LEGISLATIVE COUNCIL

Tuesday 25 July 1995

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

INDUSTRIAL AND EMPLOYEE RELATIONS (MISCELLANEOUS PROVISIONS) AMENDMENT BILL

The following recommendations of the conference were reported to the Council:

As to amendment No. 1—That the Legislative Council does not further insist on its amendment but makes the following amendments in lieu thereof:

Clause 4, page 2, lines 3 to 24—Leave out proposed new section 75 and insert new section as follows:

Who may make enterprise agreement

75. (1) An enterprise agreement may be made between—

(a) an employer (or two or more employers who together carry on a single business); and

(b) a group of employees.

(2) An association may enter into an enterprise agreement on behalf of a group of employees if the association is authorised, after notice has been given as required by regulation, by a majority of the employees constituting the group to negotiate the enterprise agreement on behalf of the group.

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

(4) An authorisation given to an association by an employee who is not a member of the association—

(a) cannot be given generally but must be specifically related to a particular proposal for an enterprise agreement; and

(b) remains in force (subject to revocation by written notice given to the association) until the relevant enterprise agreement is rescinded or superseded.

(5) If—

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

(b) the employees—

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

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

the employer may enter, on a provisional basis, into an enterprise agreement binding on the employees who become members of the group (a 'provisional enterprise agreement') with the Employee Ombudsman or a registered association of employees (or both).

(6) If the Employee Ombudsman intends to enter into negotiations for a provisional enterprise agreement and no registered association of employees is to be a party to the agreement, the Employee Ombudsman must give the United Trades and Labor Council at least 14 days written notice of the intention to enter into those negotiations.

(7) A notice under subsection (6) must include details of the group of employees to which the agreement is to apply.

(8) The Employee Ombudsman enters into a provisional enterprise agreement under this section only in a representative capacity and the agreement may not impose obligations on the Employee Ombudsman personally.

(9) A person who becomes, or ceases to be, a member of a group of employees defined in an enterprise agreement as the group bound by the agreement, becomes or ceases to be bound by the enterprise agreement (without further formality).

And that the House of Assembly agrees thereto.

That the Legislative Council makes the following consequential amendment to the Bill:

Clause 6, page 3, after line 25—Insert new subsection as follows:

(7A) If—

(a) the Employee Ombudsman enters into a provisional enterprise agreement; and

(b) no registered association is a party to the agreement,

the United Trades and Labor Council may (despite any other provision of this Act) intervene in proceedings before the Commission relating to the approval of the agreement if the Commission is satisfied that the United Trades and Labor Council has a proper interest in the matter.

And that the House of Assembly agree thereto.

As to amendment No. 4—That the Legislative Council does not further insist on its amendment but makes the following amendments in lieu thereof:

Clause 6, page 3, lines 26 to 30—Leave out subsection (8) and insert the following subsection:

(8) If the Commission is of the opinion that grounds may exist for withholding approval of an enterprise agreement but—

(a) an undertaking is given to the Commission by one or more of the persons who are to be bound by the agreement (or by a duly authorised representative on their behalf) about how the agreement is to be interpreted or applied; and

(b) the Commission is satisfied that the undertaking adequately deals with the aspects of the agreement that might otherwise lead the Commission to withhold its approval,

the Commission may incorporate the undertaking as part of the agreement, or amend the agreement to conform with the undertaking, and approve the agreement in its modified form.

New clause, page 3, after line 34—Insert new clause as follows:

Amendment of s. 84—Power of Commission to vary or rescind an enterprise agreement

6A. Section 84 of the principal Act is amended by inserting after subsection (4) the following subsection:

(5) If the Commission is satisfied, after giving persons bound by an enterprise agreement an opportunity to be heard, that there has been a breach of an undertaking on the basis of which the agreement was approved, the Commission may—

(a) vary the agreement so that it conforms with the undertaking; or

(b) rescind the agreement.

And that the House of Assembly agrees thereto.

As to amendment No. 6—That the Legislative Council amends its amendment by striking out from proposed new subsection (4) 'contract or undertaking' and substituting 'provision of a contract, or an undertaking,'.

And that the House of Assembly agrees thereto.

As to amendment No. 10—That the Legislative Council does not further insist on this amendment but makes the following amendment in lieu thereof:

Clause 12, page 5, after line 18—Insert subsection as follows:

(2) However, this section does not apply to references to an industrial agreement in the Long Service Leave Act 1987 or a statutory instrument under that Act.

And that the House of Assembly agrees thereto.

QUESTIONS ON NOTICE

The PRESIDENT: Order! I direct that the written answer to the following question be distributed and printed in *Hansard*: No 159.

SEXUAL HARASSMENT

159. **The Hon. R.R. ROBERTS** asked the Attorney-General—In reference to my question without notice on 20 October 1994 in relation to a sexual harassment matter, and the subsequent answer of 5 April 1995, why was the inquiry into this matter revoked without giving the accused the opportunity to subject the claims of the complainants to examination to establish their veracity?

The Hon. K.T. GRIFFIN: On 19 February 1993 two female employees of the Department of Primary Industries lodged complaints with the Equal Opportunities Commission alleging sexual harassment by the constituent, then a senior officer of that department.

By letter dated 19 March 1993, the Commissioner for Equal Opportunity advised the chief executive officer of the Department

of Primary Industries, being the apparent employer and thus second respondent in the matter, of the complaints.

In accordance with the Act, the Commissioner for Equal Opportunity conducted an investigation into the allegations and concluded that they were of substance.

Pursuant to Section 95(3) of the Equal Opportunity Act, where the Commissioner is of the opinion that a bona fide complaint may be resolved by conciliation, the commissioner must make all reasonable endeavours to resolve the complaint by conciliating between the parties.

In such circumstances, the matter is only referred to the tribunal for hearing and determination where attempts to resolve the matter by conciliation are not successful (section 95(8)(b)).

In the case at hand, the commissioner was of the view that the matters could be resolved by conciliation and, accordingly, convened a conference between each of the complainants and the constituent and the department.

The department made no admissions as to liability, but nonetheless ultimately settled both complaints.

The constituent also eventually reached settlement with the first complainant, but did not come to any settlement with the second complainant.

The second complainant, however, decided not to proceed with her complaint, largely because she had secured alternative employment. She indicated that she was entirely satisfied with the manner in which the department conciliated the matter.

Thus, as regards the first complainant, the matter reached its natural conclusion without the necessity for a formal inquiry.

As regards the second complainant, she did not proceed with her complaint, and accordingly there was no basis upon which the matter could proceed to a formal inquiry before the tribunal.

PAPERS TABLED

The following papers were laid on the table:

By the Minister for Education and Children's Services, for the Attorney-General (Hon. K. T. Griffin)—

Industrial and Employee Relations Act 1994—Rules—Industrial Proceedings.

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

Regulation under the following Act—Development Act—Various.

Commissioners of Charitable Funds—Report and Statement of Accounts, 1993-94.

QUESTION TIME

BASIC SKILLS TESTING

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 basic skills testing.

Leave granted.

The Hon. CAROLYN PICKLES: On 14 March the Minister told the Council that his department was still preparing a report on last year's basic skills test and that he had established a joint DECS/Flinders University task group to assess the trial testing. On 11 April the Minister told the Council that he would bring back advice from his department and Flinders University on their assessment of last year's trial or correspond on this issue before completion of the current sitting. We are still waiting for this information in spite of the Minister's determination to proceed with full scale testing of all year 3 and 5 students on 16 August. My questions to the Minister are:

1. Has the Minister's department completed a report on last year's basic skills trial?

2. What were the findings and will the Minister table a copy?

3. What were the findings of the DECS/Flinders University task group?

4. How will this year's results be assessed and used by the Minister's department?

5. What plans are there to assist children who are shown by these tests to have learning difficulties, and is there a budget provision for this assistance?

6. Have the non-government school organisations indicated whether they will introduce basic skills tests? If the answer is negative, does this indicate that non-government schools do not share the Minister's view on the value of such testing?

The Hon. R.I. LUCAS: I apologise if I indicated previously that I would make available a copy of a report, and I have not done so. I will certainly investigate that matter and make available whatever reports or information I can. From recollection, two or three reports have been done in relation to last year's trial program. I need to check with the department as to which of those have been produced publicly already and which have not. I know that one of the reports—which will not please the Leader of the Opposition too much—indicates that about 80 per cent of parents either support the basic skills test or have no concerns about its introduction. I know that will not please the Leader of the Opposition because she represents fewer than 20 per cent of parents, obviously. I do not think it is even 20 per cent; some of those parents had not then concluded a view as to the basic skills test.

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: Doctor who?

The Hon. Carolyn Pickles: Dr Slee.

The Hon. R.I. LUCAS: Who is Dr Slee?

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: I do not know Dr Slee. The Leader might have the wrong report. I know Dr Keeves.

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: Dr Slees? No, we do not have any sleazes in the Education Department, I can assure the Leader.

The Hon. R.R. Roberts: Or the Liberal Party.

The Hon. R.I. LUCAS: Or the Liberal Party, that is right. The Hon. Ron Roberts says we do not have sleazes in the Liberal Party, and he is quite right. Whether he can say the same thing for his colleagues I am not too sure, but—

The Hon. Carolyn Pickles: Will you just answer the question?

The Hon. R.I. LUCAS: The Leader asked whether I have a report from Dr Slee, or Dr Slees, and I do not have a report from Dr Slees or Slee.

The Hon. Carolyn Pickles: Dr Slee.

The Hon. R.I. LUCAS: As I said, I do not know Dr Slee. I will make some inquiries and see whether or not a Dr Slee, or indeed anyone of a similar name, has had anything to do with reviewing the basic skills test, which over 80 per cent of parents in the community—

An honourable member interjecting:

The Hon. R.I. LUCAS: Quite simply. Do they have a problem with the basic skills test?

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: It is as simple as that.

Members interjecting:

The PRESIDENT: Order!

Members interjecting:

The Hon. R.I. LUCAS: What do the academics say? Peter Westward from Flinders University is 100 per cent behind the test; Gary Childs from Flinders University is

behind it; Professor Keeves and Professor Anderson have broadly come—

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: Whom are you talking about? Is the Leader talking about Mem Fox from the University of Adelaide? One or two academics are opposed to the tests, but for every academic the Leader would like to trot out against the test, I will trot out one or two for it. They are a divided community. We are not doing the tests for the academics: we are here representing parents. We are trying to provide information to parents and 80 per cent of them—

An honourable member interjecting:

The Hon. R.I. LUCAS: And their children—do not have a problem. The people who have a problem are some academics, the Democrats, the Labor Party and the Institute of Teachers. We can throw them all together, throw a blanket over them and that is it. We are interested in the 80 per cent—

Members interjecting:

The PRESIDENT: Order! There is far too much background noise.

The Hon. R.I. LUCAS: —of parents in the community who want more information about their children's performance in the basic building blocks of literacy and numeracy. We are talking about the modern day equivalent of a simple spelling and arithmetic test. That is what we are talking about. We have the Institute of Teachers, some fellow travellers of the Labor Party and the shadow Minister saying that these basic skills tests are in some way comparable to the nuclear holocaust of Hiroshima.

The Hon. Carolyn Pickles: Don't be stupid.

The Hon. R.I. LUCAS: 'Don't be stupid', says the Hon. Carolyn Pickles. The Leader's fellow travellers are travelling through the country regions of South Australia and being reported in all the country newspapers as saying that the basic skills test can be compared to Hiroshima and will result in lifelong scarring of children. It involves two mornings of testing in 13 years of schooling, and this will result in lifelong scarring of children! That is the sort of irrational attitude that we are getting from the Leader of the Opposition, the leadership of the Institute of Teachers and some of their fellow travellers.

Members interjecting:

The PRESIDENT: Order! I suggest that the Minister wind up. He is becoming repetitive.

The Hon. R.I. LUCAS: I thought Hiroshima was very good, Mr President; that was new information. The last question was whether there will be additional resources. The additional information will be used to assist children who have learning problems. We have already put in place at least $10 million in additional resources. The early years strategy is designed entirely to provide assistance for children who have learning difficulties. So, the Leader of the Opposition will be delighted.

The Hon. Carolyn Pickles: What are the views of the non-government schools?

The Hon. R.I. LUCAS: The views of the non-government schools vary. It is a decision for them to take. I can say that, when this testing first started in New South Wales, the Catholic and independent systems there chose not to participate. Four years down the track, because they have heard from Government school parents how good these tests are, the parents in the Catholic system in the biggest Catholic diocese of Parramatta and a number of others have put so much pressure on the Catholic system in New South Wales that they are now signing up in their droves. Parents want to see their children tested in the basic building blocks of literacy and numeracy. When the testing first started they were scared off by the union movement, the Labor Party and a variety of similar groups and they chose not to participate but, now that they have realised that what they were hearing from the Labor Party and the union movement was wrong, they are pressuring the Catholic Education Office to participate. They are now starting to do so; they are paying $10 or $15 a head and are participating in those tests.

The position here in South Australia is that it is for the non-government schools to make the decision. Given that the Labor Party and the union movement in South Australia are running such a scare campaign, I am sure that in the end their decision will be to reserve judgment. But, in the end, because of pressure from parents, I think we will see non-government schools in South Australia participating in these tests.

Whilst non-government schools do not participate in these tests at the moment, they do use a range of other standardised tests of the form that the Government is introducing. The Westpac maths test and the University of New South Wales science, maths and English tests are used of their own volition by a significant percentage of non-government schools in South Australia. They are pencil and paper, multiple choice tests, and computer marked outside South Australia, exactly the same as the basic skills test. The Catholic and independent schools choose to use them and have been using them for decades.

ELECTRICITY TRUST, PORT PIRIE

The Hon. R.R. ROBERTS: I seek leave to make an explanation before asking the Minister representing the Minister for Infrastructure a question about the relocation of the ETSA service centre at Port Pirie.

Leave granted.

The Hon. R.R. ROBERTS: I am informed that ETSA has reversed its decision to move its customer service centre and its network service centre from Ellen Street in Port Pirie back to Feely Street in the same city, contravening a decision it had made two years ago following detailed investigation into the needs of ETSA in the Port Pirie and Gladstone regions. During the investigations into the service requirements and the management needs of this region, the infrastructure at Feely Street was determined to be inadequate and unsafe both ergonomically and structurally. During the same review it was also determined that the ETSA property at Clare was also ergonomically and structurally unsound.

I am also advised that it is a heritage building that cannot be altered in any dramatic way to make it ergonomically more acceptable. There is only one employee at the Clare facility and, ironically, that person has just won the network service manager's position, which has been recently advertised for this region. I am told it is proposed to shift four employees from the well-equipped and ergonomically well designed Ellen Street centre facility to the Clare office, which has already been determined to be inappropriate. Therefore, my questions to the Minister for Infrastructure are:

1. Why is the move being undertaken, forcing four families to uproot and move to a workplace which has been determined to be inappropriate?

2. What work will be undertaken to ensure that the Clare premises are upgraded to the appropriate occupational health and safety standard?

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

PORT WAKEFIELD DUMP

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for Housing, Urban Development and Local Government Relations, a question about the proposed Wakefield dump.

Leave granted.

The Hon. T.G. ROBERTS: An article in today's *Advertiser* refers to a proposal being put forward by a Chinese firm to build a dump in an area that is purported to be 70 kilometres north of the city at Port Wakefield, close to Highway One and covering about 200 hectares. There have been a number—

The Hon. M.J. Elliott interjecting:

The Hon. T.G. ROBERTS: Yes. A number of questions have been asked in this Council and answers given about the management of waste, including the problems associated with landfill at Highbury, which is now back in the headlines. Questions have been asked and answers provided about waste management programs with dump extensions at Wingfield, Eden Hills and Torrens Island, etc. The proposal being advanced includes a component of landfill and recycling. Will the Wakefield proposal for the establishment of a recycling and landfill project overcome the problems associated with the existing dump extensions, including the Highbury dump?

The Hon. DIANA LAIDLAW: I was interested to note the aside between the Hon. Mr Elliott and the Hon. Mr Roberts that Port Wakefield would make a better site than Highbury.

The Hon. M.J. Elliott interjecting:

The Hon. DIANA LAIDLAW: As I say, I was interested to note the exchange. In terms of the other questions asked by the honourable member, I will refer those matters to the Minister and bring back a reply.

HINDMARSH ISLAND BRIDGE

The Hon. SANDRA KANCK: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services, representing the Premier, a question about the Draper report regarding Aboriginal heritage sites on Hindmarsh Island (Kumarangk).

The PRESIDENT: I advise the honourable member that this matter could be *sub judice*. The Royal Commissioner is looking into this matter. Does the honourable member think the question relates to the inquiry?

The Hon. SANDRA KANCK: It relates to events leading to the setting up of the royal commission.

The PRESIDENT: I will hear the question.

Leave granted.

The Hon. SANDRA KANCK: On 28 May Patrick Lawnham, writing in the *Australian*, revealed information about a report prepared by South Australian archaeologist and anthropologist, Dr Neale Draper, for the Minister for Aboriginal Affairs, and I quote:

> The final Draper report on the Hindmarsh Island area containing 'allusions' to women's concerns was filed officially with the South Australian Government on 29 April. This was well before the 9 May meeting at which men allegedly prompted women to come up with a claim.
>
> The South Australian Premier, Mr Brown, who at the weekend called for Mr Tickner's sacking and Federal compensation over the allegation, said on Monday he had not read the Draper report.

Subsequent comments by the Premier give no reason to believe that he went on either to read the report or to gain a briefing on it. My questions to the Minister are:

1. Does the final Draper report, which went to the Minister for Aboriginal Affairs on 29 April, allude to Ngarrindjeri women's concerns about site desecration?

2. Following the appearance of the article in the *Australian* on 28 May, did the Premier seek a briefing from the Minister for Aboriginal Affairs or did the Minister offer one so that the Premier might act in a more informed manner?

3. Had the Minister for Aboriginal Affairs briefed the Premier about the contents of the final Draper report before the Premier made his announcement about his intention to set up a royal commission? If so, did the Minister indicate that a royal commission would be an unwise move in light of that report? If the Minister did not offer a briefing, does the Premier consider that this was a dereliction of duty by the Minister?

4. Does the Minister consider that, if the contents of the Draper report are revealed during the royal commission, this would establish that the concerns about women's business were raised well before the alleged 9 May meeting, and does the Premier consider that the Government will then be shown to have been uselessly squandering public money?

The Hon. R.I. LUCAS: I am not in a position to answer that. It may well be that the Premier decides, on advice, that it is *sub judice*; there seems to be a view in this Chamber that that is the case. I will refer the question and see what sort of response I can bring back within the legal bounds that govern us all.

LEVEL CROSSING SIGNS

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Minister for Transport a question about level crossing signs in the South-East.

Leave granted.

The Hon. CAROLINE SCHAEFER: Some six to eight months ago the train services in the South-East ceased; the lines are still there but the trains are not. Under those circumstances, why are the level crossing signs, which cause considerable inconvenience to motorists, still in position?

The Hon. DIANA LAIDLAW: It is true that Australian National has ceased operating services on the South-East line. I have advised members in this place in the past that I have written to the Federal Minister for Transport indicating a keen interest to know the Federal Government's intention in relation to this line. I have yet to receive a reply and the Federal Minister is overseas until the end of this month, so I do not anticipate any reply until that time. Like the honourable member, I have received inquiries about this matter, because at each level crossing people are still required to stop and interrupt their travel patterns, notwithstanding the fact that the train is not operating. I recall that the advice I received in respect of my own inquiries on this matter is that the level crossings are on country roads, not on State arterial roads, and are a matter for local government and its powers.

From a State perspective it has been advised that the State Government should not encourage the removal of these signs because it would be an acceptance on our part that the line is not operating and it may prejudice any further case we may have or may wish to take against the Federal Government in relation to operation of the line. I do not think that there are any flashing lights at any of the crossings at these points

which would be activated if a train crossed and, therefore, would provide free flow now that trains are not operating. I respect that it is an inconvenience for people travelling through the South-East having to stop at railway crossings where no train is crossing and where there has not been for some time. I will write to councils in the area to gauge their opinion of this matter. From a State perspective, as I indicated, it is a matter on which I have been encouraged not to seek the removal of these stop signs at this time.

The Hon. SANDRA KANCK: By way of supplementary question, how long is the Minister prepared to wait for a reply from her Federal counterpart? If there is continued delay in receiving a reply what action does the Minister propose to take next?

The Hon. DIANA LAIDLAW: In recent days I have again written—although I may not yet have signed it—to the Federal Minister asking for exactly the same advice about when I can anticipate an answer in respect of my questions on behalf of South Australians about the operation of this line. So that awaits his reply. I can do nothing but wait, in a legal sense, because one cannot activate arbitration hearing and the like until receiving formal advice that the Commonwealth Government and AN do not plan to operate that line, and such formal advice has not yet been received.

SOUTHERN EXPRESSWAY

The Hon. T. CROTHERS: I seek leave to make a brief explanation before asking the Minister for Transport a series of questions about public relations costs for the Southern Expressway.

Leave granted.

The Hon. T. CROTHERS: In the recent Estimates Committee examinations the Minister was asked how much money had been spent in the public relations effort surrounding the construction of the Southern Expressway. In an answer she subsequently provided to the Opposition she revealed that $98 000 had already been spent on the public relations campaign up until the end of June. That is almost $100 000 spent before the first sod is turned and includes the launch, the Expressway magazine, Radio Roadside 88FM, roadside signs and consultant fees. The Minister confirmed that O'Reilly Consultants had been hired to handle the communications strategy for the road. Up until earlier this year the principal—and I understand the only employee of that firm—Mr Michael O'Reilly was employed as a communications adviser to the Premier, a position he also held with Mr Brown whilst he was Leader of the Opposition. The Minister indicated that Mr O'Reilly won the job without going through a public tender. Instead, the Minister advised the Estimates Committee that:

> Three to five people were asked for expressions of interest to undertake this project. The major public relations firms in Adelaide were all invited to submit their proposals.

The Minister then went on to say that she had no role in the selection of Mr O'Reilly; she was merely informed of the outcome, and her department made the decision. She also made another telling comment, and again I quote:

> I did not even know at that stage that Mr O'Reilly had left the Premier's Department, so I could hardly have been involved.

My questions, therefore, are:

1. What is the total budgeted cost for public relations and communications-related expenses across the life of the Southern Expressway contract, and how much will be spent on this before work begins on the road?

2. When did Mr O'Reilly secure the contract to handle public relations for the Southern Expressway, and was it while he was still working in the Premier's office?

3. Was Mr O'Reilly invited to express interest in the Southern Expressway contract while he was still working in the Premier's office, and, if so, why, given the Minister's advice to the Estimates Committee that all the major public relations firms were invited to bid?

4. Who and which companies were invited to express interest in the Southern Expressway contract, and when, and exactly when, was the decision made to hire Mr O'Reilly's firm?

5. Why was this contract not put out to public tender, given that the Minister told the Estimates Committee that the Government sought tenders for any consultancy over $20 000?

6. When did the Minister first learn that Mr O'Reilly was bidding for the contract?

7. Given that the Minister said she did not know that Mr O'Reilly had left the Premier's Department, did she raise concerns about Mr O'Reilly's bidding for this contract with her department or with the Premier, and, if not, why not?

The Hon. DIANA LAIDLAW: I did not know that Mr O'Reilly was bidding for the contract until I was advised that he had won it, and that was after he had left the Premier's employment. I will get answers to the other questions about the total budgeted cost to date. I cannot give it in relation to the life of the project, because to date the announcement has been made and the first contract in project management terms has been let to Maunsell and we have not yet let the contract for the first stage, which is Darlington to Reynella. I can find out the proportion of the budget that Maunsell has provided in terms of public relations information and communications effort.

Regarding the other specific questions, I do not have that information to hand at the moment, but I will bring back a reply. Mr O'Reilly was engaged to assist with the consultation and information project in relation to the announcement, and as part of the innovative strategy that he developed we have been able to communicate widely with people because they have registered their interests and concerns through hot line and letter form. They have been advised of the various channels through which they can communicate their interests and concerns because of the radio signal and also the Southern Expressway newsletter which was circulated to all homes in the area in addition to general publicity given to this long-awaited project.

LIQUID PETROLEUM GAS

The Hon. M.S. FELEPPA: I seek leave to make a brief explanation before asking the Minister for Transport, as well as the Attorney-General, representing the Minister for Industrial Affairs, a question about LPG tanks.

Leave granted.

The Hon. M.S. FELEPPA: In an article in last weekend's *Sunday Mail*, Mr Des Packer, the Operations Manager of the CFS, has drawn attention to the possible danger of LPG tanks fitted to motor vehicles becoming unsafe because of their age. The possibility of an explosion is real and lives of firefighters could be put at risk if the danger is not properly addressed. 'An exploding tank would go off like a bomb,' Mr Packer is reported as saying. Mr Packer has called on the Department of Industrial Affairs to monitor explosions involving vehicles fitted with LPG tanks.

The risks involved could be reduced considerably if the tanks are required to be checked for age and safety from time to time. Unless the checks are compulsorily monitored, there is no incentive and the tanks may be allowed to age and become quite unsafe. Motorists can simply pull into a service station and fill up, no questions being asked. The service station attendant should not be responsible, in my view, for the inspection, but may be expected to hand a reminder notice to the customer. The responsibility for the tank I believe should rely with the vehicle's owner. My questions are:

1. Is the Minister aware of this report?

2. Does the Minister plan to introduce some kind of check of the age of gas cylinders in motor vehicles to reduce the possibility of the tank's becoming unsafe with age?

3. Could the checking of the age of the tanks in motor vehicles be included in the registration forms and the checking for safety of the tanks be noted on the registration form?

The Hon. DIANA LAIDLAW: I will refer the honourable member's question to the responsible Minister and bring back a reply. In respect of the reply to the honourable member to his question on 18 October 1994 about water quality, which I will insert, I apologise: it was provided in reasonable time by the Minister for Infrastructure but was unfortunately mislaid.

WATER QUALITY

In reply to **Hon. M.S. FELEPPA** (18 October 1994).

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

1. A report published by the Urban Water Research Association of Australia (UWRAA) on 'Biological Availability of Aluminium from Drinking Water: Co-exposure with Foods and Beverages' was sent to most major water authorities via their representatives on the UWRAA Research Advisory Committee. This work was administered by the Sydney Water Board and was undertaken by the Australian Institute of Biomedical Research Ltd this year. It assessed the effect on a group of rates that a range of dietary items had on the uptake of aluminium in drinking water.

The work showed that:

- the uptake of aluminium into the bloodstream of rats from water containing aluminium varied when taken in conjunction with a variety of foods;
- this effect was more pronounced on an empty stomach;
- the uptake of aluminium was not proportional to the content of aluminium in the food; and
- rats showed a variable uptake rate of aluminium.

These findings are apparently not new nor do they change any Australian health authority's views on the limitations that should be imposed on aluminium in drinking water. However, the Minister has been advised that the authors went on to make recommendations which cannot be substantiated from their own or anyone else's work. This is that the water industry should give serious consideration to withdrawing the use of alum in water treatment and that the water industry will have to acknowledge the risk of product liability claims. No health authority world wide to our knowledge recommends any limitation on aluminium in drinking water for health reasons.

Advice has been received recently from the UWRAA, that the recommendations in the report have been amended by withdrawal of both the advice to consider alternatives to alum and reference to the risk of product liability claims. The recommendations now focus on some further research which is necessary to clarify the knowledge in this extremely complex topic.

A key point which the Minister would like to highlight is that aluminium is absorbed by the body through a number of routes: average (adult) levels suggested by the Water Research Centre, in the United Kingdom, are; air 20 micrograms/day, water 290 micrograms/day and food 7000 micrograms/day. The uptake of aluminium into the body is dependent on a number of factors and is quite complex. Given the apparent higher level of exposure to aluminium from food versus water, the elimination of aluminium from water may not have a significant impact on any possible health effects.

Advice from the South Australian Health Commission, supported by international health authorities is that the low levels of aluminium in water supplies are not of concern from a public health viewpoint.

2. In the light of the answer to question 1 there is no wisdom in replacing aluminium with an iron salt.

3. Again, the answer is no.

WATER LICENCES

In reply to **Hon. SANDRA KANCK** (4 July).

