularly inspecting the premises and coming around to check the locks and the like, that landlord is liable if the locks were in good condition when the premises were inspected at the start of the tenancy but were subsequently broken. For example, they could be broken by the tenant or broken in circumstances where it is not possible to say who broke them or how they were broken, whether it

was the tenant himself or perhaps somebody gaining entry. The obligation is not merely to provide the locks: it is to maintain the locks. That is a very onerous obligation and the tenant is the person who is in the best position to know whether the locks are being maintained because the tenant is there day in and day out.

The Hon. Anne Levy: What if he rings up and says, 'Come and fix the lock' and the landlord does not.

The Hon. R.D. LAWSON: It would not matter whether he came and fixed it or not. Even if he said, 'I will be down there in an hour' and it was burglarised in the hour, the landlord would be liable because he did not maintain the locks. This is an onerous obligation and at present it is one that exposes a landlord to liability for hundreds of thousands of dollars.

The Hon. SANDRA KANCK: The Hon. Robert Lawson spent a great deal of time in his second reading speech addressing this single issue and it obviously is quite a difficult one to resolve. However, at this stage I must oppose it and it might then be introduced as part of the deadlock conference at a later stage.

The Hon. K.T. GRIFFIN: I am sympathetic to the issue raised by the Hon. Robert Lawson, and will support it on the basis of some further examination of it. As I have indicated, where the numbers are it will be a live issue up to and including the deadlock conference.

Amendment negatived.

Progress reported; Committee to sit again.

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

A quorum having been formed:

DEVELOPMENT (REVIEW) AMENDMENT BILL

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

The Hon. K.T. GRIFFIN (Attorney-General): 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.

Two years ago the Parliament debated a Development Bill introduced by the previous Government. That Bill represented the culmination of a process of study, review and consultation over a period of almost three years. It was a product of the Planning Review, established by the previous Government to provide advice on improvements to the State planning system.

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

In April 1994 the Government announced a wide ranging Review of this system. The goal of the Review has been to ensure the system facilitated the policies of the Government and, in particular, that the development assessment system in South Australia is clear and efficient.

To provide advise on this Review, a Development Act Monitoring Group was formed consisting of 15 persons with experience and knowledge of the development industry, local government and the development assessment process. The role of the Monitoring Group has been to act as a generator of ideas for improvements to the system and as a sounding board for suggestions for change made by others. However, I wish to make it clear that the Bill now before the House is the Government's Bill and not the work of the Monitoring Group, some of whose suggestions have not been taken up by the Government for one reason or another. While other changes are included which did not arise from the Group's deliberations.

During 1994 public comments were sought on both the Development Act and Development Regulations. Some 32 submissions were received on the Act and a further 65 submissions were received on the regulations. Submissions were made by key industry organisations, professional bodies, councils, the Local Government Association, environmental groups, government agencies and concerned individuals. I have been impressed by the high standard of these submissions.

With the assistance of the public submissions a number of key areas of possible reform were identified for consideration firstly by the Monitoring Group and then by the Government itself. This process culminated in the release of a Development Act Revision discussion paper on 7 December 1994 for a two and a half month period of public comment. The discussion paper set out seven specific proposals to amend the Development Act. It also highlighted several areas of the Act where considerable debate had occurred but no change was ultimately proposed. Furthermore, the paper set out a proposed program for reform of the regulations, some additional Act matters and the proposed integration of a series of development controls presently covered by other Acts within the ambit of the Development Act.

By the end of the period of public comment on 24 February, 52 submissions had been received on the discussion paper. A further 28 late submissions have been received. Once again, the submissions have been of a very high standard and we wish to thank those bodies and individuals who have taken the time to comment and make worthwhile suggestions for change.

This Bill does not alter the basic tenets of the Development Act. Rather it seeks to enhance these reforms by building upon the broad foundations already laid.

In particular, the Government is committed to the concept of a central Planning Strategy to guide the future development of the State. Last year the Premier published the Planning Strategy and work is well underway on refining that strategy insofar as it relates to metropolitan Adelaide and country regions.

Major provisions of the Bill to which I draw the attention of the House include:

The Minister will be able to amend any Development Plan in order to ensure consistency with the Planning Strategy through the preparation of a Ministerial Plan Amendment Report. This will enhance the role of the Planning Strategy.

With the exception of the objection of a land owner to the designation of a place as a place of local heritage, the referral of all council prepared Statements of Intent and Plan Amendment Reports after public consultation to the Development Policy Advisory Committee will be at the discretion of the Minister. However, the criteria for referral have been retained. This will ensure that delays in the processing of council amendments are further minimised.

Councils will now be required to undertake policy reviews to consider the appropriateness of their Development Plan and its consistency with the Planning Strategy on a three yearly instead of five yearly cycle unless the Minister allows an extension of time. At the conclusion of each review the council will be required to submit a report to the Minister and to make this report available for public inspection.

In circumstances where the Minister considers that the Government of the State has a substantial interest in whether a proposed development proceeds or not, the Minister will be able to declare that the Development Assessment Commission determine the application notwithstanding the fact that a council would otherwise have been the relevant authority for that application. However, the Minister will not have any other involvement in the determination of the application (unless concurrence is required) and all public notification and appeal rights will be retained.

The Governor can dispense with an environmental impact statement for a major development where the Governor is satisfied, after receiving a report submitted by the proponent, that the adverse social or environmental impacts of the development will not be significant if it proceeds. In such a case, the Minister will be required to prepare a report on the matter and have copies laid before both Houses of Parliament. This will allow major developments solely of major economic significance to be dealt with expeditiously.