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

1. Yes waiting lists are kept, but only when the total amount of water available for allocation has been fully allocated. It is not considered necessary to maintain lists prior to that time, as water is allocated upon request until the sustainable limit is reached. A waiting list was initiated for Sub Area 2 in approximately September 1993 after the area's groundwater resources became fully allocated.

Yes, the Pridhams were placed on a waiting list following receipt of the formal application for licence in July 1994.

All applications for a licence are processed in chronological order based on the date of receipt of the formal licence application. At the time of their application, the Pridhams were seventh on the waiting list.

2. The three month delay in formally advising the Pridhams that Sub Area 2 was fully allocated resulted from:

- the application being referred to Mines and Energy SA for hydrogeological comment; and
- administrative delays following the transfer of the licensing function from Adelaide to Mount Gambier.

Sub Area 2 of the Naracoorte Ranges Proclaimed Wells Area became fully allocated in approximately September 1993 but a limited amount of additional groundwater became available for allocation in November 1994.

3. One increase and three new licences to take water were issued in Sub Area 2 after 7 July 1994, following the redistribution of an existing licence in November 1994. All of the applicants for those licences were on the waiting list:

- Received in September 1993—licence issued on 15 December 1994
- Received in November 1993—licence issued on 16 November 1994
- Received in November 1993—licence issued on 16 November 1994
- Received in November 1993—licence issued on 23 December 1994

4. Licensees are able to hand back licences if they desire, but there is no legal obligation to do so. The issue of unused water allocation being returned for possible redistribution is being explored by the local water resource committees, along with various other management issues, but it will be some time before this issue is resolved.

Trading in water is encouraged because it fosters development in areas where water is fully allocated and ensures the most efficient use of water allocations through market mechanisms.

It is worthwhile pointing out that the $110.00 is purely an administration fee to cover part of the costs of processing the licence application. The market value of the water allocation is determined by negotiation between the two parties involved in the transfer of that allocation. The Government is not involved in this negotiation, nor in setting any price on the water.

5. I do not consider that trading in water will result in undue pressure being placed on departmental employees to give priority to one property owner over another in the issue of licences to take water. Strict guidelines and audit procedures have been established for the issue and trading of licences.

BASIC SKILLS TESTING

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services a question about skills testing in schools.

Leave granted.

The Hon. M.J. ELLIOTT: I understand that the Education Minister has been promoting the active involvement of school councils in the decision making processes of our State schools. I am also aware of school councils that have passed

recommendations of support for their children's teachers who have voted not to administer the basic skills tests in their schools. In fact, I am a member of one school council which has done just that. The motion passed by the Belair school council states:

> School Council supports the action of the primary staff in not administering the basic skills tests and direct the staff not to carry it out, nor any associated preparation of students, changes to curriculum, or administration associated with it.

Members of the school council, as have others, have expressed a very clear wish as to what they want to happen at their school. In circumstances where a school council supports action by teachers of their children not to administer basic skills tests and directs staff not to carry them out, does the Minister intend to penalise teachers?

The Hon. R.I. LUCAS: School councils have responsibilities within schools, one of which does not result in their being able to direct educational programs within those schools. The Hon. Mr Elliott, on previous occasions, has often, as a former teacher, indicated that school councils should not be able to direct in relation to matters of curriculum.

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: No, hold on. The Hon. Mr Elliott cannot have his cake and eat it too. He has, in this Chamber on a number of previous occasions, indicated his long held view as a former teacher and member of the Institute of Teachers that school councils have their place—I am sure he supports that—but that it does not extend to dictating and controlling the curriculum that is conducted within our schools. The Hon. Mr Elliott, as a member of a school council because it happens to suit his purposes at that school, and representing the Australian Democrats as the shadow spokesperson for education, is now saying—

The Hon. M.J. Elliott: As a parent at the school.

The Hon. R.I. LUCAS: You are in here asking questions as the Leader of the Australian Democrats and as the spokesperson for education in South Australia. You cannot come in here—

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: You are here as the Leader of the Australian Democrats.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: What the Australian Democrats are saying, through their Leader, is that they now support the position that parents on school councils can direct or dictate issues of curriculum and assessment within schools. That is the policy position of the Australian Democrats. The Government's position has always been that it is important that school councils have responsibilities in clearly defined areas, but it is not the responsibility of school councils or parents to control curriculum matters within our schools. They can provide advice; they should be consulted; their views should be listened to but, in the end, the decisions on curriculum and matters associated with curriculum rest with the professionals, the principals, the Education Department, the Minister for Education. There is quite a clear distinction.

The Australian Democrats have now changed their policy position and are now supporting parent control of curriculum and related matters within schools, and that will be an issue that I will make sure teachers, principals' associations and all those associated with schools are well aware of because, if it is in this area that the Australian Democrats say that school councils should be able to dictate to teachers, schools and as to what should occur within the system, then we are certainly a long way away from where this Government wants to be.

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: It is not avoiding the question. It is nailing you well and truly to the statement you have made. Secondly, this Government's position is that it is the choice of individual parents whether or not they want their child to be involved in the basic skills test. It is not for the Leader of the Opposition; it is not for the Australian Democrats; it is not for the Institute of Teachers; it is not for groups of school councils or anybody else: it is an issue for an individual parent, as it is, for example, with health education—

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: Exactly. But, the test will be there and parents can make the choice, as it is with health education, sex education and drug education. If parents want to withdraw their children, they have a procedure which they can follow. It is not an issue for the Leader of the Opposition or the Institute of Teachers in effect to sanction boycotts to prevent parents being able to exercise that freedom of choice. The institute, the Leader of the Opposition and the Democrats support parents being able individually to choose whether or not their children can be tested. We have the situation now where parents are contacting the department saying that they want their children to be involved in the test, and asking whether they can transport their children to the neighbouring school because the Institute of Teachers and others—its fellow travellers such as Mr Elliott and Ms Pickles—want to institute boycotts—

The Hon. L.H. Davis: We will have to develop our own bussing program.

The Hon. R.I. LUCAS: We will have to develop a bussing program because the Institute of Teachers and its fellow travellers want to prevent those parents from allowing their children to participate in the tests. If parents do not want their children to participate that is a decision for them and them alone. We will provide the tests, teachers will be expected to implement the tests and, if they do not, we will find teachers who will. It is as simple as that. Secondly, parents will decide whether their children participate: it is not a decision for the institute or anyone else. As I said, we now have parents who are so concerned about this that they want to transport their children to other schools just in case the test is not implemented in their children's school. We have in effect indicated to them that the tests will be implemented in all Government schools. As I said, if Institute of Teacher members, encouraged by the Hons Mr Elliott and Ms Pickles, seek to boycott the tests, we will find teachers who will implement the tests.

The Hon. M.J. ELLIOTT: I have a supplementary question. Will the Minister inform all parents that they do have a choice, and will arrangements be made at schools so that teachers will supervise those students whose parents do not want them to do the test?

The Hon. R.I. LUCAS: We always make arrangements in relation to sex education—

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: Parents are aware of it. Parents know.

The Hon. M.J. Elliott: Bullshit!

The Hon. R.I. LUCAS: The Hon. Mr Elliott says 'Bullshit'. It is unparliamentary to use that sort of language in the Chamber, but that is a decision for the honourable member to take.

Members interjecting:

The Hon. R.I. LUCAS: That is unfortunate language to be used in the Chamber by the Leader of the Australian Democrats.

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: The honourable member put it on the record.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: The position is, as I said, that parents are in the position to know whether or not they want their children to be involved in parts of the curriculum.

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: Because it has been the case for 30 or 40 years, such as with sex education, health education and drug education. Secondly, the Institute of Teachers and its fellow travellers, such as the Leader and the Hon. Mr Elliott, are running around encouraging parents to withdraw their children. All material coming from the Institute of Teachers is either seeking to boycott and prevent the introduction of the test or to scare parents out of participating.

The Hon. M.J. Elliott: Well, it's a bad test.

The Hon. R.I. LUCAS: It is not a bad test. The Hon. Mr Elliott is obviously against the modern day equivalent of a simple spelling and arithmetic test. That is the position that the Hon. Mr Elliott puts before the Council, and I do not want to enter that debate. However, 80 per cent of parents are with the Government on this issue. They are not with the minority groups, such as the leadership of the Institute of Teachers, the Australian Democrats and its fellow travellers, and the Leader of the Opposition. In that pilot school survey conducted last year, 80 per cent of parents said, 'We support it,' or 'We do not have a problem with the introduction of a basic skills test for our children.'

Test day two years ago in New South Wales was the day of maximum student attendance. More children turn up to do the tests in New South Wales on test day than any other day in the school year. To suggest that that situation will mean life-long scarring and likening it to Hiroshima is laughable and designed only to scare parents away in the first instance. So, the answer to the Hon. Mr Elliott's question is quite clear: parents do know and, of course, schools will provide some sort of supervision for those students—

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: I have just explained that.

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: The Institute of Teachers has been making it quite clear that either it wants to boycott the tests or, if it is not boycotted, parents can withdraw their children from the test.

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: Parents know. We are not—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: No, I do not see that I have a responsibility to encourage people not to do something which is of benefit to them.

The Hon. R.R. Roberts interjecting:

The Hon. R.I. LUCAS: No, I don't. In the end, that is their choice, but the Government believes, strongly, that it is in the children's best interest—

The Hon. Diana Laidlaw: Their long-term interest.

The Hon. R.I. LUCAS: Their long-term interest, but also their short-term interest—to take the modern day equivalent of a simple spelling and arithmetic test. That is what we are talking about. We believe it is in their interests and, no, I will not advocating that parents withdraw—

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: No, if the Leader of the Opposition wants to do that she can do that, but I can assure members that I am encouraging parents to have their children take the test because it is in their best interests.

The Hon. R.R. ROBERTS: I have a supplementary question. Will the Minister for Education and Children's Services exercise his responsibility and direct that all parents with children of proposed testing age be circulated with a letter explaining their right of choice and what procedure they will need to undertake if they choose not to have their child tested?

The Hon. R.I. LUCAS: I have already answered that.

HOSPITAL FUNDING

The Hon. G. WEATHERILL: I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for Health, a question about hospital cuts.

Leave granted.

The Hon. G. WEATHERILL: Several complaints have been made to me about reductions in funding for hospitals and ward closures at Glenside and Hillcrest. Patients from these hospitals have been placed in houses around the State. These people are experiencing trouble in obtaining worthwhile employment. Unfortunately, people are complaining about these people wandering around the different areas in which they have been housed. What support staff or funds have been allocated to these people to enable them to look after their needs?

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

EXPORTING

The Hon. T. CROTHERS: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services, representing the Minister for Industry, Manufacturing, Small Business and Regional Development, a question about South Australia's export image in Asia.

Leave granted.

The Hon. T. CROTHERS: Recently, the Federal Trade Minister, Senator Bob McMullan, announced Federal Government funding of some $10 million for the purpose of addressing some Asian misconceptions of Australia as a beach, farm and mine, which misconceptions of Australia were, in the mind of the good Senator, preventing Australia from realising its foreign export potential to Asian markets for Australia manufactured sophisticated exports. In his ministerial statement when he launched this welcomed Federal Government initiative, the Federal Minister said in part:

> Australia had neglected to tell Asia about its transformation as an advanced manufacturer and service provider.

Welcome as this initiative of Senator McMullan is, there are those in the community who believe that it does not go far enough. For instance, some believe that the lack of Australian business understanding of how our Asian neighbours conduct their business affairs is one of our greatest failings, and I for one must confess that I have come across this very issue when sitting in another committee of this Parliament. In light

of the foregoing, I now direct the following questions to the Minister:

1. Does the Minister agree that Asia and our near neighbours are Australia's biggest export markets?

2. Does the Minister believe that the future potential for increased Australian exports into this market is enormous?

3. Will the Minister ensure that the Federal Government initiative is assisted where possible by his department?

4. Does the Minister agree that there is a need for Australian business representatives to have a greater understanding of how business is conducted by people who have an Asian culture and background?

5. Finally, if the Minister agrees with question No. 4, what are he and his department prepared to do to facilitate our South Australian business community, particularly those in the field of exports, enhancing their knowledge of Asian business, thus maximising their capacity to do worthwhile business with our near neighbours and probably future No. 1 market?

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

CADELL CFS

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Minister for Education and Children's Services, representing the Minister for Emergency Services, a question about the Cadell CFS fire truck.

Leave granted.

The Hon. SANDRA KANCK: Last night I attended a public meeting at the Cadell Institute in relation to the proposed closure of the Cadell Training Centre. In the course of the meeting and in informal conversation afterwards, I collected some information about the running of the CFS and the impact that the closure of the Cadell Training Centre could have on the CFS in that area. The bulk of the CFS unit is run by either officers of the CTC or prisoners. It has been a very effective unit; it has travelled as close to the metropolitan area as Para Wirra and fought bushfires there, and it has travelled to the north of the State and fought bushfires there. I stress that in that time no-one absconded. It is a very important operation for the prisoners; it provides an opportunity for them to give something back to the community. Many of these people have not, for assorted reasons, been able to do that in the past.

It is quite ironic, then, that the edition of the *River News* that had as its front page story a report that the Department for Correctional Services was recommending the closure of the CTC should on page 4 or 5 print an announcement from the Minister for Emergency Services that the local CFS was to get a new fire truck. The irony of all this is that, if the Cadell Training Centre closes down, the Cadell CFS will no longer be viable and there will be no need for that fire truck.

The report recommending the closure of the training centre states that prisoners will be able to be transferred to Mobilong. However, Murray Bridge already has an MFS, a CFS and an SES unit, so there is likely to be no place for prisoners at Mobilong to be volunteers within that area. My questions to the Minister are:

1. When the Minister for Emergency Services is providing a new fire truck to the area and the Minister for Correctional Services is producing a report which recommends the closure of the Cadell Training Centre and therefore severely depleting the human resources required to operate the fire truck, is this a case of the left hand not knowing what the right hand is doing?

2. If the report recommending the closure of the Cadell Training Centre is implemented, what will be done with the new Cadell CFS fire truck?

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

APPROPRIATION BILL

Adjourned debate on second reading.

(Continued from 18 July. Page 2305.)

The Hon. T.G. ROBERTS: I rise to make a contribution to the debate and to refer to my two shadow portfolios of correctional services and environment and natural resources. The areas for which I take responsibility as shadow Minister in this Chamber have not been knocked about as much as have some other budget estimates governing other portfolio areas, but there have been some adjustments in relation to how the appropriations are applied within those departments. There appears to be an increase in the appropriations for the Department of Environment and Natural Resources, and that is to be welcomed. As I understand the way in which the Cabinet pecking order revolves, in making applications of policy to his portfolio, the Hon. Mr Wotton comes off second best in many cases, particularly when he is arguing with the Minister for Mines and Energy, the Minister for Housing, Urban Development and Local Government Relations and, in some cases, the Premier and Deputy Premier—the finance arm of Government. But, in relation to his ability to influence the overall capital expenditure, I think he has been reasonably successful in establishing his departmental quota for appropriations.

There are some cuts to other areas, however, in which I suspect the Minister himself would be disappointed. I do not think they can be left unnoticed. Where I apply some criticism, I have to throw some bouquets. In relation to the administration of national parks, the salaries and numbers of national parks officers have been cut. There has been some reference to outsourcing of certain work, which is itself a cost. It will have to be picked up in the overall budget, but it may not be apportioned to the Environment and Natural Resources budget.

National parks are and have always been a live issue, particularly since the Dunstan period, when South Australia increased the areas for which the National Parks and Wildlife Service assumed responsibility. While we were in government the major criticism was that we were able to make the allocations for the land to be set aside but were not able to provide the funding for the infrastructure requirements to protect those areas that had been set aside and, in particular, we were not able to provide enough personnel to administer those areas of land that had been set aside, particularly in pastoral areas, where in some cases there was competition from pastoral interests for the lands that were turned over to national parks.

Once the initial shock in some cases and pleasure in other cases wore off, and people in South Australia found that they had to administer the appropriated lands, most people then adopted a more practical and realistic attitude to the needs of

those national parks and dedicated conservation parks. In a lot of cases friends of parks were set up to help the Government administer them in conjunction with National Parks and Wildlife officers in a way that allowed for access to be available to the South Australian public and to protect the flora and fauna included in those parks.

It is still a running administrative issue as to how to integrate voluntary labour to support paid specialists, that is, National Parks and Wildlife officers, and it is disappointing to see the professional officers cut in the restructuring that will occur in the budget. The area from which I come in the South-East has had one National Parks and Wildlife officer removed and people in the area are concerned that that position will be removed permanently, yet other people live in hope that that officer will return after serving a short period in another area to cover for either illness, long service or absenteeism.

The role that that National Parks and Wildlife officer played in the South-East involved not only helping put together the friends of the park and getting the national park in that area able to accept local visitors, users and integrate the social, recreational and professional use of those parks, but the officer was also a PR agent for the national parks so that they were able to advertise the programs that could be run through the National Parks and Wildlife Service. A lot of respect was built up in the community for that officer and there was a lot of cooperation at a level to make sure that the National Parks and Wildlife Service was able to administer the programs required, that is, to protect the interests of all competitive users within those parks.

As to the other role that that officer played, a lot of national parks border the coast. The Canunda National Park runs north-south; it is a long narrow national park that takes in many coastal areas and National Parks and Wildlife officers in those areas were able to identify the difficult areas and manage and protect them. They also played a role in protecting the fisheries and other areas and they provided education to people about their responsibilities in those areas. We saw a building up and an increasing number of visits by whales along the coast. Whales started to drop into areas like South End and off the coast of Beachport and Port MacDonnell and the National Parks and Wildlife officers were able to explain to people that they had to stay out of close proximity of the whales. People got excited when they first saw whales returning after a long period of absence and started to enjoy, they thought, the presence of whales by moving their boats and dinghies close to the whales to such a point that they scared them off.

Officers were able to intervene and explain that people should not harass the whales in those ways. They explained that, if they wanted the whales to return or remain, they should curb their behaviour. That was done with cooperation and there were no prosecutions. That was one way in which the national parks officer and others were able to cooperate in managing a circumstance, but that wildlife officer will no longer be available to carry out that task. Certainly, I place on record the concerns of people in the local region about the circumstances of that officer. I would like the Minister to give me an answer about how the department is to cover the loss of that officer if he is to be removed permanently.

The other budget appropriations that the Minister announced concerning the setting up of the total catchment management boards are to be commended but, from my understanding of the legislation and its administration, I can predict that there will be a number of problems associated with the total management of those boards if the Government does not pay close attention to the needs and requirements that the community sees in relation to priorities that need to be set for total catchment management plans in the metropolitan area. I attended a Local Government Association meeting in the South-East and concern was expressed there about its role in relation to management protection rather than catchment management of problems emerging through increasing salinity that has been occurring in the Upper South-East but is now starting to occur in the grazing, agricultural and horticultural areas of that part of the State.

There was discussion—I will not say argument—amongst those councils ranging from the Tatiara down to the Lower South-East about their role and responsibility. In those discussions local government representatives were only too willing to put together packages to protect the environment and, in the case of salinity, rehabilitate the environment. A great deal of importance is placed on the setting up of the catchment management boards by the community and I hope that is matched by a commitment from the Government to integrate the strategies for carrying out some of the rehabilitation programs that will be necessary to bring the environment back to near where it was some 50 years ago before all the clearance programs were put in place that caused many of the problems.

As to the metropolitan area, the integrated management of the catchment boards and the approach that some councils are taking is also to be commended. Happy Valley council has called for expressions of interest from community groups and organisations for a seminar which, unfortunately, I will be unable to attend, to put before council views on remedial programs that need to be put in place to manage stormwater catchment, flood management programs, concerns about the deteriorating quantity and quality of the underground water supply, the problems associated with sewage treatment and reclamation and other problems associated with stormwater run-off and urbanised living. They have done a good job, first, in encouraging community participation. I know it is the council's intention to listen to the community and any of the special interest groups that operate within the council's boundary as to what their needs and requirements are. The council will then evaluate the contributions made at a local level. Its officers will look at the programs recommended, do an analysis and get specialist support and advice from consultants on how to manage those programs and where to spend their money.

The preliminary costing of some of those is around $6 million or $7 million, and that is where some of the problems will start to flow from these total management programs, if the Patawalonga program is any indication. That is a case where the assessments were not done at the right time and there is now community angst and community separation or division—

The Hon. M.J. Elliott interjecting:

The Hon. T.G. ROBERTS: Yes, there are a lot of people concerned. The Government does not seem to be too concerned about it. I am not sure whether that is too heavy a criticism of it, but it does not seem to be moving towards a position of re-establishing contact with the networks down there to start up a remedial program that would do a far better job than the one that has already been announced. So, even though the legislation has just been introduced, there are some good examples of cooperation and of defending any further deterioration of the environment in many local government areas. As I said, there is some criticism about the

remedial action that has been taken in isolation from any suggestions by local groups and communities. There are good cases for the Government to examine and consider, and there are certainly some other cases where it needs to be warned about how to proceed, because of the expense of taking the wrong option in water catchment management programs, whether in relation to setting up of wetlands or putting in place engineering solutions to programs.

The relevant Ministers and the departments need to integrate their ideas and actions to make sure that the applications of the remedial actions are the right ones. Most communities will make recommendations for natural solutions to difficult problems rather than having complicated engineering solutions. Again, we have to look at the way in which Aboriginal people look at land as a total environment rather than just in sections, and to make sure that the engineering solutions we put together do not impact on people further upstream, downstream or associated with the living environment where the solutions that are recommended to be put in place occur.

The other area for which I have some responsibility is that of correctional services. One controversial area within correctional services associated with appropriation is the privatisation of the prison management in Mount Gambier, and many words have been spoken about that so I will not take too much time on that, although some questions need to be answered in relation to protocols for the operation of the private management of prisons. I put the following questions on notice to the Minister. People in law firms, particularly, and those who have an interest in representing prisoners and who have a special interest in prisoners' rights have asked:

1. That the existing rights and privileges of the prisoners will not be diminished under a private sector management program;

2. That legal practitioners will have reasonable access to prisoners on remand; and

3. That there will be an independent review of prisons with respect to the protection and rehabilitation of prisoners in their custody.

I leave those questions open for the Minister for reply. In the Government's restructuring program for the administration of the budget for the 1994-95 financial year there appears to be one major problem; that is, that the report that has just been handed down, in relation to the administration of existing prisons and the possibility of restructuring the permutations that the department has to administer prisons, appears to be leaning towards the closure of a prison. It appeared to me from the information that I was being given at a particular time that it was the Port Lincoln prison that was going to close or to have its activities altered or downgraded in some way.

Many people in the Port Lincoln area were concerned about that and put together a public campaign, led by their local member and other interested parties, and they were able to get the Government to make a further commitment to the Port Lincoln prison. The Government then had to look at where it could make its saving if it was not going to close Port Lincoln, and it appears that the interventionist, academic, financial advisers are now starting to point their pens towards Cadell. With economic rationalism being the flavour of this part of the decade, at least, the considerations for rehabilitation do not seem to be taking any precedence at all in the total management of the prison system in this State; that is, if the Government does move to close Cadell.

Cadell serves a unique purpose: it is not like any other prison in the State. It has a good record, having been in existence now for 35 years. It is a low to medium security prison and, in most cases, the prisoners who go there have no real reason to escape, because they are at the end of their prison sentence and, in most cases, are trusted to move towards rejoining the community and restarting a normal life. It is a good prison for human contact: the prison officers in the Cadell area are very humane. They are country people who have a good relationship with the prisoners, and the community accepts the prisoners in a healthy way that allows for that integration to take place. They have sporting contacts, educational contacts and programs for rehabilitating the environment, so the contacts with the community come through cooperative plans for rehabilitation.

They are involved in Greening Australia, planting trees, and have a very good agricultural-horticultural program running on the farm. Three other members of the Government have the same concerns as I have. The Hon. Mr Gunn, the member for the area (Kent Andrew) and Ivan Venning attended a meeting with me and Sandra Kanck last evening, when the local people filled the hall to overflowing. Over 400 people attended the meeting and expressed their concerns that Cadell was going to be closed and the impact that would have on the community. So, I would make an impassioned plea to the Minister and to the Leader of the Government that, if they are going to move to get further cuts to the correctional services budget, they not look at Cadell for those cuts, because it does not make any sense to close a working prison that has as good a track record as Cadell has, and when the purpose for which it is built is expanding.

The new role of drug free prison areas is starting to work, and there is much cooperation in the community to make sure that the rehabilitation programs within Cadell are not only the prison officers' responsibilities but also those of the community. They accept that, and it would be a shame if the Government moved towards shutting down such a unique service. The other alternatives that could be examined by the Government may be to examine more options for home detention and for work related programs associated with rehabilitation.

I must congratulate the Minister and the department for moving more in that line, particularly in the Port Augusta region and in the metropolitan area, towards those sorts of work rehabilitation programs. I again make that plea not to close Cadell, because it makes no logical sense to close an institution getting the results it is. If it were closed it would have a huge impact on the regional economy of that area. For those people in this Council and for those people who represent country areas, regional development is a major issue. In relation to family breakdowns and the breakdown of family networks, once you remove the opportunities for work in country areas young people drift into the city, crime and homelessness. The best support is not to provide programs within the metropolitan area for young people who have fallen on hard times but to maintain those employment opportunities in the region in which they were educated and in which they grew up. I hope those lessons are carried to the Minister to make sure that Cadell is not a victim of the restructuring of the administration for the appropriation of the 1994-95 budget.

I will not comment on the total budget program too much because of time constraints. I have made contributions in this Council at other times forewarning that South Australia's economy cannot afford to have total emasculation of the

public sector, which appears to be occurring at this time, because the private sector is not picking up the gaps starting to occur in the State's economy. The theory of some economic rationalists is that if the public sector gets out of the private sector's way the private sector will advance and pick up the role that the public sector played. That is not the case in this State. We have now had three periods of no growth and will probably have a drain from this State of our best educated minds looking for career opportunities in New South Wales, Queensland and, dare I say, Victoria. Again, I make a plea to the Government (I know this one will fall on deaf ears but I hope the Cadell plea does not) to put its dismantling process on hold. The Government should have a moratorium to see whether the economy grows before it embarks on its dismantling process. With those few words I support the Bill.

The Hon. J.F. STEFANI secured the adjournment of the debate.

PETROLEUM (SAFETY NET) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 19 July. Page 2361.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): The Opposition supports the Bill. I was responsible for taking the native title legislation through this place on behalf of the Opposition, and I recall some debate about the safety net provision added to the Mining Act. I am familiar with the operative wording of the Bill now before us. The object of the Bill is to simply provide the same level of protection for petroleum production licence applicants as they would have if they were mining for minerals pursuant to the Mining Act. The fact is that there will necessarily be continuing uncertainty about various aspects of the State and Commonwealth native title legislation until questions of interpretation are resolved in court. As members would recall, South Australian pastoral leases had distinctive reservation clauses in respect of certain traditional Aboriginal activities. Consequently, perhaps the most significant legal question in relation to native title in South Australia is whether or not these pastoral leases have extinguished native title.

It is against this background that miners and petroleum producers held concerns about the consequences of a lease or a licence being found invalid by the High Court. The Opposition appreciated this concern and took it into account responsibly. That is why in the course of negotiations we supported the Government's inserting a safety net clause into the Mining Act earlier this year, and we are happy to support this amendment in respect of the Petroleum Act. The Opposition never objected to licence holders retaining priority in the event of the licence being held invalid—it is only fair. The Opposition is satisfied that this amendment will not operate to the detriment of native titleholders. We support the second reading.

The Hon. SANDRA KANCK: This amendment to the Petroleum Act is in identical terms to the wording of the Mining (Native Title) Bill which passed after a deadlock conference earlier this year. While this Bill and the Minister's second reading explanation say nothing about native title, I suspect that that is what it is really about. When that wording appeared in the Government's amendments for that Bill, the Opposition and the Democrats both voted against it. I want to quote from comments made by the Hon. Carolyn Pickles during the Committee stage of debate on 9 March. As she said it so well then I want to quote her verbatim. She said:

> We oppose the so-called 'safety net' provision. We believe it is a nonsense because it tries to validate that which requires validation only if the High Court rules that validity cannot be given to a certain class of agreement. The mining lobby is after security but it will not get it with this provision. The superficial security offered is illusory.

Unfortunately, during the deadlock conference on the Mining (Native Title) Bill, the Opposition backed down on this position; so that wording has now crept into the Mining Act and is now being duplicated in the Petroleum Act. I did not hear all of the Hon. Ms. Pickles's contribution as I was on my way to the Chamber, but I understand from reading the *Hansard* of another place that the Opposition supports the Bill. Just as I believed earlier this year that such wording was unnecessary in the Mining Act, I also believe it is unnecessary for the Petroleum Act. Therefore, I indicate that the Democrats will oppose the second reading although I will not call for a division.

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

PARLIAMENTARY SUPERANNUATION (NEW SCHEME) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 19 July. Page 2360.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): The Opposition supports the second reading of this Bill, as indicated by the shadow Treasurer in another place. The overall effect of this Bill will be to reduce the cost of providing superannuation to ex-parliamentarians. The Deputy Premier has estimated a 20 per cent reduction in payouts as a result of this Bill. It will not apply to existing members, but it will apply to all future members coming into Parliament. It is to be hoped that the public will realise the unfairness of benefit-reducing changes to any super scheme being retrospective. I am pleased to see that the Government has made provision in this Bill for *de facto* relationships or putative spouses, as covered by the definition in the Act. I think it is timely that we should have this in the Parliamentary Superannuation Act. I have only one question for the Minister: does he have any indication of when the Bill might be proclaimed?

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I thank the Leader of the Opposition and other members for their support of this legislation. The honourable member makes an important point, consistent with the attitude that the Parliament adopted in relation to Public Service superannuation, that existing members of schemes should continue with their entitlements and that any changes should affect only new members to various schemes. In response to the honourable member's question, I undertake on behalf of the Government to get an expeditious response and bring it back rather than delay the Committee stage. If I can get a response today, I will reply to the honourable member verbally. If not, I will correspond with her during the recess.

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

COLLECTIONS FOR CHARITABLE PURPOSES (LICENSING AND MISCELLANEOUS) AMENDMENT BILL

In Committee.

Clause 1—'Short title.'

The Hon. R.I. LUCAS: On behalf of my colleague, the Attorney-General, who is unable to be present at the moment, I can indicate that he has considered and has a response to the question raised by the Leader of the Opposition in her second reading contribution last week. I have had a discussion with the Leader of the Opposition and I understand she is prepared to accept that, through the Attorney-General, we will provide that answer to her without unnecessarily delaying the Committee stage.

Clause passed.

Remaining clauses (2 to 14) and title passed.

Bill read a third time and passed.

APPROPRIATION BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 2415.)

The Hon. ANNE LEVY: I wish to make a few comments regarding the budget for the arts. A great deal has been said about the allocation for the arts as detailed in the budget papers, but anyone who examines it closely will see that a great deal of it is being done with smoke and mirrors. The so-called increase to the arts is in fact resulting in numerous cuts to many areas of the arts. The budget papers indicate, on the face of it, that the budget allocation is increasing from $64.87 million to $68.837 million, apparently an increase of just under $4 million. However, I repeat: this is a smoke and mirrors situation and the actual situation is certainly not the rosy one indicated.

The allocation from Treasury is rising only from $49.954 million to $51.166 million, an actual increase of only $1.212 million. Receipts from other areas are not expected to increase, or only by a trivial amount of a few thousand dollars. The budget figures are inflated by including money from the EDA which is being allocated to the Film Corporation. Certainly, no-one has any objection to this, but it is money from the EDA that is going to the Film Corporation. I see no reason why it should be included in the arts budget at all. It has come from the EDA to the Arts Department to be passed on directly to the Film Corporation. All this does is inflate the arts budget. It is certainly not an allocation from Treasury for arts.

We all know that an extra $1 million has been allocated for the Festival of Arts, and it is obvious that there is also an extra $500 000 or so for the Art Gallery of South Australia in the recurrent receipts. Certainly no-one argues with either the increase for the festival or for the Art Gallery. The Art Gallery certainly requires it as, with the new extensions, the area of the Art Gallery will virtually double and more resources will be required for the extra staff, and other resources will be required to make use of that extra space. It involves only $500 000.

I hope this will prove adequate for the Art Gallery and that a penny pinching attitude to resources to adequately run the enlarged Art Gallery will not lead to eminent and extremely valuable staff at the Art Gallery being so fed up with the lack of resources for doing their job that they look for jobs elsewhere. It would be very much South Australia's loss if they left the State.

A very noticeable item in the arts budget is the $1 million cut to the Festival Centre Trust. This is made up of a $250 000 cut in its recurrent grant, and a $750 000 cut in its capital budget, which it uses for maintenance and upgrading. I remind members that a few years ago a study was done of the maintenance requirements for the Festival Centre, and at that time it was indicated that $10 million was needed to maintain and upgrade the Festival Centre. The then Opposition criticised the then Government roundly for allocating only $1 million in the first year for the required upgrade, complaining that at that rate it would take 10 years to do the necessary upgrading. We now find this Government cutting cut the funds for the maintenance and upgrading of the Festival Centre to about $500 000 only, at which rate, if such a rate continued, it would take 20 years to complete. With this representing a cut of $750 000, one wonders how on earth the Festival Centre can undertake the necessary upgradings on such a meagre budget. I would certainly be interested to ask the Minister what maintenance and upgrading is expected to be undertaken this year with the measly $500 000 which has been allocated for this, and I hope the Minister will be able to supply that information.

I have a number of queries which I would like to ask of the Minister. I realise that it may not be possible for answers to be supplied by the time this Bill needs to be passed in two days' time, but if the Minister is not able to provide the answers in the next two days I ask for an assurance that answers will be provided before the next session of Parliament starts and that I can receive that information by letter. I hope that in the reply to this debate the Minister will undertake to provide that information.

We have already had discussion on the debacle regarding the grants for community radio, where initially the Minister proposed to cut community radio entirely from the arts budget, thus saving $132 000. After community radio and many other quarters complained bitterly about this, the Minister restored $100 000 for community radio. But we note that a grant of $100 000 is in fact a 25 per cent cut on what they have had previously, and they have been put on notice that it probably will not be continued next year and that the entire amount will then vanish. Whilst this does give community radio a breathing space, it does seem to be a very harsh and unreasonable cut which has occurred this year and which will be extended next year.

We know that the allocation for the History Trust has been cut by $250 000 and that it has had to close the Old Parliament House Museum. It is all very well for the Minister to say that the board of the History Trust has accepted this, as it could hardly do otherwise when that amount of money has been slashed from its budget. It is not something that it would choose to do had it not received such a vicious cut in its budget.

While it is welcome news that the State History Centre will be relocating to Edmund Wright House and that the History Trust directorate will relocate there from the Institute Building, many questions are still unanswered resulting from the closing of Old Parliament House Museum.

The Minister has spoken about the possible location for 'speakers' corner', but we do not know whether it will still reside in Parliament House, whether it will move to Edmund Wright House, or whether it will move, as the Minister first indicated, farther along North Terrace—site undefined. We still do not know where the Duryea Panorama will be located.

It may well be relocated to Edmund Wright House, but no information has been given as to whether that is where it will be sited.

We do not know where the other displays from Old Parliament House will be going. The staff there are currently packing these displays into boxes, ready to move out of the building by the end of this week, but where their final home will be still has not been announced and, while it may be known to the Minister, it is certainly not known to anyone else. It is yet a further indication of how this Minister makes decisions without thinking of the consequences thereof. It is now 2½ months since it was announced that Old Parliament House Museum would close. It has now closed, but we still do not know where these various items are to be located, whether they will be available to the public of South Australia and on what basis they will be available. I certainly hope that the Minister can inform the Council where 'speakers' corner' will be located, where the Duryea Panorama is to go, and where the other displays from Old Parliament House are to be relocated.

Likewise, we do not know about public access to Old Parliament House. When it was open as a museum it was available to the public 363 days of the year—in other words, every day of the year except Good Friday and Christmas Day. The Minister has made a great deal of the fact that the historic areas of Old Parliament House will still be available to the public. I am not quite sure what the Minister defines as the 'historic areas'; I thought the whole building was historic.

Quite obviously, if offices are located in the building the public will not be able to have access to large parts of the building. At this stage we still do not know to which areas the public will have access and, very importantly, under what conditions they will have access and when they will have access. Will it be only when Parliament is sitting? Will it be Mondays to Fridays only? Will weekends and public holidays be included, as they were when the building was used as a museum? In other words, will it be open 363 days of the year or some lesser number and, if some lesser number, on what number of days will the public have access?

Further cuts have occurred in the arts budget. Tandanya has suffered a cut of $100 000, $40 000 of which is detailed in the budget papers. Another $60 000 has been cut from Foundation South Australia, meaning that Tandanya will be trying to survive on $100 000 less in the current financial year than it had in the previous financial year. This seems to me to be incredibly short-sighted. Tandanya certainly had a number of problems several years back. It has worked extremely hard to repay the loans which were made to it at that time. It is now finally clear of debt. It has obtained the services of an extremely capable and talented Director, and it is all set to surge forward with new programs, a new outlook and a new vision just as it suffers a cut of $100 000.

It is grossly unfair to expect Tandanya to achieve what we all hope it will achieve and what we know it can achieve, given sufficient resources. But its resources are cut by $100 000, and this will make it extremely difficult for it to even stand still let alone advance, as everyone would wish it to do.

I hope that the Minister will supply an answer to my query concerning the Arts Facilities Capital Grants Fund. For many years this fund has stood at $250 000 per annum. It has now been cut to $150 000 a year; in other words, it has taken a 40 per cent cut. There are very strong rumours that this $150 000 will no longer be distributed by a committee which examines applications from all over the State and which makes decisions as to where the needs are greatest.

The rumour is that the committee has vanished; that the very much reduced sum will be arbitrarily divided in two, with $75 000 being allocated to the metropolitan area and $75 000 to the non-metropolitan area, regardless of need or the relative demands in these two divisions of the State; that the $75 000 for non-metropolitan areas will be given to the Country Arts Trust to administer for it to make decisions on the allocations of the money without, I may say, any extra resources being given to the trust to enable it to undertake this difficult job; that $75 000 will be allocated for arts facilities' capital grants in the metropolitan area; and that the administration and allocation of this money will be entirely determined within the department by public servants, with no input from outside individuals with their specialised knowledge in terms of architecture, technical knowledge of theatre, requirements of and necessities in particular local government areas, all of which were catered for by the previous Arts Facilities Capital Grants Committee. One might well ask: why has the split been done on a 50/50 basis, which may in no way correspond to need? It is certainly not based on population, which is 75 per cent in the metropolitan area. It seems that no rationale has been given.

The specialist committee, which has so successfully judged needs for arts communities right around the State for so many years, is being abolished. I would hope that the Minister can inform us why the 40 per cent cut has been made in this fund, why it has been decided to divide it 50/50 between metropolitan and regional areas and why the specialist advice which has been so willingly provided by the specialist committee is now being abandoned.

A cut of particular concern is that found in the line in the budget papers labelled 'Grants to the arts'. This covers a very large number of areas and, even in the budget papers, it indicates a cut from $7.382 million to $7.335 million—a fairly minor cut of $47 000. One might think that with this small cut these general grants to the arts will not suffer very much in this year. But we do know and it has been announced that the Adelaide Symphony Orchestra is to receive $200 000 more this year than it did last year and that likewise the Fringe will receive about $200 000 extra for its move to the East End. Those two items come from the 'Grants to the arts' line so, in effect, a total of not $47 000 but $447 000 is being removed from all the other organisations funded through that line.

We know that Community Radio has had a cut of $32 000. We know that the UTLC arts grant of $28 000 has been cut, but those two account for only $60 000 of the $447 000. One might well ask where the other cuts are to be applied to make the necessary savings of $387 000, which will have to be found from all the other organisations funded by that line. Many of these organisations are funded on a calendar year basis, not a financial year basis. A very large number of arts organisations, even some of those on a financial year basis, have not yet been informed what their grants will be. The budget was brought in on 1 June, nearly two months ago, and many organisations have still not been informed of what cuts they will have to sustain. Obviously, there will be cuts to many of these organisations if the budget is to be anywhere near balanced.

I mentioned the Minister's cuts to the UTLC arts fund, which cut is very distressing. For many years the UTLC has run an extremely valuable community arts program for its members. It has received a small grant of $28 000 from the

Government to put towards the salary and expenses of its arts officer. Because the UTLC has had this arts officer, it has stimulated at least $150 000 contributions from its member organisations towards its arts program. Without the $28 000 from the Government it may well be that this other $150 000 will not be forthcoming either and that this entire UTLC arts program will fold. This program has been worth at least $175 000 per year and would be an enormous loss to community arts in this State. I understand that the UTLC has had correspondence with the Minister on this matter but that the Minister has said that she will not reconsider her decision, even though the UTLC has been able to show that its funding cannot be regarded as unique arts funding.

Five other community arts organisations have received in the past and are continuing to receive general purpose funding from the Government. I can name these as the Multicultural Arts Workers Committee, the Community Arts Network, the Arts in Action, the Adelaide Community Music Group and the Port Community Arts Centre. These are all community arts organisations which have received general purpose funding, as opposed to project funding, from the Government for many years. So, it cannot be said that the UTLC arts officer funding, regarded as general purpose funding, was unique and in consequence was to be abolished as an anomaly. Those other five organisations will still be funded through the arts budget. It is a retrograde step to pick out the union movement and cut its arts budget when there is no doubt that its total contribution to community arts in this State has been extremely valuable, with many completed projects bearing witness to the worth of its activities.

I also note that, in view of the many cuts that are occurring in many areas of the arts, the support services section of the department is taking proportionately a very small cut, from $2.592 million to $2.39 million. I mention this in passing, because when the current Minister was in Opposition she complained loud and long about the money going to the support services and how it should be cut. We see that now she is Minister only a very small cut is being applied to that area—a smaller cut than is being applied in many other areas of the arts.

If one looks at the papers one can see that funding for the South Australian Country Arts Trust has gone up by $100 000, but I understand that this extra $100 000 is to cover the maintenance costs of the four theatres for which it is responsible in Whyalla, Port Pirie, Renmark and Mount Gambier. Previously, maintenance money for these theatres came from another line of the budget so that it is not an increase for the Country Arts Trust at all. In fact, it will be a considerable decrease if maintenance is to be properly undertaken. I understand that the Middleback Theatre currently needs $150 000 in immediate maintenance to plug the leaks in the roof because at the moment whenever it rains staff have to run round with buckets to collect the water as it comes through the various places in the foyer and auditorium. The cost for fixing this is estimated to be $150 000, yet only $100 000 is being allocated for maintenance of the four theatres and doubtless the other three—

The Hon. Caroline Schaefer: Why didn't you fix it when you were Minister?

The Hon. ANNE LEVY: We did. It has developed since then.

The Hon. Caroline Schaefer: It started to leak again?

The Hon. ANNE LEVY: Yes, the roof has started leaking again.

The Hon. J.F. Stefani: Since we came to government?

The Hon. ANNE LEVY: That is right. They have had problems with a leaking roof in the Middleback Theatre ever since it was built. When we were in Government a considerable sum was supplied to fix those leaks but more have developed since then to the extent of $150 000. When only $100 000 is allocated for all four theatres, one wonders what dire maintenance needs throughout regional South Australia will not be met in the next 12 months. It is obvious that this Government is placing little emphasis on maintenance and upgrading. We have the totally inadequate maintenance allocation for the four major regional theatres, an enormous cut to the arts facilities capital grant fund which, again, has been used for necessary and desirable maintenance throughout South Australia for many years and, as I previously indicated, a huge cut of more than 50 per cent for maintenance and upgrading of the Festival Centre. It is obvious that this Government is prepared to let the fabric of our arts facilities decline and degrade. The Government cares not that they will become quite unusable and substandard in many respects. To not allocate adequate resources for maintenance is surely totally irresponsible.

I now wish to raise one other matter in my contribution to the debate which relates not to the arts budget but to the same Minister in her capacity as Minister for the Status of Women and this relates to the final accounting for the suffrage centenary. The previous Government made very generous allocations for the suffrage centenary, grants which ran from July 1993 to the end of June 1994 but, of course, the suffrage centenary year continued for six months after that. The Minister was asked what was the contribution made from 1 July 1994 to the end of the suffrage year 31 December 1994. On 22 November last year she finally produced data and told me that, apart from the specific allocation in the budget last year, a total of $400 307 was being contributed by various Government agencies and departments to the suffrage centenary celebrations. This was on top of the amounts allocated in the budget. I then asked what were the details of that $400 307 and on 3 May this year I was supplied with some details of contributions made by various Government departments and agencies which totalled $204 717. Obviously, a considerable sum is unaccounted for. In other words, $195 590 has not been accounted for. Some of the figures obviously have been rounded, but to supply the figure of $400 307 last November, there must have been not just ballpark figures but accurate figures obtained to be able to provide me with such a detailed answer in terms of the total sum.

However, the details amount to $204 717. In view of the fact that obviously detailed figures have been done, can the Minister supply me the details of the other $195 590? By which departments or agencies was this money provided and on what was it spent? It is not sufficient to just say that some of these additional activities were undertaken as enthusiasm for the centenary celebrations developed. We all recognised the enormous enthusiasm which did develop for the centenary celebrations, but someone has done the hard calculations to arrive at such accurate figures and I ask the Minister to supply me with the information preferably before the budget passes but, if that is not feasible, then before the next session of Parliament begins on how the other $195 590 was spent, by whom and on what.

Many people have commented on the budget as a whole and the disastrous effects that this budget will have on services for South Australia. I certainly do not wish to go into the effects it will have on our hospitals, on our education

system, on our transport system, on our law and order institutions and many other areas, but I have detailed that it has been a smoke and mirrors job where the arts has been concerned. There will be a very large number of important arts organisations that will suffer; arts activity in this State will certainly suffer. While some institutions have benefited (and I do not in any way quarrel with that whatsoever), others are on a standstill budget and many others again will suffer considerable cuts that will affect their cultural activity in this State—and this from a Government that pretends that South Australia is a cultural centre, that cultural activity here is important and that it should be fostered. It is one thing to mouth these statements and it is quite another when it comes to the arts budget, which is the way of turning platitudes into realty by means of cash. It is obvious that this Government is not living up to its rhetoric and is affecting the cultural life in this State most deleteriously.

The Hon. J.F. STEFANI secured the adjournment of the debate.

INDUSTRIAL AND EMPLOYEE RELATIONS (MISCELLANEOUS PROVISIONS) AMENDMENT BILL

Consideration in Committee of the recommendations of the conference.

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

That the recommendations of the conference be agreed to.

One of the difficult matters that I had to handle over the past few weeks was each day to move that the conference be permitted to continue meeting whilst the Council was sitting. The conference was established before Easter when it was my expectation that the issues would be resolved, but that was not to be. As has previously been reported by the Hon. Robert Lucas, there has been a satisfactory outcome to this matter. The resolutions of the conference have been circulated. There were at least four occasions on which the conference met on a formal basis, with some informal discussions between those meetings. Since the conference was established the Government has formally consulted with the Industrial Relations Advisory Council and the major union and employer organisations in South Australia on the issues that had to be resolved.

The primary issue considered by the deadlock conference has been the mechanisms for negotiating and approving provisional enterprise agreements on greenfields sites. Through these agreed amendments the Government has ensured that an employer commencing business operations on a greenfields site can choose to negotiate an enterprise agreement with either the Employee Ombudsman or a trade union or both. In this way the provisional enterprise agreement can be available to both unionised and non-unionised businesses. This initiative will send a clear signal to investors, employers and employees that South Australia's industrial relations system is being continuously upgraded to cater for new economic activity.

The conference also agreed that the employees to be employed at the greenfields site will have their industrial interests protected by requiring the agreements to be renegotiated within six months. Of course, as with all enterprise agreements, they have to be approved by the Enterprise Agreement Commissioner. The conference agreed that the United Trades and Labor Council is to be consulted by the Employee Ombudsman in relation to a non-union provisional agreement and that the United Trades and Labor Council could appear before the Enterprise Agreement Commissioner in the approval process of these agreements. That was a compromise that the Government finally agreed to on the basis that the enterprise agreement was for a period of only six months and that, when a business had been established, there would be negotiations between employer and employee in respect of the next stage of the enterprise agreement.

These provisions relating to union involvement in the provisional enterprise agreement process do not compromise the Government's freedom of association policy, because they really relate to a unique situation whereby no employees are at present at the workplace at the time that the agreement is entered into. The conference also agreed to simplify the procedural requirements placed upon employees, where they have chosen to authorise a union to act on their behalf in the enterprise bargaining process. In particular, the authorisation given by a union member to his or her union will remain in force until the employee resigns from the union or withdraws the authorisation. An authorisation given by an employee who is not a union member can relate only to a specific enterprise agreement negotiation and remains in force only for the life of the enterprise agreement, and it can be revoked at any time.

The conference agreed to the Council's amendment relating to freedom of association in cases where contracts prohibit union membership, but with some minor drafting changes. The conference also agreed to consequentially vary all statutory instruments referring to industrial agreements by now referring to enterprise agreements, with the exception of the Long Service Leave Act. Members will recall that during the debate I pointed out a number of instances where there were references in legislation to industrial agreements, which have in fact been superseded by enterprise agreements for all practical purposes.

The amendments which have now been agreed by the conference and which I am proposing that this Council should agree to, as well as the amendments already agreed to by both Houses during the earlier consideration of the Bill, will improve the State industrial relations system and ensure that it meets contemporary industrial relations practices as well as satisfying the important economic and social objectives that this Government has in relation to the development of this State. I commend the resolution of the conference to members.

The Hon. R.R. ROBERTS: The Opposition agrees that the proposition before the Committee fairly represents the protracted negotiations on this matter. It is interesting to note that this conference has taken the whole of this sitting period from the last time we had a fortnight's break. There has been a great deal of negotiation, and this proposal covers most of the areas that were of concern to the Opposition. The Opposition points out again on the record that it is still basically philosophically opposed to the Employee Ombudsman's making agreements and then being in a position to adjudge the merits of those agreements at a later date, once employees are employed and working conditions are established.

As pointed out by the Attorney, this is a compromise agreement over some time. We are encouraged that, when the Employee Ombudsman makes an agreement, he must notify the United Trades and Labour Council within at least 14 days; written notice of the intention to enter into these negotiations has to be given. Given that the United Trades and Labor

Council is part of this agreement and is entitled to intervention rights before the commission, we are prepared to support the proposition. We had some discussions and some concern about the freedom of association, a proposition put by the Hon. Mr Elliott. The resolution of the consideration of the Act when it was before Parliament and the deadlock conference have resolved the issue. The Opposition's preferred position is that anybody, despite their earnings, who is unfairly sacked or attacked through their association ought to be able to seek relief from the commission. The Opposition supports the proposal as recommended by deadlock conference.

The Hon. M.J. ELLIOTT: I support the motion. As already noted by previous speakers this is a compromise package. Certainly in relation to the role of the Employee Ombudsman, while there is still some concern that he is being asked to play the role that he is in relation to agreements on new sites, there is now recognition that he will consult with the UTLC before and during that process. It is recognised that in any event such an agreement stands for a period of only three months after which point the Employee Ombudsman cannot continue to play that role.

The other more significant matter is the question as to whether or not a contract or undertaking can prevent a person's being a member of an association. The Government has acknowledged that, if we have a concept of freedom of association under industrial relations which states that a person has a right not to join a union, then the legislation should give an absolute right of a person to join. No instrument, including the artificial contrivance of allowing a person to sign a personal contract under which they agree not to be a member of a union, can be used to take that right away.

The Legislative Council is being asked to amend its amendment slightly, but it is only for the purpose of clarification. It was not the intention of the Legislative Council's amendment to void a contract: the intention was to void the contract insofar as it related to the right of one to join or not join an association—that is really only a technical amendment. With the exception of the role of the Employee Ombudsman, the Council is generally happy with the resolution of the conference as a whole.

Motion carried.

RACING (TAB BOARD) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 20 July. Page 2396.)

The Hon. R.R. ROBERTS: The Opposition obviously opposes this Bill. Most of the discussion on this Bill took place in the Lower House. The Hon. Mr Elliott has indicated clearly that he is not prepared to support what is essentially a Bill of attainder against Bill Cousins, or the 'Get Bill' Bill as it has been dubbed in another place. I was interested to note in the Minister's second reading explanation that he said the current provisions of the Act are relatively narrow and cumbersome in relation to the ability of the Government to deal with a situation in which the Government has lost confidence in the Chairman. Those provisions were constructed by the House of Assembly and the Legislative Council. In our submission those provisions provide all the powers necessary for the removal of any board member, including the Chairman, if they act dishonestly, with any impropriety or if they lose their sanity. There are people who suggest that they would like the same sorts of provisions for dealing with a Minister who showed incompetence or a lack of focus on his portfolio. The Minister's second reading explanation went on to state:

> If it was a private sector company running a business its directors would be accountable to its shareholders and should be removed by the shareholders without cause.

That is misleading. We have a statutory authority with a direct procedure about who represents what on the board. The Government, not the Parliament, has responsibilities in these matters. The legislation is quite clear: in some instances to remove these people requires the concurrence of both Houses. The second reading explanation asks the rhetorical question, 'Why should the directors of a business run by a statutory authority be any different?' I have just explained that. The Minister asserts that the shareholders are the people of South Australia and that the Government is their representative. Again, that is not true and is covered by the preceding remarks I just made. In fact, the Government's role is an oversight role.

The second reading explanation also asserts that as such the Government should be able to act to remove a director if it holds the view, as it does in this case, that it is in the interests of the corporation and its indirect shareholders that the change be made. Clearly, there are prescriptions whereby in appropriate circumstances removal can take place. The second reading explanation also states:

> It is proposed to increase the membership of the TAB board from six to eight members to give the Government an opportunity to broaden the range of experience it can appoint to a board running a multi-million dollar business.

The Opposition will not fall for that proposition. Clearly, the second part of the Bill seeks to get the numbers. If the Government cannot get Bill Cousins it will get the numbers on the board and get rid of him. If it were a horse race it would be a situation where it tried to fix the race after the race were run. We need to look at how this Bill came into place. I assert from the outset that we are debating this Bill because the Minister has not handled his portfolio correctly. I assert that since John Oswald has been Minister he has been to the racing industry what Lee Harvey Oswald was to President Kennedy.

The Bill is one of the most offensive moves to come before Parliament in the time I have been in this Parliament. It is designed to target one man—Bill Cousins—whose only crime at this stage seems to have been to have a Minister who does not read the detailed briefing notes and agendas he is supplied with. Mr Cousins is the fall guy—the man being targeted for the shortcomings of his Minister. Mr Cousins was unlucky. He got a dud Minister in an arrogant Government, a Government too arrogant to accept the blame so that it had to find a scapegoat. One thing we know is that Mr Cousins has not been guilty of neglect of duty in his role as Chair of the TAB. He has not been guilty of dishonourable conduct; nor has he breached in any way the conditions of his appointment. How do we know that? Because we are debating this scandalous Bill today. The Racing Act currently provides for a member of the TAB to be removed if they have neglected their duty, breached their employment conditions or been guilty of dishonourable conduct.

The Premier has told the Lower House that Mr Cousins misled the Government. The racing Minister said that he was not told about the *TABForm* deal; he was not kept up to date; and that he was deliberately kept in the dark. If this Minister and Government believe what they have been saying about Mr Cousins in the Lower House under parliamentary

privilege, they should have sacked him under the existing provisions of the Act. He should have been sacked for neglect of duty: negligence in relation to keeping his Minister informed. But they have not done that. The reason is that it would not stand up in the courts. That is clearly the advice from the Government's legal advisers. Mr Cousins would have every chance of showing, in a court of law, the true situation.

The Minister has been kept informed about the *TABForm* deal throughout the process, and the court case would have shown that quite clearly. That is why the Government has brought this Bill before us. Of course, the other reason why the Government feared a court case is that it would have seen the Minister in the dock. The Premier knows what a man of straw he has in this racing Minister and how under cross examination his shortcomings would have been exposed. To save that embarrassment we have this Bill, a Bill which, for the sake of the exercise, we will call the 'kill Bill Cousins Bill'. The Government has smashed it through the Lower House with its numbers, but, fortunately, this arrogant exercise will be stopped, I assume, in the processes of the Legislative Council. I am thankful that the Hon. Mr Elliott has indicated that he will not support this injustice. However, that will not change the fact that the Minister has failed miserably in this matter.