Provision is included to clarify the status of the Government's infrastructure developments where arrangements are entered into with private companies to build/own/operate the projects. The Bill provides for such projects of a community nature to be classified as Crown Development by the regulations.

Councils and the Development Assessment Commission will be given the choice of whether to hear representors who have made a

written submission on a development application that is not listed as either complying or non complying in a Development Plan. Mandatory hearings are retained for all applications for non complying kinds of development.

Land Management Agreements will be able to be used to indemnify the State Government, councils (in prescribed circumstances set out in the regulations) and statutory authorities.

Other amendments to Sections 33, 49, 69 and 109 have been made in order to better clarify the Act's intent. Furthermore, a technical amendment is made to Section 176 of the Local Government Act in response to a request from local government.

I referred earlier to the Development Act Monitoring Group which was established to assist with the Review of the Act and regulations. The Government would like to acknowledge the work done by this Group led by Chairperson Mr. Stuart Main. It is now our responsibility to give legislative form to the results of this comprehensive process of review.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

The measure will come into operation on a day (or days) to be fixed by proclamation.

Clause 3: Amendment of s. 24—Council or Minister may amend a Development Plan

This clause provides for an amendment of section 24 of the Act. Section 24 includes the circumstances in which the Minister may prepare an amendment to the Development Plan. It is proposed to add a provision that will enable the Minister to amend a plan to ensure or achieve consistency with the Planning Strategy.

Clause 4: Amendment of s. 25—Amendments by a council

This clause amends section 25 of the Act to remove the mandatory referral of certain matters by the Minister to the Advisory Committee. The Minister will instead have a discretionary power to refer matters to the Advisory Committee. The amendment retains the requirement that an objection by a landowner to the designation of a place as a place of local heritage must be referred to the Advisory Committee for inquiry and report.

Clause 5: Amendment of s. 30—Review of plans by council

This clause addresses three issues relevant to the review of Development Plans by councils. Firstly, a council will now be required to prepare a report on the review in every case. (Presently a report does not need to be prepared if the council proceeds directly to the preparation of a Statement of Intent.) Secondly, a council will be required to make its report available for inspection at its principal office. Thirdly, the period for the preparation and completion of a report is to be altered from five years to three years, with the Minister being given a discretion to allow an extension of time.

Clause 6: Amendment of s. 33—Matters against which a development must be assessed

This amendment relates to the requirements of the Act for the assessment of an application for approval to divide land by strata title. Section 33(1)(d)(iv) currently requires that a relevant authority must be satisfied that the relevant building is, or will be, of a certain quality and condition. Concern has been raised in relation to the implementation of this provision in practice. It has been decided that the preferable criterion is whether a building (or item) intended to establish a boundary of a unit is appropriate for that purpose.

Clause 7: Amendment of s. 34—Determination of relevant authority

This amendment will allow the Development Assessment Commission to act as the relevant authority in cases where the Minister considers that the Government of the State has a substantial interest in a proposed development and in the circumstances desires the Commission to be the determining body.

Clause 8: Amendment of s. 38—Public notice and consultation

This amendment will alter the provision relating to the right to appeal personally (or by representative) before a relevant authority in relation to a Category 3 development under the "Third Party" provisions of the Act so that the provision will now only apply to such a development that is a non-complying development under the relevant Development Plan.

Clause 9: Amendment of s. 48—Governor to give decision on development

This amendment will have the effect of allowing the Governor to dispense with an environmental impact statement for a development assessed under this section where the Governor is satisfied that a development is of major economic importance and will not have an adverse social or environmental impact to a significant degree. In such a case, the Minister will be required to prepare a report on the matter and have copies laid before both Houses of Parliament.

Clause 10: Amendment of s. 49—Crown development

These amendments relate to Crown development. New subsection (2) will allow the regulations to specify circumstances where a partnership or joint venture between a State agency and a person or body that is not a State agency will be subject to assessment procedure prescribed by section 49 of the Act. New subsection (14A) will provide that persons who are engaged to carry out building work on behalf of the Crown are required to comply with the Building Rules, and other technical requirements.

Clause 11: Amendment of s. 57—Land management agreements

This amendment is intended to facilitate the practice whereby land management agreements may provide for various forms of indemnities, waivers and exclusions. The relevant provision will be able to be applied when the Minister is a party to the agreement, and in other prescribed cases. A provision may be expressed to extend to third parties.

Clause 12: Amendment of s. 69—Emergency orders

This amendment will allow any authorised officer to make an emergency order under section 69 of the Act if there is a threat to a State heritage place or local heritage place. (Presently, an authorised officer must hold prescribed qualifications in such a case.)

Clause 13: Amendment of s. 108—Regulations

This is a technical amendment to make it clear that the Minister may "delay" the operation of an alteration to a code, standard or other document adopted by the regulations until a day specified by the Minister. This will allow the Minister to give advance notice of the commencement of an alteration (and, if necessary, co-ordinate the operation with other measures (for example, similar alterations that are coming into operation in other States)).

Clause 14: Amendment of Local Government Act

This is a technical amendment to the Local Government Act. Section 176 of that Act refers to zones defined by regulations under the Development Act 1993. Zones are in fact defined by Development Plans. An amendment should therefore be made.

The Hon. CAROLYN PICKLES secured the adjournment of the debate.

SGIC (SALE) BILL

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

ADJOURNMENT

At 6.33 p.m. the Council adjourned until Wednesday 31 May at 2.15 p.m.