Let us look at the record; let us look at his form. On 19 April last year he told the Lower House that he had asked the TAB board members to resign. He said that he was concerned about the financial performance of the TAB and that the cost of the board's operations had increased significantly in the past three and a half years—a 32 per cent rise—while profits had deteriorated. Here is a Minister so concerned about the financial performance of the TAB that he asked its board members to resign. He did not sack them, but he had asked them to resign.

One should have thought that after raising such concerns about the board and its financial performance the Minister would be vigilant in monitoring the board's activities. The Minister said that they were not performing well enough so he put them under extra scrutiny. Well, a competent Minister probably would have done so.

In mid-1994, a full year ago, the Hon. John Oswald travelled to Perth to look at the Western Australian TAB and its operations. He told Parliament last September he was concerned that the Western Australian TAB, with its strong financial performance, was getting away from us in South Australia. One of the big differences between the South Australian and Western Australian operations was that in Western Australia the TAB produced its own form guide. This is what the Minister advised the House. He saw what the Western Australian TAB was doing in terms of its performance and, in his own words, he asked the South Australian TAB to 'do the same'. That is a quote from his press release.

In July 1994 the Minister was supplied with a five-year business plan by the TAB. That plan is not available to the Opposition or to anybody else, as I understand it. That is a pity, because it may shed some light on the future operations of the TAB and give the Opposition and the Government some view as to where the TAB wants to be. That plan noted three options to deal with the problems of cost and producing the form guide. The first was to offer the contract to another newspaper. That was a bit of a problem in a one newspaper State, although obviously there was the opportunity to look interstate.

The second option was to share some of the costs of producing the guide in conjunction with the Western Australian TAB; or, thirdly, it could develop its own form guide. In July 1994, a whole year ago, this TAB, about which the Minister had expressed concern, was talking about developing its own form guide and was putting it in writing to the Minister.

By early this year the TAB management began exploring in detail alternative options to provide form guides to punters. Why not? They knew, as the Minister knew, that the contract with the *Advertiser* ran out on 30 June. They had to do something, so they worked on and kept the Minister informed. Some weeks ago the board offered to show the Minister a mock-up of the TAB's form guide, an offer that he declined. He was so concerned about this controversial proposal that he even declined to see the mock-up.

Did he say, 'Hang on now; how far has this proposal gone?'? Certainly he did not. Did he say that he wanted the work on this project halted until he had seen all the details? No, he did not. Did he ask any questions about the proposal? All the evidence indicates that he did not. Did he ask questions about the proposal?

The best was yet to come. On 5 June the Minister received an agenda for his next meeting with the TAB in the form of a four-page letter from Mr Cousins. Item 4 on page 2 reads:

> This question is an extremely complex one to address. Attached for your information is a paper presented to the board outlining the options and the impact. The paper is extremely confidential as any leak of information could jeopardise our negotiations with the *Advertiser*. I know you will appreciate the sensitivity of this paper and keep it confidential to yourself. The risk factors in alternative strategies to those currently employed need to be carefully considered before adopting another direction.

Attached was a seven-page paper from the TAB General Manager about the proposal. Page 1 of the paper clearly states that the agreement with the *Advertiser* was struck 'for 15 months to the end of the 1994-95 financial year'. There it was: a detailed paper on the options for the new form guide that clearly stated to the Minister that the current deal ended at the end of the month. It recaps that management had been exploring alternative options to the current form guide since 1994 and in earnest since the beginning of 1995. It was all set for item 4 on a 10-point agenda to be discussed at the meeting with the TAB Chairman and General Manager on 7 June. It was a major contract and a complex issue which required careful consideration. That is what these detailed papers said, and a new deal had to be done within three weeks. Even if the new deal was to be another contract on similar terms with the *Advertiser*, the deal would still have had to be done within a week.

What did this conscientious Minister, who had told us that he was concerned about the financial performance of the TAB and did not want some of the board members like Mr Cousins, do? Did he say, 'Do not proceed with printing your own form guide.'? Certainly not. He could have stopped this deal dead in its tracks there and then, but he did not. Did he say, 'Do not proceed with printing your own form guide; it is a major decision and I want to take it to Cabinet.'? No, he did not do that, either. Did he say he was concerned about this proposal? Again, the answer was 'No.' He did what he does best: he did nothing.

Then we come to the famous phone call the night before the contract was to be signed. On 21 June the TAB General Manager, Adrian Edgar, contacted the Minister and advised him that the board had given the go-ahead for the TAB to

print its own form guide and that negotiations were to close on its completion. Mr Edgar indicated that he was going back to the *Advertiser* but that he would not show them any favour or conduct a Dutch auction, as there had already been discussions to ensure that they had quoted their best price. What did the Minister say? Did he say, 'Stop this; this is outrageous; wait, I have to go to the Cabinet.'? Of course not. He simply said, 'Okay, keep me informed.' The next day the deal was done, and after the Premier spoke to the Minister all hell broke loose.

Obviously the *Advertiser* had contacted Dean Brown and complained about the loss of revenue to the *Advertiser*, and he in turn contacted the Hon. John Oswald and wanted him, so to speak, to fix the race after it had been completed. That is an important point. The Minister then went out and tried to gag the board. After his false accusations that it had not kept him informed, the board endeavoured to protect their own integrity and reputations—and its members ought to have the right to do that—but the Minister put the gag on the board. This is the freedom of speech that we get from this Government. He applied the gag, but again Mr Bill Cousins and his colleagues had slipped through along the rails and made it very clear to members of Parliament in both Houses—especially those members of the Liberal Party—just what the record really showed.

In another vindictive action, this Government now wants to change the board, and that is the second part of this proposition. It could not bully Mr Cousins and his colleagues into submission. It then tried to gag them. Now it wants to change the board. If Laurie Connell was jailed for trying to fix a horse race, he would be a sissy by comparison, because at least he tried to fix the race before it was run. We are seeing an attempted retrospective fix.

In the second part of this Bill is a proposition that the Minister would assert is an innocent action to try to tidy up what he would see as an improvement to the board. He wants to put an extra two members on the board. The Opposition is not confident of his motives. In fact, it is quite clear, given his record in the shoddy race he has run, that he is about to put in a fix. He wants to put an extra two people on the board so that he will then have the numbers to outvote those duly elected members whom he could not get rid of before their time and fix Bill Cousins once and for all. Poor old Bill was to get the garrottes with a stacking of the numbers.

In his contribution in the Committee stage of this Bill, the Hon. John Oswald claimed to be the best racing Minister they have had for 20 years. I for one would refute that. We have had a situation of some sensitivity with racing in the past couple of years and the Minister did in fact take money out of the TAB's contingency fund and the Racecourse Development Fund to help prop up the industry and, at the time, the Opposition felt it was a necessary action and supported that proposition.

However, the Opposition is not convinced that the Hon. John Oswald's performances beyond that have been anything like exemplary. In fact, as I said earlier, we believe that he has been a disaster since he became a Minister, particularly as Minister for Recreation, Sport and Racing, and his shortcomings have been displayed in a couple of other areas as well. The signing of the document to allow uranium to be transported across South Australia without going to the Premier was a classic example.

The member for Ross Smith (Mr Ralph Clarke) was concerned during the Committee stage of the Bill in another place about the additional two members being put onto the TAB board and asked Mr Oswald whether one of the criteria put to those members was whether they would support a motion of no-confidence in Mr Bill Cousins. The Minister denied that and said (*Hansard* of 18 July 1995):

> We put people on boards to take decisions based on what they think is the right and the wrong thing to do.

He also said in that same contribution:

> I have never in the past sought to influence the board into making decisions.

Given all the preceding, that is an absolute chant. Clearly, this Government is trying to get rid of the board. This is clearly a vindictive Government. When the Government first came into office, it sought to sack everyone who had been appointed by the previous Government, despite requirements under the law to act independently, in absolute propriety and in the best interests of the racing industry. We clearly see from its actions what sort of a vindictive Government it is, and how it thinks. It wants to provide jobs for the boys.

Quite clearly, the Deputy Premier in another place made the most outrageous attack on Mr Pickhaver, without Mr Pickhaver's being able to defend himself. The Minister attacked his integrity, calling him a liar. The Minister said that he had lied to the Parliament, and he was quite happy to stand in the coward's castle of the Lower House and make these outrageous assertions against Mr Pickhaver, knowing full well that that gentleman had no right to defend himself. This is the sort of vindictive Government that wants us to feel confident about trying to extend the board, on the fallacious assertion that it is being done for the good of the racing industry.

The best thing that John Oswald can do for the racing industry is to take the remedy that is often applied in the horse racing game. When John Oswald came into government, he showed a lot of flashiness in the parade ring. He has raced disinterestedly all over the place. He has gone sour. He wants to lash out at the stewards and the jockeys. This Minister ought to be sent to the paddock for a good spell. Failing that, he ought to be sent off to the knackery!

The Opposition will not support this Bill, which we think is an outrage. It is an absolute travesty of justice that this action has been taken against one man, again with the old coward's routine that this Government is so fond of trying to perpetrate, without Mr Cousins' having the opportunity to defend himself.

In conclusion, the Opposition is disappointed that the Hon. Mr Elliott is not able, particularly because of his personal workload, to support the appointment of a select committee into this whole matter. We feel that Bill Cousins ought to have the right to defend himself and that he ought to be able to test his assertions against those of the Minister. We are indeed confident that Bill Cousins, this old friend of John Oswald from Port Pirie days—at least that claim has been made; I do not know whether that friendship will be as enduring as it could have been—has been denied natural justice.

The Opposition will monitor the happenings with the TAB. It will be monitoring the way the Government handles itself. It will be monitoring the interference of the Government in the efficient and economic running of the TAB and, if there is a continuing debacle along the lines of that which we have witnessed so far, we will be looking at trying to resurrect a situation where, if the TAB board is absolutely hamstrung (which seems to be what this Government wants

to do), we can provide forums for Bill Cousins and all members of the board to put their case.

Before concluding my contribution, I must say that when the Minister was under pressure and applied the gag on Bill Cousins, it was our view that it was quite clear that no board member was to make any comments. I was interested to observe the cynical nature of what had occurred. In fact, when Bill Cousins left the country, the Minister had some discussions with other members of the board and, lo and behold, they were prepared to sign a letter which the Minister believed would vindicate him but, on closer scrutiny, it has not done that. Having hamstrung and gagged Bill Cousins when he was in the country, when the Minister thought he would get a deal out of this which would support his argument, lo and behold the gag came off.

Now that the Minister has taken off the gag, we believe that those board members ought to be able to put their point of view in defence of their actions; they should not be gagged by this particular Minister. The Opposition is opposed to both principles in this Bill and will be voting accordingly.

The Hon. J.F. STEFANI secured the adjournment of the debate.

APPROPRIATION BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 2418.)

The Hon. DIANA LAIDLAW (Minister for the Status of Women): I support the second reading. In doing so I take the opportunity to answer a number of specific questions raised by the Hon. Carolyn Pickles when she was speaking earlier in this debate. The Leader of the Opposition asked how much the Government paid in the last financial year to private consultants and which consultants have been engaged to assist with the register of women. This register is called Breakthrough and has been a big success in terms of gathering names of women who are keen to serve on Government boards and committees. The Government goal overall is a target of 50 per cent of women appointed to Government boards and committees by the year 2000.

It was apparent by the end of last year that CEOs, chiefs of staff and, in some instances, Ministers were keen to have more detailed backgrounds about the women they wished to put forward, in terms of recommended nominations, for boards and committees under their portfolios. Being aware of this concern, I spoke with the Director of the Office for the Status of Women, and it was agreed that Jane Jeffreys, of Jane Jeffreys Consulting, would be engaged (for the sum of $10 000) to undertake an executive search to identify and interview senior private sector women who could be considered positively for appointment to level 1 Government boards and committees.

We chose to go this way not only because of the sentiments expressed by the CEOs, chiefs of staff and Ministers, as I mentioned earlier, but it also had become apparent to me, and to others who were interested in this field, that many senior women in business in South Australia were not prepared to put their names on a general register to be selected at random from a computer search. They wanted—and I think with due reason—a much more professional approach to be undertaken. Jane Jeffreys helped us, as a Government, to achieve that professional approach. The list today comprises women with experience and expertise in the areas of finance, law, marketing, human resources and general corporate business.

These women were not already on the Breakthrough register and, as I have indicated, were reluctant to nominate themselves for inclusion on such a list. The search was completed in April 1995 and the register has been used extensively since that time for various appointments. It will be updated on a regular basis by Ms Jeffreys. She will be engaged as a consultant to facilitate a strategic planning exercise for the development of the Breakthrough register for women. The cost of this further consultancy is $650. I was asked also to explain in general terms the nature of the proposed changes to improve financial reporting requirements and how this would differ from the women's budget previously required by the Labor Government.

I am able to advise that the proposed changes will seek to ensure that planning and budgeting for the provision of services for women is integrated with the overall planning and budget cycle of agencies. This will differ from the women's budget of earlier years in that it will not just record process once a main budget for the agency is set. Four agencies, including the Department of Transport, Trans-Adelaide and the Department for Correctional Services have been approached to participate in the pilot projects. I anticipate that I will be receiving interim advice in September. I know that our approach was also recommended to the Office for the Status of Women at the Federal level a couple of years ago, following an extensive review of the effectiveness of the women's budget at the Federal level.

It was determined at that time that the recommendation should be accepted and that there be no further women's budget printed as part of the presentation of budget papers. I understand that women members of Caucus became quite upset and pulled together a statement of their own, which was released through the Office for the Status of Women and the office of the Minister for the Status of Women. I have seen a more recent copy following the latest budget. I understand that, arising from the last Federal budget, a South Australian woman was approached to prepare the budget for women—rather an extraordinary step in itself—but that she declined.

The paper was again prepared by women members of Caucus and the office of the Minister for the Status of Women, Carmen Lawrence. It was not therefore a major budget paper as it has been in the past. It has been scaled back and, if one looks at it, hardly a budget figure is to be seen: general sentiments are expressed. It was the general sentiment that the review of the Office for the Status of Women at the Federal level, and the review that we undertook in South Australia at a general level was rather *ad hoc*, a waste of time and, in terms of women, certainly did not develop a full understanding of the effectiveness of the programs being implemented.

It was simply a run-down of programs with no assessment of effectiveness. The pilot projects being undertaken now with the four agencies nominated will be dealing with the effectiveness of these programs. I should say also that I have been pleased with the response from all Ministers to a letter I sent recently asking them to nominate a representative to sit on an inter-departmental committee for women, so that the Office for the Status of Women can assist them, and *vice versa*, in the development of their programs and oversight of programs for women in each agency.

I was asked also when the report of the Women's Information Switchboard would be made available to the public. This report has been received by me now and I am keen for it to

be released at the end of July—in a few days' time. If it can be copied in time, I would be keen for the report to be released on Thursday together with a ministerial statement in this place, but I understand the copying is a bit of an issue at the present time; it will be released certainly by the end of July.

In addition, I was asked what funding will be made to the International Women's Day Collective for International Women's Day in 1996. The Government made a $200 contribution to the International Women's Day Collective for International Women's Day in 1995. In addition, the Government paid $500 for the hire of the Freemasons Hall for the core of the celebration lunches, and the hall was filled to capacity as it has been in past years. I would pay my respects to the late Mrs Irene Bell who, as Secretary and later Treasurer of the International Women's Day luncheon had been a driving force over 30 years in promoting the essential elements of International Women's Day and the cause for women in the paid work force, and she had been instrumental in building up the focus on this day and the celebration of this day through this excellent lunch held on an annual basis. Mrs Bell died recently. She had a heart attack when attending a major women's function in Adelaide, so she was with her friends and doing what she liked doing best right to the end.

With respect to this funding issue, to date the Government has not received a request from the International Women's Day Collective or any other body for funding for International Women's Day in 1996 but, as in past years, I would be happy to consider what support could be offered in line with competing priorities, and I suspect that that consideration would take place in early 1996.

The Hon. Carolyn Pickles asked how much money is being spent on the Women in Business program, who decides where that money is spent and the basis for these expenditure decisions, and what input the Minister has in these decisions. I must have missed it; the program is not familiar to me. It may refer to a number of activities that are being undertaken by the Office for the Status of Women. Certainly, I recall a seminar that the former Director of the office, Ms Jane Taylor, organised a few years ago for women in business which were essentially women from the public sector. I am not discounting that effort in a business sense; it certainly was not an initiative which I would have wished to have taken ahead in that form, but the honourable member may be referring to that seminar.

In relation to a number of other activities undertaken by the Office for the Status of Women I can advise that the office has initiated a series of networking activities for senior women who hold positions on Government boards and committees or who may be considering future board membership. This initiative arose from the International Conference for Women which was held as a major activity during last year's celebrations of the centenary of women's suffrage. The network provides opportunities for the women I have nominated above to exchange information and to learn from each others' experience. The functions are designed to be self funding, with participants paying for attendance. The Office for the Status of Women sponsors the functions by organising the activities and guest speakers are arranged. I am kept informed of the schedule of events and, where my calendar permits (and it has not done so to date), I attend the events.

It may be that the honourable member was talking about the seminar organised by the former Director of the Office for the Status of Women, and I recall now that that was called the Women's Economic Round Table. It sought to provide views from women about the document 'Building Prosperity: A South Australian Economic Action Plan', which was released by the previous Economic Development Board. It produced a report that was forwarded to Mr Robin Marrett, who was the previous Chair of the Economic Development Board. I am not sure whether the honourable member envisaged that there would be further development of that Women's Economic Round Table as part of a women in business program, but she can advise me outside the ambit of this debate what she is getting at with respect to this women in business program and I will certainly be pleased to enlighten her further. I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

[Sitting suspended from 5.37 p.m. to 7.45 p.m.]

RESIDENTIAL TENANCIES BILL

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

No. 1 *Long title, page 1, line 7*—After '1978' insert 'and the *Residential Tenancies (Housing Trust) Amendment Act 1993*; to make related amendments to the *Courts Administration Act 1993* and to the Retirement Villages Act 1987'.

No. 2 *Clause 3, page 2, after line 19*—Insert—

'relevant Act' means an Act (other than this Act) that confers jurisdiction on the Tribunal;.

No. 3 *Clause 3, page 3, after line 5*—Insert—

'Rules' means the rules of the Tribunal;.

No. 4 *Clause 3, page 3, line 28*—Leave out the definition of 'Tribunal' and insert—

'Tribunal' means the *Residential Tenancies Tribunal of South Australia*.

No. 5 *Clause 5, page 5, after line 5*—Insert new paragraph as follows:

(ga) an agreement under which the South Australian Housing Trust confers a right to occupy premises for the purposes of residence[1]; or

[1] However, the Tribunal has jurisdiction to hear and determine claims arising under South Australian Housing Trust tenancies—see section 13.

No. 6 *Clause 5, page 5, lines 7 to 14*—Leave out subclauses (2) and (3).

No. 7 *Clause 11, page 7, lines 4 and 5*—Leave out the clause and insert new clause 11 as follows:

PART 3
RESIDENTIAL TENANCIES TRIBUNAL OF SOUTH AUSTRALIA
DIVISION 1—ESTABLISHMENT OF TRIBUNAL

11. *Establishment of Tribunal* The *Residential Tenancies Tribunal of South Australia* is established.

No. 8 *Clause 12, page 7, lines 6 to 27*—Leave out the clause and insert new clause 12 as follows:

12. *Seals*

(1) The Tribunal will have the seals necessary for the transaction of its business.

(2) A document apparently sealed with a seal of the Tribunal will, in the absence of evidence to the contrary, be taken to have been duly issued under the authority of the Tribunal.

No. 9 *Clause 13, page 7, lines 28 to 31*—Leave out the clause and insert new clause 13 as follows:

DIVISION 2—JURISDICTION OF THE TRIBUNAL

13. *Jurisdiction of the Tribunal*

(1) The Tribunal has—

(a) the jurisdiction conferred by this Act; and

(b) subject to the regulations, jurisdiction to hear and determine claims or disputes arising from tenancies granted for residential purposes by the South Australian Housing Trust; and

(c) the other jurisdictions conferred on the Tribunal by statute.

No. 10 *Clause 14, page 7, lines 32 to 34*—Leave out the clause and insert new clause 14 as follows:

DIVISION 3—MEMBERSHIP OF TRIBUNAL

14. *Membership of Tribunal*

(1) The Tribunal consists of—

(a) the Chief Magistrate (who is the President of the Tribunal); and

(b) the other magistrates who hold office under the *Magistrates Act 1983*; and

(c) other persons (if any) appointed by the Governor on the nomination of the Minister as additional members of the Tribunal.

(2) A person is not eligible for appointment under subsection (1)*(c)* unless the person is a legal practitioner of at least five years standing.

(3) A person may be appointed under subsection (1)*(c)* for a term and on conditions specified in the instrument of appointment.

(4) The Minister must consult with the Chief Magistrate before a term or conditions are determined under subsection (3).

(5) A person appointed under subsection (1)*(c)* ceases to hold office if the person—

(a) reaches the age of 65 years; or

(b) resigns by written notice addressed to the Minister; or

(c) in the case of an appointment for a fixed term—completes the term of appointment and is not reappointed; or

(d) is removed from office by the Governor on the ground of misconduct, neglect of duty, incompetence or mental or physical incapacity to carry out satisfactorily duties of office.

(6) A person appointed under subsection (1)*(c)* is entitled to remuneration, allowances and expenses determined by the Governor.

(7) The President may delegate a power or function under this Act to another member of the Tribunal.

(8) A delegation is revocable at will and does not derogate from the power of the President to act himself or herself in a matter.

No. 11 *Clause 15, page 8, lines 3 to 6*—Leave out the clause and insert new clause 15 as follows:

DIVISION 4—ADMINISTRATIVE STAFF

15. *Tribunal's administrative staff*

(1) The Tribunal's administrative staff consists of—

(a) the Registrar (who is the Tribunal's principal administrative officer);

(b) any other persons (including deputy registrars) appointed to the staff of the Tribunal.

(2) The Tribunal's administrative staff will be appointed under the *Courts Administration Act 1993*.

(3) A member of the Tribunal's administrative staff may hold office in conjunction with another office in the public service of the State.

No. 12 *Clause 16, page 8, lines 7 to 9*—Leave out the clause and insert new clause 16 as follows:

DIVISION 5—CONSTITUTION OF THE TRIBUNAL

16. *Constitution of the Tribunal*

(1) The Tribunal is constituted for the purpose of hearing and determining proceedings of a single member of the Tribunal.

(2) However, a member of the Tribunal will sit with assessors selected in accordance with schedule 1—

(a) if the President of the Tribunal so determines; or

(b) if the regulations, the Rules or a relevant Act so provide.

(3) The Registrar, or a deputy registrar, may—

(a) exercise the jurisdiction of the Tribunal if specifically authorised to do so by this Act or a relevant Act; and

(b) subject to direction by the President of the Tribunal, exercise the jurisdiction of the Tribunal in respect of classes of matters, or in circumstances, specified by the regulations or by the Rules.

(4) The Tribunal may, at any one time, be separately constituted for the hearing and determination of a number of separate matters.

No. 13 *Clause 17, page 8, lines 10 to 15*—Leave out the clause and insert new clause 17 as follows:

DIVISION 6—GENERAL PROVISIONS ABOUT THE TRIBUNAL'S PROCEEDINGS

17. *Time and place of Tribunal's sittings*

(1) The Tribunal may sit at any time (including a Sunday).

(2) The Tribunal may sit at any place (either within or outside the State).

(3) The Tribunal will sit at such times and places as the President may direct.

(4) Offices of the Tribunal will be maintained at such places as the Governor may determine.

No. 14 *Clause 18, page 8, lines 16 to 18*—Leave out the clause and insert new clause 18 as follows:

18. *Adjournment from time to time and place to place* The Tribunal may—

(a) adjourn proceedings from time to time and from place to place; or

(b) adjourn proceedings to a time, or a time and place, to be fixed; or

(c) order the transfer of proceedings from place to place.

No. 15 *Clause 19, page 8, lines 19 to 21*—Leave out the clause and insert new clause 19 as follows:

19. *Sittings generally to be in public* Subject to a provision of an Act or Rule to the contrary, the Tribunal's proceedings must be open to the public.

No. 16 *Clause 20, page 8, lines 22 and 23*—Leave out the clause and insert new clause 20 as follows:

20. *Duty to act expeditiously* The Tribunal must, wherever practicable, hear and determine proceedings within 14 days after the proceedings are commenced and, if that is not practicable, as expeditiously as possible.

No. 17 *Clause 21, page 8, lines 24 to 38*—Leave out the clause and insert new clause 21 as follows:

21. *Proceedings to be conducted with minimum formality*

(1) The Tribunal's proceedings must be conducted with the minimum of formality and in exercising its jurisdiction the Tribunal is not bound by evidentiary rules and practices but may inform itself as it thinks appropriate.

(2) The Tribunal is bound by evidential rules and practices in proceedings related to a contempt of the Tribunal.

No. 18 *Clause 22, page 9, lines 1 to 11*—Leave out the clause and insert new clause 22 as follows:

22. *Tribunal to give reasons for its decisions* The Tribunal must, at the request of a party to proceedings, give written reasons for its decision.

No. 19 *Clause 23, page 9, lines 12 to 32*—Leave out the clause and insert new clause 23 as follows:

23. *Special powers in relation to orders and relief*

(1) The Tribunal may make an order in the nature of an injunction (including an interim injunction) or order for specific performance (even if such remedy would not otherwise be available).

(2) Although a particular form of relief is sought by a party to proceedings before the Tribunal, the Tribunal may grant any other form of relief that it considers more appropriate to the circumstances of the case.

(3) The Tribunal may make interlocutory orders on matters within its jurisdiction.

(4) The Tribunal may, on matters within its jurisdiction, make binding declarations of right whether or not any consequential relief is or could be claimed.

(5) The Tribunal may, in the exercise of its jurisdiction, make ancillary or incidental orders.

No. 20 *Clause 24, page 10, lines 1 to 30*—Leave out the clause and insert new clause 24 as follows:

DIVISION 7—CONFERENCES

24. *Conferences* Contested proceedings before the Tribunal must be referred, in the first instance, to a conference of the parties to explore the possibilities of resolving the matters at issue by agreement if—

(a) a member or officer of the Tribunal determines that it would be appropriate for a conference to be held; or

(b) —

(i) the proceedings are of a class prescribed by regulation; or

(ii) a relevant Act provides for the operation of this Division,

subject to the qualification that a conference need not be held if a member or officer of the Tribunal dispenses with the conference on the ground that the conference would serve no useful purpose or there is some other proper reason to dispense with the conference.

No. 21 *Clause 25, page 10, lines 31 to 36*—Leave out the clause and insert new clause 25 as follows:

25. *Presiding officer* A member of the Tribunal, the Registrar, or another officer of the Tribunal nominated by the President will preside at a conference.

No. 22 *Clause 26, page 11, lines 1 to 16*—Leave out the clause and insert new clause 26 as follows:

26. *Compulsory attendance and participation at conference*

(1) The Registrar must notify the parties by letter of the time and place fixed for a conference.

(2) A party must, if required by the presiding officer, disclose to the conference details of the party's case and of the evidence available to the party in support of that case.

No. 23 *Clause 27, page 11, lines 17 to 21*—Leave out the clause and insert new clause 27 as follows:

27. Procedure

(1) A conference may, at the discretion of the presiding officer, be adjourned from time to time.

(2) Unless the presiding officer otherwise determines, the conference will be held in private and the presiding officer may exclude from the conference any person apart from the parties and their representatives.

(3) A settlement to which counsel or other representative of a party agrees at a conference is binding on the party.

(4) The presiding officer may refer a question of law arising at the conference to a member of the Tribunal's judiciary for determination.

(5) The presiding officer may record a settlement reached at the conference and make a determination or order to give effect to the settlement.

(6) A determination or order under subsection (5) is a determination or order of the Tribunal.

No. 24 *Clause 28, page 11, lines 22 and 23*—Leave out the clause and insert new clause 28 as follows:

28. *Restriction on evidence* Evidence of anything said or done in the course of a conference under this Division is inadmissible in proceedings before the Tribunal except by consent of the parties.

No. 25 *Clause 29, page 11, lines 24 to 29*—Leave out the clause and insert new clause 29 as follows:

DIVISION 8—EVIDENTIARY AND PROCEDURAL POWERS

29. *Tribunal's powers to gather evidence*

(1) For the purpose of proceedings, the Tribunal may—

(a) by summons signed by a member, Registrar or deputy registrar of the Tribunal, require a person to attend before the Tribunal;

(b) by summons signed by a member, Registrar or deputy registrar of the Tribunal, require the production of books, papers or documents;

(c) inspect books, papers or documents produced before it, retain them for a reasonable period, and make copies of them, or of their contents;

(d) require a person appearing before the Tribunal to make an oath or affirmation that the person will truly answer relevant questions put by the Tribunal or a person appearing before the Tribunal;

(e) require a person appearing before the Tribunal (whether summoned to appear or not) to answer any relevant questions put by the Tribunal or a person appearing before the Tribunal.

(2) If a person—

(a) fails without reasonable excuse to comply with a summons under subsection (1); or

(b) refuses or fails to comply with a requirement of the Tribunal under subsection (1),

the person is guilty of an offence and liable to a penalty not exceeding $2 000.

No. 26 *Clause 30, page 11, lines 30 to 34*—Leave out the clause and insert new clause 30 as follows:

30. *Entry and inspection of property*

(1) The Tribunal may enter land or a building and carry out an inspection that the Tribunal considers relevant to a proceeding before the Tribunal.

(2) The Tribunal may authorise a person to enter land or a building and carry out an inspection that the Tribunal considers relevant to a proceeding before the Tribunal.

(3) A person who obstructs a Tribunal, or a person authorised by a Tribunal, in the exercise of a power of entry or inspection under this section commits a contempt of the Tribunal.

No. 27 *Clause 31, page 11, lines 35 to 37 and page 12, lines 1 to 3*—Leave out the clause and insert new clause 31 as follows:

31. *Procedural powers of the Tribunal* In proceedings the Tribunal may—

(a) hear an application in the way the Tribunal considers most appropriate;

(b) decline to entertain an application, or adjourn a hearing, until the fulfilment of conditions fixed by the Tribunal with a view to promoting the settlement of matters in dispute between the parties;

(c) decline to entertain an application if it considers the application frivolous;

(d) proceed to hear and determine a matter in the absence of a party;

(e) extend a period within which an application or other step in respect of proceedings must be made or taken (even if the period had expired);

(f) vary or set aside an order if the Tribunal considers there are proper grounds for doing so;

(g) adjourn a hearing to a time or place or to a time and place to be fixed;

(h) allow the amendment of an application or other proceeding;

(i) hear an application jointly with another application;

(j) receive in evidence a transcript of evidence in proceedings before a court and draw conclusions of fact from that evidence;

(k) adopt, as in its discretion it considers proper, the findings, decision or judgment of a court that may be relevant to the proceedings;

(l) generally give directions and do all things that it thinks necessary or expedient in the proceedings.

No. 28 *Clause 32, page 12, lines 4 to 6*—Leave out the clause and insert new clause 32 as follows:

DIVISION 9—APPEALS AND RESERVATION OF QUESTIONS OF LAW

32. *Appeals*

(1) An appeal lies to the District Court from a decision or order of the Tribunal made in the exercise (or purported exercise) of its jurisdiction or powers.

(2) An appeal is to be commenced in the manner prescribed by the rules of the District Court.

(3) On an appeal, the District Court may (according to the circumstances of the case)—

(a) re-hear evidence taken before the Tribunal, or take further evidence;

(b) confirm, vary or quash the Tribunal's decision; and

(c) make any order that should have been made in the first instance; and

(d) make incidental and ancillary orders.

No. 29 *Clause 33, page 12, lines 7 to 11*—Leave out the clause and insert new clause 33 as follows:

33. *Reservation of questions of law*

(1) The Tribunal may reserve a question of law for determination by the District Court.

(2) If a question of law is reserved, the District Court may determine the question and make consequential orders and directions appropriate to the circumstances of the case.

No. 30 *Clause 34, page 12, lines 12 to 25*—Leave out the clause and insert new clause 34 as follows:

DIVISION 10—MISCELLANEOUS

34. *Mediation*

(1) If before or during the hearing of proceedings it appears to the Tribunal either from the nature of the case or from the attitude of the parties that there is a reasonable possibility of settling the matters in dispute between the parties, the person constituting the Tribunal may—

(a) appoint, with the consent of the parties, a mediator to achieve a negotiated settlement; or

(b) itself endeavour to bring about a settlement of the proceedings.

(2) A mediator appointed under this section has the privileges and immunities of a member of the Tribunal and may exercise any powers of the Tribunal that the Tribunal may delegate to the mediator.

(3) Nothing said or done in the course of an attempt to settle proceedings under this section may subsequently be given in evidence in proceedings except by consent of all parties to the proceedings.

(4) A member of the Tribunal who attempts to settle proceedings under this section is not disqualified from hearing or continuing to hear further proceedings in the matter.

(5) If proceedings are settled under this section, the Tribunal may embody the terms of the settlement in an order.

No. 31 *Clause 35, page 12, lines 26 to 31*—Leave out the clause and insert new clause 35 as follows:

35. *General powers of the Tribunal to cure irregularity*

If in proceedings before the Tribunal it appears to the Tribunal that—

(a) there has been a failure to comply with a requirement of this Act or other law that affects the matter to which the proceedings relate; and

(b) it would not be unjust or inequitable to exercise the powers conferred by this section,

the Tribunal may excuse the failure by ordering that, subject to such conditions that may be stipulated by the Tribunal, the requirement be dispensed with to the necessary extent.

No. 32 *New clause 35A, page 12, after line 31*—insert new clause 35A as follows:

35A. *Immunities*

(1) A member of the Tribunal exercising the Tribunal's jurisdiction has the same privileges and immunities from civil liability as a Judge of the Supreme Court.

(2) A non-judicial officer of the Tribunal incurs no civil or criminal liability for an honest act or omission in carrying out or purportedly carrying out official functions.

No. 33 *New clause 35B, page 12,after line 31*—insert new clause 35B as follows:

35B. *Contempt of the Tribunal* A person who—

(a) interrupts the proceedings of the Tribunal or misbehaves before the Tribunal; or

(b) insults the Tribunal or an officer of the Tribunal acting in the exercise of official functions; or

(c) refuses, in the face of the Tribunal, to obey a lawful direction of the Tribunal,

is guilty of a contempt of the Tribunal.

No. 34 *New clause 35C, page 12,after line 31*—insert new clause 35C as follows:

35C. *Punishment of contempts* The Tribunal may punish a contempt as follows:

(a) it may impose a fine not exceeding $2 000; or

(b) it may commit to prison until the contempt is purged subject to a limit (not exceeding six months) to be fixed by the Tribunal at the time of making the order for commitment.

No. 35 *New clause 35D, page 12,after line 31*—insert new clause 35D as follows:

35D. *Enforcement of orders*

(1) An order of the Tribunal may be registered in the Magistrates Court and enforced as an order of that Court.

(2) A person who contravenes an order of the Tribunal (other than an order for the payment of money) is guilty of an offence.

Maximum penalty: $2 000.

No. 36 *New clause 35E, page 12,after line 31*—insert new clause 35E as follows:

35E. *Issue and service of Tribunal's process*

(1) Any process of the Tribunal may be issued or executed on a Sunday as well as any other day.

(2) The validity of process is not affected by the fact that the person who issued it dies or ceases to hold office.

No. 37 *New clause 35F, page 12,after line 31*—insert new clause 35F as follows:

35F. *Rules of Tribunal*

(1) Rules of the Tribunal may be made—

(a) regulating the practice and procedures of the Tribunal; and

(b) regulating costs; and

(c) providing for the service of any process, notice or other document relevant to proceedings before the Tribunal (including circumstances where substituted service in accordance with the rules or an order of the Tribunal will constitute due service); and

(d) dealing with other matters specified under this Act or necessary for the effective and efficient operation of the Tribunal.

(2) Rules of the Tribunal may be made by the President.

(3) The Rules take effect as from the date of publication in the Gazette or a later date specified in the rules.

No. 38 *New clause 35G, page 12,after line 31*—insert new clause 35G as follows:

35G. *Fees*

(1) The Governor may, by regulation, prescribe and provide for the payment of fees in relation to proceedings in the Tribunal.

(2) The Registrar may remit or reduce a fee on account of the poverty of the party by whom the fee is payable or for any other proper reason.

No. 39 *New clause 35H, page 12,after line 31*—insert new clause 35H as follows:

35H. *Costs* The Governor may, by regulation, provide that in proceedings of a prescribed class the Tribunal will not award costs unless—

(a) all parties to the proceedings were represented by legal practitioners; or

(b) the Tribunal is of the opinion that there are special circumstances justifying an award of costs.

No. 40 *Clause 51, page 19, line 22*—Leave out '10' and insert 'seven'.

No. 41 *Clause 51, page 19, line 27*—Leave out '10' and insert 'seven'.

No. 42 *Clause 51, page 20, line 13*—Leave out '10' and insert 'seven'.

No. 43 *Clause 51, page 20, after line 21*—Insert new subclauses as follows:

(8A) If—

(a) security for the performance of obligations under a residential tenancy agreement is provided by a third party prescribed by the regulations in circumstances prescribed by the regulations; and

(b) the landlord makes application to the Commissioner for the payment of the whole, or a specified part, of the amount payable under the security,

then—

(c) if the application is made with the consent of the third party—the Commissioner must pay out the amount as specified in the application;

(d) in any other case—the Commissioner must give the third party and, if the tenant is still in possession of the premises, the tenant, written notice of the application (in a form the Commissioner considers appropriate) and—

(i) if the Commissioner does not receive a written notice of dispute from the party or parties to whom the notice of the application was given within seven days after the date on which the original notice is given—the Commissioner may pay out the amount as proposed in the application;

(ii) in any other case—the Commissioner must refer the matter to the Tribunal for determination.

(8B) If a payment is made under subsection (8A), the third party must reimburse the Fund to the extent of the payment.

No. 44 *Clause 54, page 21, after line 34*—Insert—

(4) The regulations may prescribe conditions under which a landlord may limit the landlord's civil liability under subsection (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.

No. 45 *Clause 67, page 27, lines 6 to 13*—Leave out paragraphs *(a)*, *(b)* and *(c)* and insert—

(a) the tenancy is for a fixed term and the fixed term comes to an end; or

(b) the landlord or the tenant terminates the tenancy by notice of termination given to the other (as required under this Act); or

(c) the Tribunal terminates the tenancy; or.

No. 46 *Clause 67, page 27, lines 22 to 26*—Leave out subclauses (2) and (3).

No. 47 *Clause 68, page 27, lines 29 to 31*---Leave out the clause.

No. 48 *Clause 69, page 28*, lines 1 to 18—Leave out this clause and insert new clause 47 as follows:

69. *Notice of termination by landlord on ground of breach of agreement*

(1) If the tenant breaches a residential tenancy agreement, the landlord may give the tenant a written notice, in the form required by regulation—

(a) specifying the breach; and

(b) requiring the tenant to remedy the breach within a specified period (which must be a period of at least seven days) from the date the notice is given.

· If the breach is a failure to pay rent, it is not necessary for the landlord to make a formal demand for payment of the rent before giving a notice under this section.

(2) If the tenant fails to remedy the breach within the specified period, the landlord may serve on the tenant a notice of termination—

(a) terminating the tenancy; 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.

(3) The tenant may at any time after receiving a notice under this section, and before giving vacant possession to the landlord, apply to the Tribunal for an order—

(a) declaring that the tenant is not in breach of the residential tenancy agreement, or has remedied the breach of the agreement, and that the tenancy is not liable to be terminated under this section; or

(b) reinstating the tenancy.

(4) If the Tribunal is satisfied that a tenancy has been validly terminated under this section, but that it is just and equitable to reinstate the tenancy (or would be just and equitable to reinstate the tenancy if the conditions of the order were complied with), the Tribunal may make an order reinstating the tenancy.

· An order reinstating the tenancy under this section may be made on conditions that the Tribunal considers appropriate.

· On an application for an order reinstating the tenancy, the Tribunal may make alternative orders providing for reinstatement of the tenancy if specified conditions are complied with but, if not, ordering the tenant to give up possession of the premises to the landlord.

No. 49 *Clause 70, page 28, lines 20 and 21*—Leave out 'give notice of termination of a periodic residential tenancy to the tenant' and insert ', by notice of termination given to the tenant, terminate a periodic residential tenancy'.

No. 50 *Clause 71, page 29, lines 9 to 14*—Leave out this clause.

No. 51 *Clause 72, page 29, line 17*—Leave out 'give notice of termination of a residential tenancy to the tenant' and insert ', by notice of termination given to the tenant, terminate a residential tenancy'.

No. 52 *Clause 73, page 29, line 23*—Leave out all words in this line after 'may' and insert ', by notice of termination given to the tenant, terminate the tenancy'.

No. 53 *Clause 74, page 30, line 2*—Leave out 'give' and insert 'terminate the tenancy by'.

No. 54 *New clause 74A, page 30, after line 8*—Insert new clause 74A as follows:

74A. *Notice of termination on ground of breach of agreement*

(1) If the landlord breaches a residential tenancy agreement for a fixed term tenancy, the tenant may give the landlord a written notice in the form required by regulation—

(a) specifying the breach; and

(b) requiring the landlord to remedy it within a specified period (which must be at least seven days) from the date the notice is given.

(2) If the landlord fails to remedy the breach within the specified period, the tenant may serve on the landlord a notice of termination terminating the tenancy at the end of a specified period (which must be at least seven days) from the date the notice is given.

(3) The landlord may, before the time fixed in the tenant's notice for termination of the tenancy or the tenant gives up possession of the premises (whichever is the later), apply to the Tribunal for an order—

(a) declaring that the landlord is not in breach of the residential tenancy agreement, or has remedied the breach of the agreement, and that the tenancy is not liable to be terminated under this section; or

(b) reinstating the tenancy.

(4) If the Tribunal is satisfied that a tenancy has been validly terminated under this section, but that it is just and equitable to reinstate the tenancy (or would be just and equitable to reinstate the tenancy if the conditions of the order were complied with), the Tribunal may make an order reinstating the tenancy.

· An order reinstating the tenancy under this section may be made on conditions that the Tribunal considers appropriate.

No. 55 *Clause 75, page 30, lines 10 and 11*—Leave out 'give notice of termination of the tenancy to the landlord' and insert ', by notice of termination given to the landlord, terminate the tenancy'.

No. 56 *Clauses 76, page 30, lines 15 to 37 and page 31, lines 1 to 11*—Leave out the clause and insert new clause 76 as follows:

76. *Termination on application by landlord*

(1) The Tribunal may, on application by a landlord, terminate a residential tenancy and make an order for possession of the premises if satisfied that—

(a) the tenant has committed a breach of the residential tenancy agreement; and

(b) the breach is sufficiently serious to justify termination of the tenancy[1].

[1.] A tenancy may be terminated by a landlord by notice after a notice has been given allowing the tenant an opportunity to remedy the breach (See section 69). This alternative procedure may be appropriate if (for example) the breach is not capable of remedy.

(2) The Tribunal may, on application by a landlord, terminate a residential tenancy and make an order for immediate possession of the premises if the tenant or a person permitted on the premises with the consent of the tenant has, intentionally or recklessly, caused or permitted, or is likely to cause or permit—

(a) serious damage to the premises; or

(b) personal injury to—

(i) the landlord or the landlord's agent; or

(ii) a person in the vicinity of the premises.

No. 57 *Clause 77, page 31, lines 12 to 37*—Leave out the clause and insert new clause 77 as follows:

77. *Termination on application by tenant* The Tribunal may, on application by a tenant, terminate a residential tenancy and make an order for possession of the premises if satisfied that—

(a) the landlord has committed a breach of the residential tenancy agreement; and

(b) the breach is sufficiently serious to justify termination of the tenancy[1].

[1.] A tenancy may be terminated by a tenant by notice after a notice has been given allowing the landlord an opportunity to remedy the breach (See section 74A). This alternative procedure may be appropriate if (for example) the breach is not capable of remedy.

No. 58 *Clause* 78, *page 32, lines 1 to 6*—Leave out the clause and insert clause 78 as follows:

78. *Termination based on hardship*

(1) If the continuation of a residential tenancy would result in undue hardship to the landlord or the tenant, the Tribunal may, on application by the landlord or the tenant, terminate the agreement from a date specified in the Tribunal's order and make an order for possession of the premises as from that day.

(2) The Tribunal may also make an order compensating a landlord or tenant for loss and inconvenience resulting, or likely to result, from the early termination of the tenancy.

No. 59 *Clause* 79, *page 32, lines 7 to 16*—Leave out the clause.

No. 60 *Clause* 80, *page 32, lines 17 to 23*—Leave out the clause.

No. 61 *Clause* 81, *page 32, lines 24 to 38 and page 33, lines 1 to 2*—Leave out the clause.

No. 62 *Clause 82, page 33, line 9*—After 'on which' insert 'the termination of the tenancy is to take effect and'.

No. 63 *Clause 82, page 33, line 18*—After 'on which' insert 'the termination of tenancy is to take effect and'.

No. 64 *Heading, page 33, line 30*—Leave out 'MISCELLANEOUS' and insert 'REPOSSESSION OF PREMISES'.

No. 65 *Clause 84, page 33, lines 31 to 33 and page 34, lines 1 and 2*—Leave out the clause and insert new clause 84 as follows:

84. *Order for possession*

(1) If a residential tenancy—

(a) is terminated by notice of termination under this Act; or

(b) is for a fixed term which expires and is not renewed,

the landlord may apply to the Tribunal for an order for possession of the premises.

(2) If the Tribunal is satisfied that the tenancy has terminated or has been terminated, the Tribunal may make an order for possession of the premises.

(3) The order for possession will take effect on a date specified by the Tribunal in the order, being a date not more that seven days after the date of the order unless the operation of the order for possession is suspended[1].

[1.] *See subsection (4).*

(4) However, if the Tribunal, although satisfied that the landlord is entitled to an order for possession of the premises, is satisfied

by the tenant that the grant of an order for immediate possession of the premises would cause severe hardship to the tenant, the Tribunal may—

(a) suspend the operation of the order for possession for up to 90 days; and

(b) extend the operation of the residential tenancy agreement until the landlord obtains vacant possession of the premises from the tenant.

· In extending the operation of a residential tenancy agreement, the Tribunal may make modifications to the agreement that it considers appropriate (but the modifications cannot reduce the tenant's financial obligations under the agreement).

(5) If the tenant fails to comply with an order for possession, the landlord is entitled to compensation for any loss caused by that failure.

(6) The Tribunal may, on application by the landlord, order the tenant to pay to the landlord compensation to which the landlord is entitled under subsection (5).

No. 66 *Clause 89, Page 36, lines 6 to 10*—Leave out the clause.

No. 67 *Clause 90, Page 36, lines 11 to 32*—Leave out the clause.

No. 68 *Clause 101, page 39, line 35*—Leave out 'terminate a residential tenancy or'.

No. 69 *New clause 103A, page 40, after line 29*—Insert new clause 103A as follows:

103A. *Substantial monetary claims*

(1) The Tribunal has exclusive jurisdiction to hear and determine a matter that may be the subject of an application under this Act.

(2) However, the Tribunal does not have jurisdiction to hear and determine a monetary claim if the amount claimed exceeds $30 000 unless the parties to the proceedings consent in writing to the claim being heard and determined by the Tribunal (and if consent is given, it is irrevocable).

(3) If a monetary claim is above the Tribunal's jurisdictional limit, the claim and any other claims related to the same tenancy may be brought in a court competent to hear and determine a claim founded on contract for the amount of the claim.

(4) A court in which proceedings are brought under subsection (3) may exercise the powers of the Tribunal under this Act.

(5) If the plaintiff in proceedings brought in a court under this section recovers less than $30 000, the plaintiff is not entitled to costs unless the court is satisfied that there were reasonable grounds for the plaintiff to believe that the plaintiff was entitled to $30 000 or more.

No. 70 *Clause 104, page 40, line 33*—After 'Tribunal' insert ', at a pre-trial conference'.

No. 71 *Clause 104, page 40, after line 35*—Insert—

(aa) the proceedings involve a monetary claim for more than $5000; or.

No. 72 *Clause 105, page 41, line 25*—After 'Tribunal' insert ', at a pre-trial conference'.

No. 73 *Clause 109, page 42, line 20*—Leave out 'regulations may' insert 'Minister may, by order published in the *Gazette*'.

No. 74 *Clause 109, page 42, after line 24*—Insert—

(c) vary or revoke an order previously made by the Minister under this section.

No. 75 *New schedule, after page 43*—Insert new schedule as follows:

SCHEDULE 1

Appointment and Selection of Assessors

1. The Minister must establish the following panels of persons who may sit with the Tribunal as assessors in proceedings under this Act:

(a) a panel consisting of persons representative of landlords;

(b) a panel consisting of persons representative of tenants.

2. The regulations may provide for other panels of persons who may sit as assessors for the purposes of proceedings under other Acts that confer jurisdiction on the Tribunal.

3. A member of a panel is to be appointed by the Minister for a term of office not exceeding three years and on conditions determined by the Minister and specified in the instrument of appointment.

4. A member of a panel is, on the expiration of a term of office, eligible for reappointment.

5. If assessors are to sit with a member of the Tribunal in proceedings before the Tribunal, the member of the Tribunal must—

(a) in the case of proceedings under this Act—select one member from each of the panels to sit with the member;

(b) in any other case—select one member from each relevant panel (as determined by the regulations) to sit with the member.

6. However, a member of a panel who has a personal or a direct or indirect pecuniary interest in a matter before the Tribunal is disqualified from participating in the hearing of the matter.

7. If the Tribunal sits with assessors—

(a) the member of the Tribunal will preside at the proceedings and determine any questions of law or procedure; and

(b) other questions will be determined by majority opinion.

8. If an assessor dies or is for any reason unable to continue with any proceedings, the Tribunal constituted of the member of the Tribunal who is presiding at the proceedings and the other assessor may, if the member of the Tribunal so determines, continue and complete the proceedings.

No. 76 *Page 44, line 1*—After 'SCHEDULE' insert '2'.

No. 77 *Schedule, page 44, line 3*—Leave out the heading and insert—

DIVISION 1—REPEALS.

No. 78 *Schedule, clause 2, page 44, after line 9*—Insert—

'former Tribunal' means the Residential Tenancies Tribunal;

'RTTSA' means the *Residential Tenancies Tribunal of South Australia*.

No. 79 *Schedule, clause 4, page 44, after line 16*—Insert—

(2) However, proceedings that would otherwise be (or continue) before the Tribunal will now be before the RTTSA.

(3) The RTTSA may—

(a) receive in evidence transcripts of evidence in proceedings before the former Tribunal before the commencement of this Act; and

(b) adopt findings or determination of the former Tribunal.

No. 80 *Schedule, clause 6, page 44*—Leave out this clause and insert new heading and clauses as follows:

DIVISION 3—CONSEQUENTIAL AMENDMENTS

Amendment of Courts Administration Act 1993

6. The *Courts Administration Act 1993* is amended by inserting after paragraph *(e)* of the definition of 'participating courts' in section 4 the following paragraph:

(ea) the Residential Tenancies Tribunal of South Australia; and.

7. *Amendment of Retirement Villages Act 1987* The *Retirement Villages Act 1987* is amended—

(a) by striking out the definition of 'the Tribunal' from section 3 and substituting the following definition:

'Tribunal' means the *Residential Tenancies Tribunal of South Australia*.;

(b) by striking out subsection (11) of section 14;

(c) by striking out section 20;

(d) by striking out clause 2 of schedule 3;

(e) by striking out subclauses (1), (2) and (4) of clause 5 of schedule 3;

(f) by striking out clause 7 of schedule 3;

(g) by striking out clause 9 of schedule 3.

The Hon. K.T. GRIFFIN: The House of Assembly has made a number of amendments to this Bill. Because in this Chamber a number of amendments were also made and the House of Assembly did not agree with them, I took the view that it was appropriate to endeavour to resolve as many of the issues as possible with a view to avoiding the deadlock conference process, not out of any sense of disrespect for the Standing Orders but in the interests of efficiency.

Therefore, I have had a number of discussions with members of the Opposition and the Australian Democrats with a view to reaching some conclusion to the issues of difference between us. I am pleased to say that agreement has been reached in relation to all the matters at issue between the two Houses and between the Parties, and to facilitate consideration of those I propose to move a number of differing resolutions dealing with the message from the House of Assembly that will put the position which has been negotiated.

I should say that the Government did not get it all its own way: it made a number of concessions, but it is equally the case that a number of concessions were also made by the Opposition and by the Australian Democrats. However, out of that we have a Bill which will promote efficiency of operation, will provide benefits for tenants as well as for landlords and, I think, will result in a less restrictive framework within which the relationship between landlords and tenants will be regulated.

It is important to give the Committee an overview of the major areas of negotiation. One related to the Residential Tenancies Tribunal. The Government wished to have the tribunal as such abolished and the jurisdiction transferred to the Magistrates Court under a Residential Tenancies Tribunal by description but under the authority of the court and the Chief Magistrate.

The Government took the view that that would bring the decision-making processes of the tribunal within the mainstream of the courts and would provide for an appropriate way of dealing with the disagreements between landlords and tenants. The Government has conceded on this issue that we will retain the structure of the existing tribunal but will make a number of modifications to it. I acknowledge that that was probably the most significant issue upon which both the Opposition and the Democrats as well as the Government had differing points of view, and I was satisfied that, in consequence of the negotiations and with the modifications to the tribunal that are being proposed in these amendments, we will have a system that is acceptable to the Government and will provide benefits of a streamlined structure for both landlords and tenants.

We provide in that context in the amendments that magistrates will be able to exercise the jurisdiction of the tribunal. Quite obviously, it is against the spirit of the present Act and against the spirit of this Bill in terms of the compromise that magistrates should constitute the Residential Tenancies Tribunal. The fact is that at law, even under the existing Act, when terms of members of the tribunal expire, the Government could have appointed all magistrates to undertake that jurisdiction.

I indicated in my discussions that that was not the Government's intention and certainly not the Government's intention in the light of the compromise which has been reached. Notwithstanding that, in order to ensure that there is a much broader scope of the coverage of this legislation across South Australia, it was agreed that magistrates could exercise the jurisdiction. There are some controls over that, though. That jurisdiction will be exercised only in accordance with regulations which obviously have to be promulgated by the Government and which will be the subject of scrutiny through the disallowance process.

Those regulations can be made only after consultation with the presiding member of the Residential Tenancies Tribunal and the Chief Magistrate. So, hopefully there is a cooperative and coordinated arrangement which will facilitate the determination of issues which landlords or tenants wish to raise wherever that might occur in South Australia.

Magistrates go on circuit on a regular basis to most significant centres across the State. The Residential Tenancies Tribunal on occasions goes outside the city, and members of the tribunal are also appointed in places such as Mount Gambier, Port Augusta and so on. It is the Government's intention that in those major centres there will continue to be members of the Residential Tenancies Tribunal—not necessarily lawyers but they may be—so that they will be available to exercise jurisdiction in those locations. However, there are other locations where there may not be, for a variety of reasons, members of the tribunal appointed, or it may not be possible for members of the tribunal in the city to visit those places. If magistrates visit, then it seemed appropriate to the Government that magistrates be enabled to exercise that jurisdiction.

I draw the Committee's attention to the fact that under the Family Law Act magistrates already exercise jurisdiction. Under the old Industrial Relations Act magistrates exercised in the jurisdiction which was primarily the responsibility of the industrial magistrates. That does not continue under the new Industrial and Employee Relations Act, but there are enough examples there to demonstrate that magistrates do exercise, and have in the past exercised, other jurisdictions which have normally been the province or the preserve of a specialist tribunal or court.

The tribunal's jurisdiction is by agreement to be limited to $10 000 rather than the $25 000 in the present Act. The $10 000 is the same jurisdiction as may be exercised by the Commercial Division of the Magistrates Court, but in the Residential Tenancies Tribunal the limitation on legal representation will be maintained not just for the $5 000 which is the limit in the minor civil claims division of the Magistrates Court but right through to the maximum of $10 000. That is a distinction which the Government has conceded.

The administration of bonds will be the responsibility of the Commissioner for Consumer Affairs, and only disputes over bonds will go to the tribunal. The Government proposed that if there was a dispute it should be notified by the disputing party to the Commissioner within seven days. The present period is 10 days. The Government conceded as part of the negotiating process that we would agree to maintain the *status quo* and that 10 days would be the time period within which a dispute in relation to a bond should be notified.

In relation to termination, the Government in its Bill which it introduced had a two stage process by which a notice requiring a default is to be remedied and then a notice of determination should be given. The Opposition and the Australian Democrats proposed that that should be one notice, and there was a differing point of view in respect of the time period. The compromise which is reflected in the amendments that I will be moving is that if the rent is not less than 14 days in arrears the landlord will be able to give notice of termination requiring the default to be remedied within a period of not less than seven days (that makes 21 days) and, if it is not remedied and the rent paid, termination will occur and vacant possession can be required immediately.

However, if an eviction order is required that will have to go to the tribunal and, in any event, there is a residual power in the tribunal to deal with issues of hardship upon application by, say, a tenant in those circumstances to which I referred, and the Residential Tenancies Tribunal may override the termination of the tenancy or provide other relief. That is the same power which exists in the present legislation.

In respect of other breaches, if there is a breach of a tenancy agreement a notice may be given, provided that the breach has been continuing for not less than seven days. A notice to remedy must be given requiring the remedy to be effected in a period not less than seven days. If that is not remedied then vacant possession will be given seven days after that; so you have a period of 21 days. That brings forward the termination dates, but in the context of the

scheme it appears to the Government not to be unreasonable for that to occur.

In relation to the Housing Trust, there is now a scheme which will ensure that Housing Trust tenants and the trust have access to the Residential Tenancies Tribunal in relation to a number of matters which are specifically identified in the amendments. If there is a dispute—if an eviction order and possession is required guarantees in law of security bonds are provided; and locks and security apply, as does interference with neighbours—there is access to both the Act and to the tribunal by the Housing Trust and its tenants.

In relation to the Housing Trust, that will be a matter of negotiation by the Government with the trust in relation to the funding of the additional cost which is incurred in giving that access to the tribunal. In relation to guarantees *in lieu* of security bonds, that is not limited only to the Housing Trust but is primarily in the Bill to deal with issues which the Housing Trust has raised with the Government about having to pay out money to a tenant where the tenant pays it as a security bond, then to find that the tenant leaves the premises without recovering the bond, or in circumstances where the Housing Trust has a significant amount of money tied up in bonds on deposit guarantees will be permitted.

One of the issues raised in the House of Assembly, which the Government indicated it would look at, was the issue of criminal penalties. In the Bill as it was introduced the Government provided in a number of places for offences by landlords and for penalties to be imposed if offences were proved. A view was expressed to the Government that it was all very much one-sided. The Government took the view that if that criticism could be accommodated it would seek to do so.

Mr Joe Rossi proposed that there should be two areas of criminal penalty: one in relation to damage to premises which was a breach of the tenancy agreement, and the other in relation to interference with quiet enjoyment. The Bill contains a strict provision creating an offence if there is intentional and serious damage to premises. Of course, proof beyond reasonable doubt is required, and there is a maximum penalty of $2 000. I have agreed that the penal provision relating to an offence of disturbing quiet enjoyment should not be insisted upon. I make the point that there is a provision under the Criminal Law Consolidation Act dealing with wilful damage to property, and very stiff penalties are imposed, but nothing at the low level of the $2 000 fine which is proposed in the amendments. Water rating has been a source of constant complaint by landlords, particularly since 1 July when new provisions relating to water rating have come into operation.

The Hon. Anne Levy: Not only them; plenty of home owners have complained, too.

The Hon. K.T. GRIFFIN: Yes, but for a different reason. Landlords have complained that their tenancy agreements have generally been drafted on the basis of a provision for excess water, and the present Residential Tenancies Act makes provision for excess water. The difficulty is that there is now no provision in the law under the rating system for excess water. The Bill proposes a process by which the landlord and tenant could agree and, if they could not, the regulations would provide for an amount of water use which would be the responsibility of the landlord. As I indicated earlier in the debate on the Bill, we are contemplating the 136 kilolitres level, and the tenant is responsible for excess water used after that. In the transitional provisions we have sought to separate that issue, because the Government intends to bring that into operation as soon as the Act is assented to as it will clarify for landlords and tenants the provision in relation to the payment for water.

One area of concern for the Government was to ensure that the power for the Minister to make exemptions continued in the Bill. That had been removed in consideration in Committee in the Legislative Council. A number of pieces of legislation, including legislation enacted in the past 18 months and also prior to that when the Labor Government was in office, allowed ministerial exemptions to be granted, and under the previous Government ministerial exemptions were granted. The Government's argument was that ministerial exemption is required by notice in the *Gazette* so that it is public, that it is a transparent process and that this power was needed for the purpose of ensuring appropriate flexibility.

A number of other issues were addressed, most of them incidental to those major issues to which I have referred. We will deal with those in detail as we work through the amendments. I appreciate that the Opposition and the Democrats were prepared to negotiate on the important issues raised in the areas of disagreement between the two Houses, and I am pleased that we now have a resolution which will allow us to reach a satisfactory conclusion.

The Hon. ANNE LEVY: I congratulate the Attorney on the process which has occurred in relation to this Bill. Like him, I in no way wish to cast any aspersions on the conference provisions in our Standing Orders. However, by having informal discussions between the various Parties during the week when Parliament was not sitting, and discussions since then, agreement has been reached probably more rapidly than would have occurred in the process of a deadlock conference. It also made more efficient use of everybody's time in that various issues could be discussed, areas of disagreement clearly indicated and then worked on in terms of drafts between different times of consultation. It has been a very successful process. I hope that other Ministers will take note of the success which has been achieved here and that similar procedures might be adopted in other cases.

The Attorney has given a reasonable summary of some of the main issues where disagreement existed and where compromise has been reached. The Attorney will be moving a compromise set of amendments. In some cases the position taken by the Opposition and the Democrats will be the resulting one; in other cases the position taken by the Government has been agreed to; and in yet other cases neither of the original positions is reflected in the amendments, but some compromise halfway position has been negotiated and reached.

As the Attorney indicated, the maintenance of the Residential Tenancies Tribunal as a separate entity is one of the major matters on which disagreement existed. The amendments before us will maintain the existence of the Residential Tenancies Tribunal with its major provisions intact, but there will be some changes, as the Attorney has indicated. It will be possible for magistrates to be appointed as members of the tribunal. This will allow magistrates to undertake the functions of a tribunal member, particularly in remote areas or areas which are too small to warrant having a tribunal member appointed there. We welcome the Attorney's comment that he has no intention of appointing magistrates only and that this provision will not be used to avoid having tribunal members appointed in the major regional centres of South Australia. In a few instances it will doubtless be of advantage to tenants, who will not have to

wait a considerable period for a tribunal member to come from Adelaide, perhaps, to undertake a hearing as a visiting magistrate will be able to conduct the hearing with a shorter delay.

There will be new rules for the conduct of the tribunal, which will be made public through the *Gazette*. They may not differ very much from what the tribunal has been doing, but the rules for the conduct of the tribunal will be clearly set out and known by all concerned. The circumstances in which magistrates can be used as tribunal members will be covered by regulation. Before such regulations are drawn up, there will be consultation between the Minister and both the Chief Magistrate and the presiding officer of the tribunal. Of course, being regulations, the Parliament will have an opportunity to examine them and, if felt unsatisfactory, would be able to disallow them.

The question of the Housing Trust coverage is another important issue which has been resolved in the amendments before us. The previous Government did introduce and have passed legislation which would enable Housing Trust tenants to have access to the Residential Tenancies Tribunal and the Housing Trust itself under certain circumstances. That Bill was passed by this Parliament but had not been proclaimed before the election occurred, and it has never been proclaimed in the 19 months since then. This Bill, amongst other things, repeals that Act, but a number of its provisions are being transferred to this Act so it will be quite clear that, on certain matters, Housing Trust tenants and the Housing Trust itself will be able to have access to the tribunal. The Attorney-General indicated which areas would cover the Housing Trust and its tenants.

The question of payment for this is important as obviously the costs of the Residential Tenancies Tribunal are met by the interest on bond money which comes mainly from private tenants. The previous Government had reached agreement with the Housing Trust that it would pay the costs of the tribunal for all the cases which involved its tenants and itself, and that such costs would be met by the Housing Trust. I presume that a similar arrangement will be reached in this case. It would certainly be most unfair for the interest on the bond money of the tenants in private accommodation to be meeting the costs of the tribunal associated with hearings involving the Housing Trust and its tenants. As such agreement had been reached in the past, I presume it would not be difficult to reach it again once this Bill becomes law.

The Attorney-General did indicate that there will be a new system for terminations when there is a breach of a tenancy agreement, but I am sure that the system which is in the agreed amendments will be welcomed by landlords as being less onerous, as far as they are concerned, than that which was originally proposed, where a landlord would have to give two different notices to a tenant who had fallen behind in the rent: first, a notice indicating that they had fallen behind in the rent and that they had better fix it up, and if they did not, another notice indicating the tenancy was terminated. It seems much simpler to have the one notice that can cover both eventualities, and I am sure the department will be able to produce standard forms which are user friendly, for both landlord and tenants, which will explain in plain English the rights of individuals in these circumstances, the remedies available to them, and the processes they should follow. I certainly have every confidence that such appropriate forms can be produced.

The matter of security of premises was raised when the original Bill was in this Chamber, as was the question as to what extent a landlord would be liable for losses suffered by a tenant if the premises were not secure, in terms of having adequate locks on doors and windows. The Hon. Robert Lawson proposed amendments and we had considerable discussion on this matter. The House of Assembly then weighed in with a different approach, and what will be moved before the Committee in a few moments represents something which is a compromise. It is neither of the original positions but a compromise in between which provides that a landlord has to take reasonable steps to ensure the security of the premises, so if it were judged by the tribunal that reasonable steps had not been taken, the landlord could presumably be held liable for the losses of a tenant. However, if the landlord had taken reasonable steps and the tenant suffered loss, it would be for the tenant to insure against such loss rather than the landlord.

The Attorney-General mentioned the position on the time for retrieving a bond. I endorse remarks made previously that the new Act will considerably streamline the procedures for recovery or return of bond money and for collection of bond money in the first place. I think this will be considerably simplified and, where there is no dispute as to whether the bond money is returned to the tenant, or to the landlord if there are arrears of rent, perhaps, it will be rapid, and the one party will be able to apply and receive the money. Only where there is dispute over bond money will the tribunal become involved. Both landlords and tenants will find this a considerable improvement on the existing situation.

The Attorney-General mentioned the compromise position on the financial limits of the jurisdiction of the tenancies tribunal. Certainly the $10 000, which is in the amendments, is a compromise on both sides, not being the figure originally proposed either by the Government or by the Opposition and the Democrats. It does bear a relationship to the jurisdictional limit for retail shop premises in the commercial division of the Magistrates Court, so an analogy can be drawn there. The relative informality of the Residential Tenancies Tribunal will be maintained and, throughout its jurisdiction, lawyers can only become involved under very limited circumstances.

In general, we would expect the Residential Tenancies Tribunal will continue to be a tribunal where people represent themselves or have assistance from an agent or a friend, rather than bringing in lawyers—and I am not saying this in the sense of being critical necessarily of lawyers but it does add considerably to the costs. Obviously, lawyers require payment for their services, not surprisingly. If people in general expect to represent themselves in the tribunal, this will keep the costs down, and I am sure this will be welcomed by both landlords and tenants who do not want to be involved in serious costs when going to the tribunal to have a matter sorted out.

The Attorney has mentioned the clauses which were proposed in another place and which did not appear in the amendments, but nevertheless were to be given further consideration relating to the question of applying a criminal penalty in some circumstances for breach of a tenancy agreement. The argument against having such a clause in the Residential Tenancies Bill is that if wanton damage has occurred to property appropriate provisions apply under the Criminal Law Consolidation Act to deal with such matters and criminal proceedings can be lodged.

It was felt by some that there were advantages in having it mentioned in the Residential Tenancies Bill so that landlords and tenants did not have to go chasing through the law books to find an appropriate law whereby proper

penalties and damages could be obtained. While it looks as though this is creating a new criminal offence, it is not: it is merely putting into this Act offences which already exist under existing Acts with slightly different penalties, but nevertheless we are not creating a new criminal offence by inserting this clause into the Residential Tenancies Act.

The Attorney has also mentioned the question of the new system for water rates and the division between landlord and tenant. There was never disagreement between the House of Assembly and the Legislative Council or on opposite sides of the Chamber regarding these clauses. What has been proposed in this piece of legislation seems eminently sensible and will be a major advance. The other major advance, of course, compared to the existing law, is that lodging houses will, for the first time, come under the tribunal and will be controlled through the codes of conduct which have been circulated. There will be protection both for the owners and residents in lodging houses with the passing of this legislation.

This will be a major advance on the existing legislation. In order to achieve some of these non-controversial but major advances it was felt on both sides that compromise was desirable rather than have the Bill fail when, as I say, the non-controversial advances would not be achieved if the whole Bill failed. It was for that reason that the Opposition certainly felt it desirable to achieve compromise in the areas where there were differences. I, for one, am happy with the proposals which the Attorney will be moving and which I think will in no way disadvantage responsible landlords or responsible tenants who, we all agree, comprise the vast majority of landlords and tenants in this State, and there will be gains for other people as well. I again thank the Attorney for the procedure which has gone through and I am glad we have been able to reach the compromises which he will now be moving.

Progress reported; Committee to sit again.

ELECTRICITY CORPORATIONS (ETSA BOARD) 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.

The *Electricity Corporations Act 1994* presently provides for the board of directors as the governing body of ETSA to consist of four members appointed by the Governor; and the Chief Executive Officer. A quorum of the board consists of three members.

Given the other responsibilities and commitments of board members it is considered that more flexibility and expertise may be provided if the membership of the board was increased to seven members. By increasing the membership to seven it is appropriate to provide for four members to constitute a quorum of the board.

I commend this Bill to the House.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Amendment of s. 14—Establishment of board

The proposed amendment will mean that the board of ETSA will consist of seven members comprised of six (instead of four) members appointed by the Governor and the Chief Executive Officer of ETSA. A new subsection (4) is proposed which will provide that at least two members of the board must be women and two men.

Clause 4: Amendment of s. 18—Board proceedings

This amendment proposes to change the quorum of the board of ETSA from three members to four members consistent with the increase in membership of the board proposed by clause 3.

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

SOUTH AUSTRALIAN WATER CORPORATION (BOARD) 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.

The *South Australian Water Corporation Act 1994* presently provides for the board of directors as the governing body of the corporation to consist of four members appointed by the Governor, and the Chief Executive Officer. A quorum of the board consists of three members.

Given the other responsibilities and commitments of board members it is considered that more flexibility and expertise may be provided if the membership of the board was increased to seven members. By increasing the membership to seven it is appropriate to provide for four members to constitute a quorum of the board.

I commend this Bill to the House.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Amendment of s. 12—Establishment of board

The proposed amendment will mean that the board of the South Australian Water Corporation will consist of seven members comprised of six (instead of four) members appointed by the Governor and the Chief Executive Officer of the Corporation. A new subsection (4) is proposed which will provide that at least two members of the board must be women and two men.

Clause 4: Amendment of s. 16—Board proceedings

This amendment proposes to change the quorum of the board of the corporation from three members to four members consistent with the increase in membership of the board proposed by clause 3.

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

RETAIL SHOP TENANCIES

The House of Assembly intimated that it had agreed to the Legislative Council's resolution.

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

That the members of this Council on the joint committee be the Hons M.J. Elliott, K.T. Griffin and Anne Levy.

Motion carried.

MEAT HYGIENE (DEFINITION OF MEAT AND WHOLESOME) AMENDMENT BILL

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

HISTORY TRUST OF SOUTH AUSTRALIA (LEASING OF PROPERTY) AMENDMENT BILL

Returned from House of Assembly without amendment.

SOUTH AUSTRALIAN HEALTH SERVICES BILL

The House of Assembly intimated that it disagreed to the amendments made by the Legislative Council to the Health Services Bill.

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

That the Legislative Council do not insist on its amendments.

Motion negatived.

RESIDENTIAL TENANCIES BILL

Consideration in Committee of the House of Assembly's amendments (resumed on motion).

(Continued from page 2436.)

The Hon. SANDRA KANCK: In its original form the Bill seemed to be based on the premise that in the relationship between landlords and tenants the landlords get the rough end of the stick, when my view is that in most cases the landlord holds the most power. Generally, I saw this Bill as unnecessary in the first place but, given that the Government had introduced it, I then saw my brief as getting in and supporting whatever amendments would soften the Bill's impact. The most important issue for me was the retention of the tribunal and, despite the initial cries of despair from the Attorney, the tribunal has stayed. I am also pleased that parts of the Act will cover Housing Trust tenants. During Committee the amendments I moved were unsuccessful, but I supported most of the amendments moved by the Opposition. The emotional investment that went into coming up with the compromises that we have here tonight was made mostly by the Attorney-General and the Hon. Ms Levy, their respective staff members and Parliamentary Counsel for the very efficient way in which the compromises were reached. In the deadlock conferences in which I have been involved over the past 18 months I have often come away with the feeling that I have been witness to a big sell-out. Although this was not exactly a deadlock conference it was the next best thing, and at no stage did I get that sense of betrayal. I congratulate the Attorney-General on the way he enabled this to happen. There is no doubt in my mind that as a result of this process we have gone through we have a far better Bill now than that with which we started out.

Amendment No. 1:

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

That amendment No. 1 be disagreed to and that the Legislative Council make the following amendment in lieu thereof:

Long title, Page 1, line 7—After 'Residential Tenancies Act 1978' insert 'and the Residential Tenancies (Housing Trust) Amendment Act 1993; to make related amendments to the Retirement Villages Act 1987'.

The amendment relates to the long title and makes amendments consequential upon other changes which have been made in the amendments which will follow.

The Hon. ANNE LEVY: The Opposition supports the amendment.

Motion carried.

Amendment No. 2:

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

That the House of Assembly's amendment No. 2 be disagreed to.

This amendment relates to the jurisdiction of the tribunal. It is really consequential on retaining the existing structure of the tribunal.

Motion carried.

Amendment No. 3:

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

That the House of Assembly's amendment No. 3 be agreed to.

It is consequent on retaining the tribunal.

The Hon. ANNE LEVY: I agree with the amendment; it is establishing in law that the tribunal will have rules set down which it has not had as formally as this in the past.

Motion carried.

Amendment No. 4:

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

That the House of Assembly's amendment No. 4 be disagreed to.

It relates to the tribunal.

Motion carried.

Amendment Nos 5 and 6:

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

That the House of Assembly's amendments numbers 5 and 6 be disagreed to and that the Legislative Council make the following amendment in lieu thereof:

Clause 5, page 5, lines 7 to 14—Leave out subclauses (2) and (3) and insert new subclause as follows:

(a) Part 3 (Residential Tenancies Tribunal);
(b) Section 54 (Security of premises);
(c) Section 59 (Tenant's conduct);
(d) Section 81 (Tribunal may terminate tenancy where tenants' conduct unacceptable);
(e) Section 84 (Order for possession);
(f) Section 90 (Enforcement orders for possession);
(g) Division 3 of Part 8 (Powers of the Tribunal);
(h) Division 4 of Part 8 (Representation).

This relates to the South Australian Housing Trust. The amendment proposed by the Government relates to the areas of this Bill which will apply to the South Australian Housing Trust.

Motion carried.

Amendments Nos 7 to 10:

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

That the House of Assembly's amendments Nos 7 to 10 be disagreed to, and that the Legislative Council make the following amendments in lieu thereof:

Clause 12, page 7, lines 6 to 27—Leave out this clause and insert new clauses as follows:

Membership of the Tribunal

12. (1) Members of the Tribunal are appointed by the Governor.

(2) A member of the Tribunal is appointed for a term (not exceeding 5 years) specified in the instrument of appointment and, at the end of a term of appointment, is eligible for reappointment.

(3) A member of the Tribunal is appointed on conditions specified in the instrument of appointment.

(4) The office of member of the Tribunal may be held in conjunction with an office or position in the Public Service of the State.

(5) The Governor may remove a member of the Tribunal from office for—

(a) breach or, or non-compliance with, a condition of appointment; or
(b) misconduct; or
(c) failure or incapacity to carry out official duties satisfactorily.

(6) The office of a member of the Tribunal becomes vacant if the member—

(a) dies; or
(b) completes a term of office and is not reappointed; or
(c) resigns by written notice to the Minister; or
(d) is convicted of an offence punishable by imprisonment; or
(e) is removed from office under subsection (5).

Presiding and Deputy Presiding Members

12A. (1) The Governor may appoint a member of the Tribunal to be the Presiding Member or a Deputy Presiding Member of the Tribunal.

(2) A person may only be appointed as the Presiding Member or a Deputy Presiding Member of the Tribunal if the person is legally qualified.

(3) A Deputy Presiding Member may exercise powers and functions of the Presiding Member by delegation from the Presiding Member.

(4) If the Presiding Member is absent, or there is a temporary vacancy in the office of the Presiding Member, the powers, functions and duties of the Presiding Member devolve on a Deputy Presiding Member appointed by the Governor to act in the absence of the Presiding Member or, if no such appointment has been made, on the most senior Deputy Presiding Member of the Tribunal.

(5) A member who holds office as the Presiding Member or a Deputy Presiding Member of the Tribunal continues in that office until the term of office as member falls due for renewal and, if the member's term of office is renewed, the appointment as Presiding Member or Deputy Presiding Member may (but need not be) renewed also.

This relates to the membership of the tribunal and the Presiding and Deputy Presiding Members. It really is a consequence of retaining the existing tribunal but framing the membership and the reference to the Presiding and Deputy Presiding Members in a different drafting format.

Motion carried.

Amendment No. 11:

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

That the House of Assembly's amendment No. 11 be disagreed to and that the Legislative Council make the following amendment in lieu thereof:

Clause 15, page 8, lines 3 to 6—Leave out this clause and substitute new clauses as follows:

Registrar may exercise jurisdiction in certain cases

15. The registrar or a deputy registrar may—

(a) exercise the jurisdiction of the Tribunal if specifically authorised to do so by or under this Act; and

(b) subject to direction by the Presiding Member of the Tribunal—exercise the jurisdiction of the Tribunal in respect of classes of matters, or in circumstances, specified by the regulations.

Magistrates may exercise jurisdiction in certain cases

15A. (1) A magistrate may exercise the jurisdiction of the Tribunal.

(2) The regulations may prescribe a scheme for the listing of matters before magistrates.

(3) A regulation cannot be made for the purposes of subsection (2) except after the Minister has consulted with the Presiding Member of the Tribunal and the Chief Magistrate.

(4) A magistrate exercising the jurisdiction of the Tribunal is taken to be a member of the Tribunal.

This drafting matter relates to registrars but it also refers to the exercise of the jurisdiction of the tribunal by a magistrate expressed in a form that enables regulations to prescribe a scheme for the listing of matters before magistrates and for the consultation by the Minister with the Presiding Member of the tribunal and the Chief Magistrate.

Motion carried.

Amendments Nos 12 to 14:

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

That the House of Assembly's amendments Nos 12 to 14 be disagreed to.

This is consequential upon the proposition to retain the structure of the existing tribunal.

Motion carried.

Amendment No. 15:

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

That the House of Assembly's amendment No. 15 be disagreed to and that the Legislative Council make the following amendment in lieu thereof:

New clause, page 8, after line 21—Insert new clause as follows:

Sittings generally to be in public

19A. (1) Subject to any contrary provision of an Act or regulation, the Tribunal's proceedings must be open to the public.

(2) However, the Tribunal may, in an appropriate case, order that proceedings be held in private.

This relates to a modification to the provision which requires the tribunal's proceedings to be open to the public.

Motion carried.

Amendment No. 16:

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

That the House of Assembly's amendment No. 16 be disagreed to.

This is really consequential on the amendments which we have decided to retain in the legislation relating to the expeditious dealing with proceedings of the tribunal.

Motion carried.

Amendment No. 17:

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

That the House of Assembly's amendment No. 17 be disagreed to and that the Legislative Council make the following amendments in lieu thereof:

Clause 21, page 8, lines 26 and 27—Leave out subclause (1) and insert new subclause as follows:

(1) The Tribunal has—

(a) exclusive jurisdiction to hear and determine a matter that may be the subject of an application under this Act;

(b) subject to the regulations—jurisdiction to hear and determine claims or disputes arising from tenancies granted for residential purposes by the South Australian Housing Trust;

(c) the other jurisdictions conferred on the Tribunal by statute.

Clause 21, page 8, line 29—Leave out '$30 000' and insert '$10 000'.

Clause 21, page 8, line 37—Leave out '$30 000' and insert '$10 000'.

Clause 21, page 8, line 38—Leave out '$30 000' and insert '$10 000'.

This amendment deals particularly with the jurisdiction of the tribunal in relation to Housing Trust tenancies. It also deals with the issue of the jurisdictional limit, specifying that it is at $10 000.

Motion carried.

Amendments Nos 18 to 21:

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

That the House of Assembly's amendments Nos 18 to 21 be disagreed to and that the Legislative Council make the following amendments in lieu thereof:

New clauses, page 9, after line 11—Insert new heading and clauses as follows:

DIVISION 3A—CONFERENCES

Conferences

22A. (1) The Tribunal may refer contested proceedings to a conference of the parties to explore the possibilities of resolving the matters at issue by agreement and must (subject to subsection (2)) refer contested proceedings to such a conference if the proceedings are of a class prescribed by regulation for the purposes of this section.

(2) However, even though proceedings are of a class prescribed by regulation for the purposes of this section, a conference need not be held if a member or officer of the Tribunal dispenses with the conference on the ground that the conference would serve no useful purpose or there is some other proper reason to dispense with the conference.

Presiding officer

22B. A member of the Tribunal, the registrar, or another officer of the Tribunal authorised by the Presiding Member of the Tribunal, will preside at a conference.

Registrar to notify parties

22C. The registrar must notify the parties of the time and place fixed for a conference in a manner prescribed by the Rules.

Procedure

22D. (1) A conference may, at the discretion of the presiding officer, be adjourned from time to time.

(2) Unless the presiding officer decides otherwise, the conference will be held in private and the presiding officer may exclude from the conference any person apart from the parties and their representatives.

(3) A party must, if required by the presiding officer, disclose to the conference details of the party's case and of the evidence available to the party in support of that case.

(4) A settlement to which counsel or other representative of a party agrees at a conference is binding on the party.

(5) The presiding officer (if not legally qualified) may refer a question of law arising at the conference to a member of the Tribunal who is legally qualified for determination.

(6) The presiding officer may record a settlement reached at the conference and make a determination or order to give effect to the settlement.

(7) A determination or order under subsection (6) is a determination or order of the Tribunal.

Restriction on evidence

22E. Evidence of anything said or done in the course of a conference under this Division is inadmissible in proceedings before the Tribunal except by consent of all parties to the proceedings.

The amendments that I am proposing the Legislative Council should make relate to conferences. It is all part of the process that we suggest ought to be more flexible to enable mediation and conciliation conferences without the formalities of a formal hearing.

Motion carried.

Amendment No. 22:

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

That the House of Assembly's amendment No. 22 be disagreed to and that the Legislative Council make the following amendment in lieu thereof:

Clause 26, page 11, lines 2 to 16—Leave out this clause and insert new clause as follows:

Mediation

26. (1) If before or during the hearing of proceedings it appears to the Tribunal either from the nature of the case or from the attitude of the parties that there is a reasonable possibility of settling the matters in dispute between the parties, the person constituting the Tribunal may—

(a) appoint, with the consent of the parties, a mediator to achieve a negotiated settlement; or

(b) personally endeavour to bring about a settlement of the proceedings.

(2) A mediator appointed under this section has the privileges and immunities of a member of the Tribunal and may exercise any powers of the Tribunal that the Tribunal may delegate to the mediator.

(3) Nothing said or done in the course of an attempt to settle proceedings under this section may subsequently be given in evidence in proceedings before the Tribunal except by consent of all parties to the proceedings.

(4) A member of the Tribunal who attempts to settle proceedings under this section is not disqualified from hearing or continuing to hear further proceedings in the matter.

(5) If proceedings are settled under this section, the Tribunal may embody the terms of the settlement in an order.

This is essentially a matter of drafting. The amendment deals with mediation and I think it is an improved drafting style.

Motion carried.

Amendments Nos 23 and 24:

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

That the House of Assembly's amendments Nos 23 and 24 be disagreed to and that the Legislative Council make the following amendment in lieu thereof:

Clauses 27 and 28—Leave out these clauses and insert new clause as follows:

Special powers to make orders and give relief

27. (1) The Tribunal may make an order in the nature of an injunction (including an interim injunction) or on order for specific performance.

(2) However, a member of the Tribunal who is not legally qualified cannot make an order under subsection (1) without the approval of the Presiding Member of the Tribunal.

(3) Although a particular form of relief is sought by a party to proceedings before the Tribunal, the Tribunal may grant any other form of relief that it considers more appropriate to the circumstances of the case.

(4) The Tribunal may make interlocutory orders on matters within its jurisdiction.

(5) The Tribunal may, on matters within its jurisdiction, make binding declarations of right whether or not any consequential relief is or could be claimed.

(6) The Tribunal may, in the exercise of its jurisdiction, make ancillary or incidental orders.

Essentially, this is a matter of drafting relating to the power of the tribunal to make particular orders and to ensure that, where an injunction or an order for specific performance is made, it is made by the person who is a legally qualified person as a member of the tribunal.

Motion carried.

Amendments Nos 25 to 39:

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

That the House of Assembly's amendments Nos 25 to 39 be disagreed to and that the Legislative Council make the following amendments in lieu thereof:

New clauses, page 12, after line 31—Insert new heading and clauses as follows:

DIVISION 9—MISCELLANEOUS

Entry and inspection of property

35A. (1) The Tribunal may enter land or a building and carry out an inspection the Tribunal considers relevant to a proceeding before the Tribunal.

(2) The Tribunal may authorise a person to enter land or a building and carry out an inspection the Tribunal considers relevant to a proceeding before the Tribunal.

(3) A person who obstructs a Tribunal, or a person authorised by a Tribunal, in exercising a power of entry or inspection under this section commits a contempt of the Tribunal.

Contempt of the Tribunal

35B. A person who—

(a) interrupts the proceedings of the Tribunal or misbehaves before the Tribunal; or

(b) insults the Tribunal or an officer of the Tribunal acting in the exercise of official functions; or

(c) refuses, in the face of the Tribunal, to obey a lawful direction of the Tribunal,

is guilty of a contempt of the Tribunal.

Punishment of contempts

35C. (1) The Tribunal may punish a contempt as follows:

(a) it may impose a fine not exceeding $2 000; or

(b) it may commit to prison until the contempt is purged subject to a limit (not exceeding six months) to be fixed by the Tribunal at the time of making the order for commitment.

(2) The powers conferred by this section may only be exercised by a member of the Tribunal who is legally qualified.

Fees

35D. (1) The Governor may, by regulation, prescribe and provide for the payment of fees in relation to proceedings in the Tribunal.

(2) The registrar may remit or reduce a fee if the party by whom the fee is payable is suffering financial hardship, or for any other proper reason.

Procedural rules

35E. (1) The Governor may, by regulation—

(a) prescribe matters relevant to the practice and procedures of the Tribunal; and

(b) provide for the service of any process, notice or other document relevant to proceedings before the Tribunal (including circumstances where substituted service in accordance with the regulations or an order of the Tribunal will constitute due service); and

(c) deal with other matters necessary for the effective and efficient operation of the Tribunal.

(2) The Presiding Member of the Tribunal may make Rules of the Tribunal relevant to the practice and procedure of the Tribunal, or to assist in the effective and efficient operation of the Tribunal, insofar as those matters are not dealt with by the regulations.

(3) The Rules take effect as from the date of publication in the Gazette or a later date specified in the rules.

These amendments relate to the sundry powers of the tribunal concerning entry and inspection of property, contempt, punishment of contempt, fees and procedural rules. I believe they are appropriate now in the form in which I am proposing that they be included in the Bill.

Motion carried.

Amendments Nos 40 to 42:

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

That the House of Assembly's amendments Nos 40 to 42 be disagreed to.

This relates to the 10-day period within which a dispute over a bond must be notified. The House of Assembly is proposing seven days: I have accepted 10 days as part of the negotiation package.

Motion carried.

Amendment No. 43:

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

That the House of Assembly's amendment No. 43 be agreed to.

When the amendments were being checked it was identified that the House of Assembly amendment still referred to a period of seven days. Consistent with the Government's accepted amendment, that should in fact be 10 days.

Motion carried.

Amendment No. 44:

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

That the House of Assembly's amendment No. 44 be disagreed to and that the Legislative Council make the following amendment in lieu thereof:

Clause 54, page 21, line 20—After 'the landlord will' insert 'take reasonable steps to'.

Clause 57, page 23, after line 13—Insert new subclause as follows:

(1a) A tenant who intentionally causes serious damage to the premises or ancillary property is guilty of an offence.

Maximum penalty: $2 000.

· The liability to be prosecuted for an offence is in addition to civil liability for breach of the agreement.

This amendment relates to the issue of locks. There are some modifications, to which the Hon. Anne Levy has referred. It also deals with the issue of damage to premises and inserts in clause 57 a new subclause to create the offence of intentionally causing serious damage to the premises or ancillary property. I pointed out in my general overview of the scheme, which the Government was prepared to accept, that the proposal raised in the House of Assembly but not moved by way of amendment relating to a criminal offence for interference with quiet enjoyment was not something that, as part of the negotiations, I was prepared to accept. However, I think it fair to note that this is the clause in which the new offence relating to serious damage to property is provided.

The Hon. ANNE LEVY: As we have noted before, this is inserting a criminal offence into this Bill but it is not really a new criminal offence, because it is already covered in the Criminal Law Consolidation Act. It is different wording and different penalties but, in principle, it is an existing criminal offence, whereas the other matter, which was raised in the House of Assembly, would have created a new criminal offence which does not exist currently in the Criminal Law Consolidation Act, and so on. It was felt undesirable to introduce a completely new criminal offence, particularly relating only to landlords and tenants. If a new criminal offence were to be created—and I am not saying that there should be—its application should probably be wider than just landlords and tenants.

Motion carried.

Amendments Nos 45 and 46:

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

That the House of Assembly's amendments Nos 45 and 46 be agreed to and the that the Legislative Council make the following amendment in lieu thereof:

Clause 3, page 3, after line 28—Insert new subclauses as follows:

(2) If this Act provides for something to be done within a specified period from a particular day, the period will be taken not to include the particular day.

(3) If this Act provides that action may be taken after the expiration of a specified period of days, the period will be taken to be a period of clear days.

It was my view that we ought to try to clarify how one calculates a period of time, particularly in respect of notice. The provisions here are already in the Acts Interpretation Act but, certainly in the discussions I had had with landlords, there was always a certain amount of concern that the tribunal had been saying, 'You did not satisfy the requisite period of notice and missed out by a day; you have to start again.' It seemed to me that it would be helpful for landlords in particular, but also for tenants, if there were something of an explanatory nature in the body of the statute, and this reflects that intention.

Motion carried.

Amendment No. 47:

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

That the House of Assembly's amendment No. 47 be agreed to.

This is consequential.

Motion carried.

Amendment No. 48:

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

That the House of Assembly's amendment No. 48 be disagreed to and that the Legislative Council make the following amendment in lieu thereof:

Clause 69, page 28, lines 2 to 18—Leave out this clause and insert new clause as follows:

Notice of termination by landlord on ground of breach of the agreement

69. (1) If the tenant breaches a residential tenancy agreement, the landlord may give the tenant a written notice, in the form required by regulation—

(a) specifying the breach; and

(b) informing the tenant that if the breach is not remedied within a specified period (which must be a period of at least seven days) from the date the notice is given then—

(i) the tenancy is terminated by force of the notice; and

(ii) the tenant must give up possession of the premises on or before a day specified in the notice (which, subject to subsection (2)(c), must be at least seven days after the end of the period allowed for the tenant to remedy the breach).

(2) If notice 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; and

(c) the day specified in the notice for the tenant to give up possession of the premises if the rent is not paid in accordance with the terms of the notice can be any day after the day on which the tenancy is terminated under the notice[1].

[1] I.e., the requirement to give the tenant at least seven days to give up possession of the premises if the tenant remains in default does not apply.

(3) If notice 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) The tenant may at any time after receiving a notice under this section and before giving vacant possession to the landlord, apply to the Tribunal for an order—

(a) declaring that the tenant is not in breach of the residential tenancy agreement, or has remedied the breach of the agreement, and that the tenancy is not liable to be terminated under this section; or

(b) reinstating the tenancy.

(5) If the Tribunal is satisfied that a tenancy has been validly terminated under this section, but that it is just and equitable to reinstate the tenancy (or would be just and equitable to reinstate the tenancy if the conditions of the order were complied with), the Tribunal may make an order reinstating the tenancy.

· An order reinstating the tenancy under this section may be made on conditions that the Tribunal considers appropriate.

· On an application for an order reinstating the tenancy, the Tribunal may make alternative orders providing for reinstatement of the tenancy if specified conditions are complied with but, if not, ordering the tenant to give up possession of the premises to the landlord.

I draw attention to the fact that this is the notice provision, which I have already explained in some detail in my introductory remarks at the commencement of the consideration of these amendments. The scheme that is proposed provides clear instructions for landlords and tenants. To an extent it abbreviates periods of notice but also recognises that in relation to rent an extended period of 14 days in arrears must have been suffered by the landlord before the notice can be given.

The Hon. ANNE LEVY: I support this. As I indicated before, it is a compromise position. The Opposition and the Democrats felt very strongly that for non-payment of rent there should be a period of 14 days before a landlord could give a notice to a tenant. Our basis for this was that many people receive income, be it a pension cheque or a wage packet, once a fortnight and that, if they were for one of very many possible reasons unable to meet their rent commitments in one particular period they might have to wait a fortnight before they had income sufficient to meet their rent deficiency, and that it was fair to give people a 14-day period in which they would get their next wage or pension cheque.

Motion carried.

Amendments Nos 49 to 53:

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

That the House of Assembly's amendments Nos 49 to 53 be agreed to.

Motion carried.

Amendment No. 54:

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

That the House of Assembly's amendment be disagreed to, and that the Legislative Council make the following amendment in lieu thereof:

New clause 74A, page 30, after line 8—Insert new clause as follows:

Notice of termination by tenant on ground of breach of the agreement

74A.(1) If the landlord breaches a residential tenancy agreement, the tenant may give the landlord a written notice, in the form required by regulation—

(a) specifying the breach; and

(b) informing the landlord that if the breach is not remedied within a specified period (which must be a period of at least seven days) from the date the notice is given the tenancy is terminated by force of the notice from a date that is also specified in the notice (which must be at least seven days after the end of the period allowed for the landlord to remedy the breach).

(2) The landlord may, before the time fixed in the tenant's notice for termination of the tenancy or the tenant gives up possession of the premises (whichever is the later), apply to the Tribunal for an order—

(a) declaring that the landlord is not in breach of the residential tenancy agreement, or has remedied the breach of the agreement, and that the tenancy is not liable to be terminated under this section; or

(b) reinstating the tenancy.

(3) If the Tribunal is satisfied that a tenancy has been validly terminated under this section, but that it is just and equitable to reinstate the tenancy (or would be just and equitable to reinstate the tenancy if the conditions of the order were complied with), the Tribunal may make an order reinstating the tenancy.

· An order reinstating the tenancy under this section may be made on conditions that the Tribunal considers appropriate.

The amendment relates to the issue of termination and it is consistent with the scheme I outlined earlier.

Motion carried.

Amendment No. 55:

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

That the House of Assembly's amendment be agreed to.

This amendment relates to termination of tenancies as will a number of the amendments which follow.

Motion carried.

Amendment No. 56:

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

That the House of Assembly's amendment be agreed to, with the following amendment:

New section 76(1)—Note—Leave out the first sentence in this note and substitute—'A tenancy may be terminated by a notice under section 69 if the tenant fails to remedy a breach after being required to do so by the landlord.'

Motion carried.

Amendment No. 57:

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

That the House of Assembly's amendment be agreed to, with the following amendment:

New section 77(1)—Note—Leave out the first sentence in this note and substitute—'A tenancy may be terminated by a notice under section 74A if the landlord fails to remedy a breach after being required to do so by the tenant.'

Motion carried.

Amendment Nos 58 to 60:

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

That the House of Assembly's amendments be agreed to.

This, again, is part of the scheme relating to the termination of tenancy agreement.

Motion carried.

Amendment No. 61:

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

That the House of Assembly's amendment be disagreed to, and that the Legislative Council make the following amendment in lieu thereof:

Clause 81, page 32, lines 25 and 26—Leave out 'make an order terminating a residential tenancy and an order' and substitute 'terminate a residential tenancy and make an order'.

This recognises the change in the process so that termination of the tenancy occurs at the expiration of the period of notice if the breach has not been remedied and not as under the present Act where an order of the tribunal is required for that purpose.

Motion carried.

Amendments Nos 62 to 63:

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

That the House of Assembly's amendments be disagreed to.

These amendments are consequential.

Motion carried.

Amendment No. 64:

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

That the House of Assembly's amendment be agreed to.

This relates to the insertion of a heading.

Motion carried.

Amendment No. 65:

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

That the House of Assembly's amendment be agreed to, with the following amendment:

New section 84(1)(a)—After 'this Act' insert 'or, in the case of a tenancy under which the South Australian Housing Trust is landlord, under the residential tenancy agreement'.

This relates to the South Australian Housing Trust and is consequential; it relates to repossession of premises.

Motion carried.

Progress reported; Committee to sit again.

SOUTH AUSTRALIAN HEALTH SERVICES BILL

The House of Assembly requested a conference, at which it would be represented by five managers, on the Legislative Council's amendments to which it had disagreed.

The Legislative Council agreed to a conference to be held in the first floor committee room of the Legislative Council at 8.30 a.m. tomorrow, at which it would be represented by the Hons M.S. Feleppa, Sandra Kanck, Caroline Schaefer, Barbara Wiese and Diana Laidlaw.

RESIDENTIAL TENANCIES BILL

Consideration in Committee of the House of Assembly's amendments (resumed on motion).

Amendment Nos 66 to 67:

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

That the House of Assembly's amendments be disagreed to, and that the Legislative Council make the following amendment in lieu thereof:

New heading, page 36, after line 5—Insert new heading as follows:

DIVISION 8—MISCELLANEOUS

This relates to the issue of bailiffs and enforcement orders.

Motion carried.

Amendment Nos 68 to 69:

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

That the House of Assembly's amendments be disagreed to.

These amendments are consequential.

Motion carried.

Amendment No. 70:

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

That the House of Assembly's amendment be agreed to.

This relates to pretrial conferences and is consequential.

Motion carried.

Amendment No. 71:

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

That the House of Assembly's amendment be disagreed to.

This is the issue relating to legal representation in the tribunal and allows us to maintain the *status quo* which has been agreed.

Motion carried.

Amendment No. 72:

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

That the House of Assembly's amendment No. 72 be agreed to.

It is consequential.

Motion carried.

Amendments Nos 73 and 74:

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

That the House of Assembly's amendments Nos 73 and 74 be agreed to.

These relate to the issue of ministerial directions which will be remaining in the Bill.

The Hon. ANNE LEVY: I support these amendments as a compromise which was reached in the discussions. It was not our original preferred position, but we are happy to adopt it in the spirit of compromise.

Motion carried.

Amendments Nos 75 and 76:

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

That the House of Assembly's amendments Nos 75 and 76 be disagreed to.

These amendments remove the provision for assessors, which would have been necessary if we had conferred the jurisdiction on the Magistrates Court.

Motion carried.

Amendment No. 77:

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

That the House of Assembly's amendment No. 77 be agreed to.

It is a drafting issue.

Motion carried.

Amendment No. 78:

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

That the House of Assembly's amendment be disagreed to, and that the Legislative Council make the following amendments in lieu thereof:

Schedule, clause 3, page 44, lines 11 and 12—Leave out this clause and substitute—

3. Subject to the regulations—
   (a) this Act (other than section 61) extends to agreements entered into before the commencement of this paragraph that have been subject to the former Act;
   (b) section 61 extends to agreements entered into before the commencement of this paragraph that have been subject to the former Act.

Schedule, clause 4, page 44, line 15—Leave out 'commencement of this Act; and insert 'commencement of this clause'.

Schedule, clause 5, page 44, line 19—Leave out 'this Act' and insert 'this clause'.

This relates to the application of the legislation and specifically refers to section 61—the water issue. I indicated in my overview at the commencement of the consideration of these amendments that it was the Government's intention to proclaim that section to come into effect as soon as the Bill was assented to or as soon thereafter as possible because of the confusion about who is or is not liable for water rates as a result of the change in the water rating scheme.

Motion carried.

Amendment No. 79:

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

That the House of Assembly's amendment be disagreed to.

This is consequential.

Motion carried.

Amendment No. 80:

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

That the House of Assembly's amendment be disagreed to, and that the Legislative Council make the following amendment in lieu thereof:

Schedule, clause 6, page 44, lines 20 to 23—Leave out this clause and insert new heading and clause as follows:

DIVISION 3—CONSEQUENTIAL AMENDMENTS

Amendment of the Retirement Villages Act 1987

6. The Retirement Villages Act 1987 is amended—

(a) by striking out from section 20 'Supreme Court' wherever it appears and substituting in each case 'District Court';

(b) by striking out subclause (1) of clause 2 of schedule 3 and substituting the following subclause:

(1) The Tribunal will, for the purpose of hearing proceedings under this Act, be constituted of a single member of the Tribunal.

This is consequential, particularly in relation to the Retirement Villages Act.

Motion carried.

The following reason for disagreement was adopted:

Because the amendments do not improve the scheme of the Bill.

DEVELOPMENT (REVIEW) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 6 June. Page 2097.)

The Hon. M.J. ELLIOTT: I shall speak briefly to the second reading of the Bill. This Bill is something of a grab bag of a range of issues, although there seems to be one theme that recurs through quite a few of the clauses, and that is a theme of increasing ministerial discretion. Members will recall that when we last debated the Development Act, which was during the term of the previous Labor Government, I expressed grave reservations about the amount of ministerial discretion going into the Act at that time. The Minister now, through a range of different devices, is seeking to increase significantly the amount of ministerial discretion. Ministerial discretion is very much a two-edged sword: it depends on the individual who is wielding the power at the time, on the Cabinet within which that Minister is operating and on the political circumstances from time to time.

Right at this moment there may be perhaps some in the development community who would feel that increasing ministerial discretion would be a good thing because perhaps they have a judgment at this stage that the Government would be feeling fairly confident about things, although Wayne Goss could make some comment about how confident you can feel at any one time. As a consequence, if a developer went to the Government and the Minister said, 'I am supporting this development; don't worry, I will fix it up', they would probably feel fairly confident right now that, no matter what, the development would get up. If people look at developments that have failed over the past 10 years, that is a very great temptation. That attraction is very superficial. Unfortunately, the discretion to allow something to happen is also the discretion to stop it, even the discretion to change your mind.

If we take one development that failed not that long after I came to this Parliament, the Jubilee Point development, the reason it did not proceed at the end of the day was that the Minister and the Government decided that public reaction was getting a bit hot. They pulled the plug on the developer. Up until that stage, as I recall, the developer had spent close to $2 million, and they did that money cold. The point I make is that the ministerial discretion was there to allow that to have occurred, but the plug was pulled. Some people look at the eastern States and say, 'They have got development after development up,' but that tide is about to change. You only have to look at the Hinchinbrook development in Queensland and the problems it is having right now to understand that the tide has turned. In fact, you will probably find the eastern States may find themselves in a period of great uncertainty, that public reaction can be very great. We saw that in relation to seats along the tollway in Brisbane. Public reaction was huge.

I had an opportunity to talk with people in Oregon a couple of years ago when I was visiting primarily on other business, but I visited people involved in planning in Oregon. They made a comment that Oregon, although it had been a State that had been left behind—a bit like South Australia to some extent—the other States of the country for quite some time, more latterly they were getting a great deal of development coming into Oregon. The developments were coming for two reasons: first, because it was a very good place to go. The quality of life, environment, etc. that it offered to employees was very good, and that is something that South Australia has also—and I note that John Olsen has said in relation to a few of the projects that have come here recently, the quality of Adelaide as a place was really one of the reasons why some of the developments came.

The other reason Oregon was finding that things were starting to move was that, although they had stricter planning rules than other States, the developers had a fairly good idea where they stood. Whereas in other States they had been gung ho for years, they were suddenly finding that government at various levels in these States were saying, 'Don't worry, we will get the development up,' and huge public reaction came and developments started falling over. So, Oregon really managed to have the best of both worlds. They continued to maintain a very high quality of life in many regards, and its economy was moving along, developers were coming there and it was to everyone's long term benefit.

The Hon. L.H. Davis: There are two other reasons: no State tax was an attraction.

The Hon. M.J. ELLIOTT: That was only a GST type thing.

The Hon. L.H. Davis: And the weather was good.

The Hon. M.J. ELLIOTT: Sometimes. That is the advice the planners there and others I spoke to were giving to me. South Australia has a generally good planning system which clearly still has some deficiencies. I acknowledge right here that many of the matters that the Government has set about addressing in this legislation deserve attention, but the question is, 'Has the Government gone about it the right way?' I contend very strongly, as I have previously, that it is not a matter of giving the Minister more power, because that will not relate just to this Minister and whether or not we trust him, but to all future Ministers, carrying the same portfolio and the same powers; there is also a great question as to whether or not it will work in our favour.

Over the past couple of months, I have taken the opportunity to talk not only with local government, which has expressed grave reservations about quite a few parts of this legislation—and conservation groups have expressed similar concerns—but I have met with a group of people at the Employers Chamber. It was not an official Employers Chamber meeting but a group comprising a number of significant developers around Adelaide, those with a high reputation, and others involved in the development industry. As I sat around the table with them and discussed issues, they

also recognised some of the inherent flaws not only in the current system which were necessitating perhaps some change, but also that the changes being proposed really would not stop things falling over, *a la* Jubilee Point as an example.

It is very helpful to look at why so many developments in South Australia have failed over the years, and ask, in fact, 'Is there another available mechanism to try to get developments up, not just getting developments up for the sake of getting them up, but getting developments up which are sympathetic to the environment, both physical and social, and which will have broader community support?' I contend very strongly that that is possible.

I will very quickly go through a few of the developments that have failed and point out where I think they failed; people may have different views, but this is my view. The Jubilee Point development had a major problem in terms of the form and, in particular, the proposal to build a marina out to sea and having a significant impact upon longshore drift of sand was by far the biggest but not the only flaw, and in my view was probably always going to be fatal to that development. Other proposals for putting marinas on active sandy beaches—the other was down at Aldinga and Sellicks Beach—hit similar problems. Any proposal to build a marina of the type proposed there was going to hit problems. There was not a problem necessarily with wanting to build a development at the Glenelg foreshore, which has been clearly overdue for fixing up for sometime, but the problem was identifying the problems before $2 million had been spent by the developer and the Government realising it was getting a bit hard and pulling the plug on them.

With respect to the Wilpena development, the major problem there was one of location. Without going into some of the environmental concerns, location itself was causing some significant problems from a tourist perspective. When the Uluru development in the Northern Territory was proposed, the Northern Territory Government made it quite plain that, if there was to be a development, it would be built out of sight of Ayers Rock. If you climbed Uluru and looked out, you would not see the development. However, from the development, if you climbed a sandhill, you could see Uluru. It was located very sensitively.

As to the proposal for the Wilpena development along the face of the ABC Range, those familiar with the geography of the area would know that if you climb St Mary's peak—and probably half the people who go up there do so—the resort, all glistening glass, etc., would be spread right across a major vista. People do not travel to the Flinders Ranges to climb a mountain to look at a tourist resort. Although it is a degraded environment, it is still a significant one, and they are going for a wilderness-type experience. It is not a true wilderness experience but, if you come from another country, it is fairly wild for them. To me, the location in terms of the visual impact was always going to be a major impediment. There are others. You have to ask, 'Why on earth was that not identified earlier?'

The Tandanya development on Kangaroo Island raised a number of different issues, but there was always one big flaw: the site proposed was covered in native vegetation. Under the CFS regulations virtually all of that vegetation would have had to be cleared. When one considers why people go to Kangaroo Island and how Kangaroo Island is presented, why would a developer locate a major resort and then clear a huge area of vegetation, some of which was highly sensitive and supported some species which were considered endangered and/or rare? That development was never going to get up.

Somehow or another, the project went almost the whole length before it ran into that hurdle, yet within 400 metres there was vacant farmland. I am not saying there may or may not have been other problems raised. The point I am making is that there was always a fatal flaw with that project, as there were with others.

The Hon. A.J. Redford interjecting:

The Hon. M.J. ELLIOTT: No, I am talking about Tandanya: the fatal flaw was always going to be native vegetation. I understand the Government has identified another site and even purchased land. Again, there has been no consultation. I hope it has not made a mistake again. If we take the Mount Lofty development as another example, it seems to me that the cable car and its particular route, and the apparent requirement to clear quite a significant strip of native vegetation below it, running through very sensitive areas, was always going to cause major problems and reaction.

I will look at each of those projects in turn: the problem with Jubilee Point was a question of form; the problem with Wilpena was a question of location; the big problem with Tandanya was a question of location; and the problem with the Mount Lofty development was primarily form (although scale may also have been a problem with the original proposal). Yet somehow people had gone a long way down the line without those problems being identified. As I see the current Act and the proposed amendments, developers will continue to be encouraged to run the gauntlet. There is always a risk they will be told, 'Look, we think this is good development; we will help it get through.'

In the long run that will not be good for anyone. If the sandy shores of Adelaide coastline are destroyed we have lost a major asset. If the wilderness experience of the Wilpena area has been destroyed, then we have lost an asset: the very thing people are coming to see. It is not bright. In not one of those cases have I said there should not be a development; I have just said that the development needed its problems to be identified and to be put right. For a long time I have been arguing with the past and the present Governments that I believe we can put together another structure that will give developers a lot more certainty, that a lot more developments can proceed and, at the same time, give a great deal of confidence to the community that the developments that do proceed will be sensitive developments.

It is not a question of who wins: is it the environmentalists or the developers? We can have a win-win situation for the total community of South Australia. I want to have a community where the economy is vibrant; where my children, when they grow up, will have jobs, but I also want them to have a physical and social environment that is worth living in. I believe we can have all of those things together, and it is a matter of getting the Development Act right to ensure that that happens. The proposal I have put before a number of groups—and it clearly needs further refinement; we will not fix it in this current session—is that we need a process that needs to be independent in terms of environmental assessment.

It needs to be scientific because the questions of environmental assessment are not planning questions; they are scientific questions: is there or is there not an environmental impact, and how great does it impact? Another important point is that the process needs to be transparent. I do not believe that environmental assessment in South Australia is covered properly by any of these three categories. It is not independent in that it is directly within a ministerial depart-

ment. Comments have not been made about the present Minister but they have been made about previous Ministers, where reports have been rewritten because the Minister was not happy with them.

When one considers that these reports are supposed to be scientific assessments, that is not a good thing. We need enthusiasm to get a project up, but if enthusiasm means rewriting fact and rewriting scientific assessment then that is grim. That impinges on the second point: it does need to be scientific. We should be asking questions as to what is going on and the processes clearly need to be transparent.

The Hon. A.J. Redford interjecting:

The Hon. M.J. ELLIOTT: Other questions arise as well, but I am concentrating on the environmental questions. Clearly important social and economic questions must be answered as well. I am not dismissing those points but focusing on the environmental aspects because the point needs to be made. The processes are not transparent; they are happening on desktops and in rooms to which the public do not have access. The public does not know what is going on. The whole structure of the process brings the public briefly into narrow little windows, and it is a process which has been happening for a long time prior to involving the public.

The Government has, to its credit, both at the St Michael's and Mount Lofty sites—although there is not a particular development proposal—sought to bring interested representatives of the public very early into the process. It has involved people from the Employers' Chamber, the Conservation Council, Aboriginal groups, etc. Representatives from those groups have been sitting around a table trying to identify up front the potential difficulties with developments on those two sites. Reports from people involved in that consultation process from all sides say that it has worked extremely well.

It has one flaw in that a developer might come along and think of something they had not anticipated but, in general terms, any developer who does come in has many of the potential issues laid on the table very early, and that is encouraging. I would want to see that sort of process integrated early in the development process. A proposal I put forward to the various groups with whom I have spoken suggests that when the Government declares a major project—and that is where most of the problems occur—it should send the plan off to an independent body, and my initial proposal was the EPA, but that could be looked at further.

It needs to be an independent body with scientific expertise, because we will ask it a scientific question: are there environmental impacts? After a desktop review—and that would have to be done under clear guidelines—it may say that there is no real possibility of any environmental impact. An example of that could be the example the Government has given that it wanted to be able to move the Westpac proposal through fairly quickly. I could not see any environmental impact with respect to Westpac, unless it is emptying its toilets out the backdoor onto the house next door. Other than that, there are no realistic environmental impacts, and that is fine.

That sort of project would exit from the environmental assessment very quickly, although questions arise of social and economic import that need to be asked and answered by someone else. If, on the other hand, this independent body says that there appear to be some questions, then it clearly will involve the public at that point. We should go into a process similar to the St Michael's and Mount Lofty summit arrangement whereby submissions were sought on a proposal which was not highly detailed. The developer can come up with the basic concept plan at that stage without having spent hundreds of thousands of dollars, or more, on trying to work out exactly where to plant all the roses.

The public, at that stage with an idea of the general form, can then react and identify what they think are the key issues. Hopefully they will pick up the sand movement problems, the visual problems, the native vegetation problems, or whatever else are likely to be fatal flaws. We have a process now which is independent, scientific and which should also be transparent because the public are actively involved through this process. As I see it, both the developer and the public would be involved in interaction which simply explores the issues. At the end of this process the independent body could then say, 'We think there are no issues; we have explored it and there are no issues', or it may say, 'Here are the issues as we see them.'

At this point the developer is in a position to say, 'Well, I had not anticipated the sand movement or native vegetation problems; I now wish to change the form, location and scale of the project.' On the basis of that, the developers can feel a lot more confident that they have something that will not meet substantial public opposition. I hope that during that first stage many of the relatively minor issues that are confronted in an EIS will be answered. Those who are familiar with environmental impact statements know that often about 100 issues have to be addressed and, in the final EIS that comes out, about a page is spent on each of them and we end up with a 100 page report. It is unfortunate that about as much time is spent on the trivial issues as on the important ones, and all too often not nearly enough time is spent on the important issues.

In response to the changed development, we may then have to go into something that resembles the EIS process in that there will be more detailed examination of key remaining issues, but that is what it would be: key remaining issues. The developers' work can be much more focused, but the process should not be structured like the current EIS, where the developer works behind doors for months, then produces a report upon which the public has a brief opportunity to comment. If there are major issues they need to be examined fully, and there needs to be genuine interaction with the public.

As I have outlined in fairly rough form to this place, that proposal has raised interest from all sides. Clearly, a lot more work needs to be done on it and we will not do it in the next couple of days. However, if we get that process right we need not have the problems that we have experienced in the past 10 years. I predict that, if we keep the current Act, and even more so if we amend the Act as proposed in some of these amendments, we will have the same old problems, and in fact in some cases it will be made worse.

I also suspect that the level of confrontation in the community will actually increase. Some people might like to return to the days of Playford, but the public today are not Playford's public: if people today feel there is something wrong they will be out and they will fight. The more one tries to shut them out, the angrier they will get and the more they will fight. There are clear indications that that is happening in the Eastern States, and we should be seeking to avoid that here.

I have privately given a clear undertaking to the Government that I am prepared to work on this issue and spend as much time as necessary to resolve it, hopefully once and for all, but I cannot support some of these amendments, which

are simply trying to solve the problem by giving the Minister more power in being able to crash things through.

I will leave a lot of the detail for the Committee, but I will comment on just a couple of areas. I have talked about the environmental impact assessment in some depth. The ministerial discretion is too great and I cannot support it. I am aware that the Local Government Association has expressed some concern about the regularity of planned reviews, particularly in relation to country councils. I have not formed a firm view, and I will be interested to hear what the Opposition has to say. However, as I understand it, although three year reviews are provided, if a distant country council has not had anything happening, the three year review could be used to declare that the council believes that the plan needs no change. It does not imply that there necessarily has to be any great detail in the three year review, but the amount of detail would probably depend upon where the council was and what sort of general change was happening.

I suspect that metropolitan councils would be doing fairly comprehensive work on a regular basis, but I do not think that would be true of a lot of the country councils, although perhaps if they amalgamated an individual council would have more to confront.

In relation to the ministerial call-in powers, the Local Government Association has made the point to me that, since the last changes to the Development Act, there has been a reduction of 40 to 50 per cent in approval times in a 10 council sample, so in that time there has been a significant improvement in how quickly things are moving through the system as a consequence of the change. I suspect that, even now after two years, all the changes to the Development Act made two years ago have not fully bedded down yet and that councils and the Government may yet be able to improve that even further.

I do know that the councils are concerned that the proposed mechanism to extend call-in powers would not meet with their approval. They are aware, for example, of a significant backlog of applications already awaiting decision by the Development Assessment Commission and of the staff reductions to the department, and they say that it would seem to them to create uncertainty for developers and also an attraction to seek call-in by the Minister on every occasion when the developer believed that he or she might not have received a positive response from the council. In my view councils are the primary planning bodies, and I do not believe that a substantial case has been made to take that planning power away from them by way of this call-in to the Development Assessment Commission which the Minister is now proposing.

Land management agreements have also been a difficult question. There was no clear idea about precisely when, or for what purpose, the Government wanted to start using them. I have now been told that the primary interest is in relation to the freeholding of shacks. This is a pretty messy way of tackling the issues surrounding the freeholding of shacks. The Government wants to be able to say that it is freeholding a set of shacks. However, if people take the freehold, they will be under a land management agreement which provides that they will not get certain protections that people on other freehold properties will be getting. Why would the Government do that? The fact is that it wants to do it because some of these shacks are in desirable locations for a shack but, given that they might be flooded or cause pollution problems later on, the Government might want to hit them with more restrictive laws. Those are the sorts of things that the Government may want to do later on. We must ask whether that is the way to tackle the problem.

Whether a site is a good location for a shack should be questioned. The moment they are freeholded they will no longer be shacks. If there is such a difference, they will progressively go from being a shack to a holiday home. They will be significantly upgraded and many of them will also become permanent homes, and we will end up with a very large number of substantial investments under land management agreements. From discussions with the Minister, I know that he is saying that people will take their own risks. I can tell members that, given another decade or so, when all these places have been significantly upgraded and they then come under some sort of threat, be it a flood or be it that they have to clean up their septic tanks which have been messing up the Murray, or whatever else, there will be a lobby of quite a significant size with a very large financial commitment because, upon freeholding, the value of those shacks will go up overnight.

Those people will exert enormous muscle, and I do not think that, although the Government will have a land management agreement in its hand, it will have the courage to use it. For example, just as the Government found itself with quite a bill to fix up the West Lakes revetments, which should have lasted a lot longer and which should not have been its responsibility, despite the land management agreements a future Government will be left with some significant obligations—although perhaps not legal obligations—later on.

If the Government has problems in terms of whether shacks are suitably located, this is not the ideal way of going about solving those problems. It seems to me that most shacks that were not in sensitive places have probably already been freeholded. There has been this gradual creep going on for some time, and of course there are all sorts of vested interests. Members of Parliament and members of the media own shacks, and we have to watch where all these vested interest are coming from. It is a one way trip and, indeed, the history of shacks is worth repeating in this place, too. Going back to the First World War, people had a permit to go into the Hills to put up a tent. Then people would take a few bits of galvanised iron down and erect a bit of a lean-to as a temporary tin tent, after which the pieces were left behind.

An honourable member: A working man's holiday home.

The Hon. M.J. ELLIOTT: They certainly are, but in two decades they will not be. The moment they are freeholded and the value goes up it will be a one-way trip, and they will not be working men's cottages in 20 years. If the Hon. Angus Redford thinks about it, some will certainly get passed down through families, but the reality is that it will be a one-way trip. I guarantee that in 20 years the percentage owned by working people then as compared to now will be very different.

The Hon. A.J. Redford interjecting:

The Hon. M.J. ELLIOTT: Of course they are. You can advance the argument now, and it will be true that many of them have been cheap holiday accommodation. My family had one in the past.

The Hon. A.J. Redford interjecting:

The Hon. M.J. ELLIOTT: Demand will exceed supply, even if they are all freeholded, and that is reality because there will not be any more shack sites. It is time the Government bit the bullet and tried to come up with a form of development which meets the demand for those low-cost

holidays, but not putting them into the sandhills, on the edges of rivers or in other sensitive places where—

The Hon. A.J. Redford: It is not just the Government: it is the development industry.

The Hon. M.J. ELLIOTT: The development industry is not building new shacks.

The Hon. A.J. Redford: I know, because they have no confidence in the State.

The Hon. M.J. ELLIOTT: The honourable member is missing the point. I think we could come up with a form of development which would encourage that sort of low-cost accommodation to be built. You would need to have strict rules about its being holiday accommodation and not turning such structures into permanent slums, which some shack areas can become. That matter can be confronted. I refer to some people who are in sites which are perhaps not desirable from an environmental or economic point of view, as distinct from where they themselves might like to live, and perhaps we could come up with some sort of package which offers them compensation in terms of a nearby site that is not as sensitive. Perhaps over a period of time we could encourage people to relocate to those other sites. In the long term it might be better for the Government to give assistance to people to do that in the more sensitive areas. Those comments must be general ones because, in any assessment, at the end of the day it has to be on a site-by-site basis.

In relation to Crown developments, the Bill as drafted would allow a fairly dodgy arrangement whereby the Government could become an investor with a $1 share in an otherwise private development and, under the Bill, it would immediately be a Crown development. That is not on. I note that the Government has an amendment on file, but I do not believe that it has yet closed off that loophole. I have not talked to a number of other clauses, and I will leave those to the Committee stages.

The Hon. A.J. REDFORD: I support the second reading, and I wish to make some general comments without referring specifically to the Bill. Also, I will comment on the Hon. Mike Elliott's contribution. I must say that I have sympathy with some of the views that he expressed in his speech. There is no doubt that the planning process in South Australia has been, for as long as I can remember, and still is fraught with uncertainty. All too often we have had development proposals put and gone an extensive way through the planning process, only to find that there were problems at the very end.

For a small part of my practice, and on a couple of occasions, albeit notable ones, I have had some limited involvement as a legal practitioner in relation to some significant commercial developments that were proposed for South Australia. In this respect, I refer to the Hindmarsh Island and Flinders Ranges developments. I do not propose to go through in any detail either my involvement with or my specific views about Hindmarsh Island, because those matters are likely to be canvassed in other places or inquiries, and I do not intend to advertise my involvement therein.

However, I will say (and I do not say this often about the ABC) that last Wednesday evening's *7.30 Report* item on the history of the Hindmarsh Island development was essentially very accurate. As was set out in that program, that project was one in which the planning process, in my view, took three to four years too long and, as a consequence, everyone suffered. The developer suffered and the local council suffered. Also, I believe that the previous Government and the then Deputy Premier (Hon. D.J. Hopgood) suffered and that the confidence of South Australians, whether it be in the planning process or Aboriginal issues, was damaged by that process. We must establish a process which provides certainty to developers, to the community and to the bureaucrats. There appears to be a substantial growth in this State in one industry at least, that is, the professional objectors to development in South Australia.

The Hon. Michael Elliott referred to a number of proposals in South Australia over the past decade. Developments were proposed for the Flinders Ranges, Hindmarsh Island, Kangaroo Island, Jubilee Point, the East End and Mount Lofty, to name just a few. With very few exceptions, they all failed for various reasons and, whatever we might think about these projects, the fact is that significant resources were spent and, I suggest, wasted as a consequence of an appalling planning process.

I have some sympathy with the comments made by the Hon. Michael Elliott and, indeed, with some of the suggestions that he has proferred. I hope that the Hon. Michael Elliott does not mind, but he did mention to me in a private conversation that it is his view that there must be a process whereby there is early identification of environmental issues both for developers and for objectors. I must say, and I hope he does not mind my quoting him, that I wholeheartedly agree with that sentiment. I also agree when he makes the comment that the environmental impact statement and its process will always be treated suspiciously. The EIS is normally a document prepared at the cost of the developer. Generally, the body that prepares the EIS is someone selected by the developer and, obviously, even with the best intent in the world there is an appearance that the people who prepare these EISs—and I must say that I have not yet met one person who is involved in that industry who does not apply an objective mind—tend to favour the developer. As such, the EISs are normally viewed with extraordinary and, in my view, unfounded cynicism by various elements in the community.

The Hon. M.J. Elliott: That is because the process is not transparent enough.

The Hon. A.J. REDFORD: The Hon. Mr Elliott suggests that it is because the process is not transparent, and I agree with that sentiment. I believe that the Hon. Mr Elliott has made an important contribution and, at the risk of boring members opposite, if I can summarise it correctly, he basically suggests a process whereby, when we have a major project, we send it off to an independent body, which is charged with the responsibility of identifying environmental impacts on a scientific basis (and by that I imagine he means that there is some sort of objective standard), and that there be an objective assessment of whether or not standards are reached, exceeded or fallen below. Once those issues have been identified, it is then submitted to the planning process.

I think he stated that the question that ought to be put to a body such as this is: are there any scientific impacts? If there are not, then the project ought to go ahead and ought to be allowed to be proceeded with quickly and expeditiously. He then goes on to say that, if there are scientific impacts, submissions ought to be sought from the public and from interested parties on those issues. At the end of the day I am sure that he would agree that there is a question of degree in relation to some of these impacts. The honourable member suggests that, using that process, the issues are identified at an earlier stage. Without seeing in writing exactly the process that he envisages and how it would be put through, again I

have to concede that the Hon. Michael Elliott may have a point.

The only query I would have is that there must be a mechanism whereby the public can be actively involved. In any development application I believe that all the interested parties have a responsibility, and all too often the responsibility of various parties in relation to a number of these projects has been ignored. Perhaps I can explain it in this way. If a developer falls down on its responsibility or there is potential for a developer to fall down, in my view, over the past 10 years those issues have been identified. Sometimes it has taken some time to identify them, but they have been identified and we have a process that identifies those issues. On the other hand, I do not believe that we have a process that identifies or causes the public to take its responsibility in exercising its right seriously and in a timely fashion.

I think the Hindmarsh Island issue is a case in point. Without going into too much detail, on any examination of the issues the Aboriginal issue, which is the subject of other inquiries, on any assessment was identified very late in the process after the developer had expended an enormous sum of money and the bureaucracy and the Minister of the day had spent an enormous amount of time. I cite that as an example because that is one with which I have had a personal involvement; but I also say that all too often in developments a developer gets a long way through the process, spends an extraordinary sum of money and then the public starts to take some notice and to raise objections.

Once that happens, even with the best development process in the world it suddenly becomes a political issue. I do not want to get into any name calling here or refer to particular individuals, because individuals come from all political Parties; I can name some from this Party. But there is a great opportunity for politicians seeking to make their name to jump on the bandwagon late in the piece, wave the flag and say that this development should not go ahead. Another project I was involved in where that occurred was the Flinders Ranges project. Certainly, there is no-one in this place or currently in the other place who was involved in that sort of tactic, but at the end of the day it was all very tempting for a politician to grab a headline simply by taking, at a very late stage in the process, the political point. The fact is that when that occurs it is exceedingly difficult for a Government of any persuasion to withstand overwhelming public pressure that it might cause.

The Hon. M.J. Elliott interjecting:

The Hon. A.J. REDFORD: I am not going to get into that at this stage: we will deal with that in Committee. I respect the honest and real effort that the Hon. Michael Elliott has made on this issue and I certainly believe, given the interest he has shown in this issue over the number of years, that he has the right to make a contribution. But I do have some reservations on that topic. I do not say that I have any answers, but the real problem is that you can have that process and, if the public suddenly gets taken up with a particular issue in terms of anti-development—and it can happen at a late stage—the political forces come to bear and the Government in some way, shape or form, whether it be through union action or whatever, brings that development to a halt.

There needs to be some process whereby we can convince the South Australian public that it has certain rights; that those rights ought to be exercised in a timely fashion. People ought to be given a reasonable opportunity to exercise those rights but, once a decision has been made, the developer ought to have some confidence that he can go ahead. I will not mention some of the amounts that have been spent by some of these developers but I imagine that, if one combined the amounts of money spent by the proponents of the Flinders Ranges development and the Hindmarsh Island development, something of the order of $18 million to $20 million would have been spent by the developers in projects that at this stage have not gone ahead. That is extremely disappointing and operates, in my view, as a barrier to proper investment into this State.

The Hon. T.G. Roberts: Does the Bill overcome those issues that you have raised?

The Hon. A.J. REDFORD: The Bill takes a certain approach, and I do not want to go into the detail of the Bill; I would rather do that in the Committee stage. What I want to say in this place is that I think the time has come, with goodwill from all political Parties, when we have to develop a process whereby developers can approach the planning process with some confidence, and the Hon. Michael Elliott goes through a process whereby issues will be identified, they are then dealt with and, at a certain stage, they will receive planning approval or they will receive an early knock back so that they can get on with other projects or with other developments.

If we can develop a system which does that then we are a long way down the track towards encouraging investment back into this State and at the same time protecting the quality of life that has been developed in this State. I have some sympathy with the views put by the Hon. Michael Elliott in that process. I also agree that too much money and too much time is spent on the average environmental impact study on issues that will simply not be the subject of any public controversy. There must be a way in which that can be overcome—I do not believe that the Bill does that. Quite frankly, the Bill is not much of an improvement on the previous legislation and we have the same degree of frustration out there in the community as we had beforehand. We had frustration from developers, the public, who feel they have been disempowered, and from our bureaucrats. But I do agree with the sentiments.

I note that the Hon. Michael Elliott has been given information from the Local Government Association that under this new legislation some 40 to 50 per cent less time is now spent on applications than in previous times. I would be interested to hear how it came up with that figure and how it justifies that. I do not say that it is not true but I have had a number of complaints from various constituents and various people that some of the bureaucratic practices within local government for ordinary people making a slight alteration to their homes is quite extraordinary and expensive. In a grievance debate last Wednesday week I pointed out some of the ridiculous practices and costs imposed upon ordinary home owners by local government authorities in their overly bureaucratic approach to some of these issues. In my local council I recall sitting through a two hour debate on whether or not a councillor could swap over an iron fence for a stone fence. Those sorts of issues do no justice to some of the local councils.

Unless local government attacks this issue on a fair and reasonable basis we will see a continuing trend of applications for development being dealt with outside the local government process. There ought to be the opportunity to opt out of the local government process and give local government the challenge to ensure that the interests of everybody are properly protected. In closing, I pose this question: would

our forefathers have developed this beautiful city in the manner that they did in the first 100 years of development if they had been subjected to some of these bureaucratic hurdles and to what appears to me to be quite hysterical opposition to all things associated with the word 'development'?

I sometimes wonder whether we impose too significant a burden on developers. I sometimes wonder whether we are really giving our children an opportunity to develop this city, to change this city, and indeed to change this State, into a place in which they want to live. I sometimes wonder whether we are not too often dominated by what I would describe as 'geriatric greenies' who have made their way in life, who have their income, who have their jobs, who have had their opportunity and who want to retain what they have at the expense of opportunities for our younger people, our younger architects, our younger developers and our younger builders. I hope that, over the period of time I am privileged to serve South Australia in this place, we can develop a better process for development. I thank the Hon. Michael Elliott for his constructive suggestions. At this point in time I commend the Bill.

The Hon. DIANA LAIDLAW (Minister for Transport): I thank all members who have contributed to this debate and I will make a few general remarks. 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 a 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. This does not mean that a plan amendment report must be prepared by the council every three years. If a council's development plan is appropriate and consistent with the planning strategy then there will be no requirement for an amendment.

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 determined 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 third party public notification and appeal rights will be retained.

The Government does not intend that this provision be used frequently or that it be used by developers to bypass councils they view as unsympathetic. If a developer feels aggrieved by a council's decision then, except for non-complying applications, the developer can appeal to the Environment, Resources and Development Court. Rather, this clause would apply to atypical or unforeseen developments that schedule 10 of the development regulations does not already list as requiring a Development Assessment Commission decision. Examples could include a large mixed use development, a large-scale development with regional implications such as tourist developments and large shopping centres or applications where a council is considered to have a vested interest in the outcome and the council has refused to ask the Minister to request that the commission deal with the application pursuant to section 34(1)(b)(iii) of the Act.

The Government will be able to dispense with the requirement for 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 and environmental impacts of the development will not be significant if it proceeds. In such cases 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. I have amendments related to this matter. It has been suggested that the Governor should also receive the report from the Environmental Protection Authority. The Governor has accepted this suggestion and, as I indicated, I shall be seeking to amend the clause accordingly.

Provision is included to clarify the status of the Government's infrastructure developments where arrangements are entered into with private companies to build, own and operate the projects. The Bill provides for such projects of a community nature to be classified as Crown developments. In response to suggestions that this clause is too loosely worded, the Government will be seeking to amend the Bill to ensure that the purpose of this provision is clear.

Councils and the Development Assessment Commission will be given the choice of whether to hear representors who have made a written submission to a category 3 publicly notified development application that is not listed as either complying or non-complying with a development plan. Mandatory hearings are retained for all applications for non-complying kinds of development. The Bill does not alter the position with respect to a category 2 development. Land management agreements will be used to indemnify the State Government, councils and statutory authorities. However, the Government will seek to amend the Bill to ensure that such indemnity provisions relate only to agreements to which the Minister is a signatory.

A number of other matters were raised by honourable members, including the chequered history of various developments, tourist developments in particular, ranging from Mount Lofty to Sellicks Beach, Tandanya and Wilpena. The Hon. Angus Redford also talked about the saga of the Hindmarsh Island bridge development. We have had some bad times in terms of our record on development in this State and bad times, some would argue, in terms of the outcome, the process and the image that such controversies have generated for the State. I do not plan to go into the history of those developments. The Government firmly believes that this Bill will go some way to help the State to have a more reliable planning process which will be to its overall advantage in future. I thank members for their contributions.

Bill read a second time.

MEAT HYGIENE (DEFINITION OF MEAT AND WHOLESOME) AMENDMENT BILL

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.

The Government is pleased to introduce the *Meat Hygiene (Definition of Meat and Wholesome) Amendment Bill 1995.*

The amendments address two specific and separate sections of the Act:

1) Regulation of Smallgoods
2) Procedure for declaring and determining action on "diseases and conditions" detected in meat processing establishments.

Objectives

Regulation of Smallgoods

The amendment seeks to replace the specific exemption of *cooked products* from the definitions of "meat" and "meat processing" under the Act by refining the definitions to include the range of processed meat products as defined in Clauses 6 through 10 of the national Food Standards Code, Standard C1.

The definitions of "meat" and "meat processing" under the *Meat Hygiene Act 1994* specifically *exclude* cooked products. The reason for this, at the time of drafting, was to avoid regulating companies producing food products containing cooked meat, such as bakeries and pasta wholesalers.

An assumption was made at the time of preparation of the Act that all smallgoods producers were making *some* fresh products (for example, fresh sausages), some cured and/or salted uncooked products and/or uncooked fermented products.

Initial assessment of smallgoods operations and entry to compliance programs was arranged and completed quickly, in line with the "fast-tracking" program announced by the Premier on 6 February 1995. A total of 55 companies in SA are currently accredited to produce smallgoods.

It is now evident that a small number of companies make only cooked products. Under the current wording of the Act, these manufacturers are exempt from the requirements of the Meat Hygiene Act.

The SA Meat Hygiene Advisory Council has expressed concern that the matter be addressed as soon as possible. The Council is of the view that existing surveillance procedures are inadequate and there are significant risks to human safety associated with all smallgoods processing, whether the final product is cooked or not. The Council is also concerned that all meat processing in smallgoods establishments is subject to documentation and regular, consistent auditing, to ensure that product safety and wholesomeness can be affirmed.

The importance of industry-wide consistency and coverage of regulatory hygiene controls was reaffirmed early in 1995 when the Federal Government announced an initiative to introduce mandatory quality assurance based on HACCP (Hazard Analysis and Critical Control Points) and a mandatory code of hygienic production in all smallgoods factories in Australia within 12 months. In March 1995 the Federal Minister for Primary Industries and Energy, Senator Collins, announced the resolutions of ARMCANZ 5, which included mandating HACCP and national standards throughout the meat processing industry.

The smallgoods industry in South Australia is committed to supporting the initiatives taken so far, which have unified the industry and established uniform operating and auditing standards. It is concerned at the possibility that once company programs are defined and documented under the fast-tracking program, some producers may find their operations are not covered under the Act.

The smallgoods industry therefore strongly supports amendment of the current Act to provide for coverage of all operators.

Careful examination of the definition provided by the national Food Standards Code, Standard C1 and consultation within the industry has shown that the proposed amendment will not result in any significant increase in the number of meat processors actually operating under meat hygiene regulations. The only group of initial concern were paté makers—inquiry revealed that all the key South Australian wholesalers of paté products are fully aware and supportive of the regulations and already accredited under the Act.

It is the intention of the Government to exclude from the application of the Act makers of pastry products containing cooked meat, such as pies (because they are regulated under separate national Food Standard, C4) and makers of canned meat products (because they are regulated under Standard C2).

Diseases and Conditions of Animals and Meat

Section 5(2) of the Act provides for the Minister to declare diseases and conditions subject to specific action by inspectors or company staff.

Currently, pending the passage of new regulations, all operations at slaughtering operations are covered by regulations under the *Meat Hygiene Act 1980* which include reference to specific diseases and conditions subject to specific action by inspectors.

New regulations under the *Meat Hygiene Act 1994* will refer specifically to the *National Standard for Hygienic Production of Meat for Human Consumption*, which will effectively replace existing State regulations.

The National Standard includes specific diseases and conditions detected both ante-mortem and post-mortem in meat processing plants and specifies actions required on their detection by both inspectors and company staff.

Inclusion of a separate reference to Ministerial notice of diseases etc under the definition of "wholesome" (Section 5(2)) is therefore now unnecessary, as long as the definition of "wholesome" (Section 3) is clarified by reference to regulations.

Explanation of Clauses

Clause 1: Short title

Clause 2: Amendment of s. 3—Interpretation

The deletion of the definition of diseased animal or bird is consequential on a later clause that substitutes section 5.

The definition of meat is substituted. It is proposed to alter the way in which meat products are included within the ambit of the definition. Under the current definition the cut off point is cooking. Under the proposed definition the cut off point is if the product (whether cooked or not) contains less than 300g/kg of meat.

Clause 3: Substitution of ss. 4 and 5

4. Meaning of meat processing

The definition of meat processing is altered to reflect the proposed alteration in the definition of meat. The references to the meat being intended for human consumption or consumption by pets are made consistent.

5. Meaning of wholesome

The current definition requires the Governor to declare diseases or conditions rendering meat unfit for human consumption or consumption by pets. It is proposed to remove this requirement.

In its place it is proposed that the definition rely on the provisions of the Codes (as applied by the regulations) requiring holders of accreditation to classify meat as unfit in certain circumstances and not to process the meat for human consumption, or consumption by pets.

A general reference to disease rendering meat unfit is included.

Clause 4: Amendment of s. 12—Obligation to hold accreditation

Section 12(2)(c)(iii) relates to cooked meat. With the alteration to the definition of meat processing, this subparagraph is otiose.

Clause 5: Amendment of s. 29—General powers of meat hygiene officers

Clause 6: Amendment of s. 30—Provisions relating to seizure

These amendments are consequential to the amendments to section 5.

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

DEVELOPMENT (REVIEW) AMENDMENT BILL

In Committee.

Clause 1—'Short title.'

The Hon. T.G. ROBERTS: I would like to place on the record the Opposition's position on how to proceed with this Bill. The Opposition recorded its position in another place, and then again in the Legislative Council in the second reading. We indicated that we had major problems with the direction and flow on many aspects of the Bill. We indicated that it was becoming an autocratic rather than a democratic Bill in dealing with problems associated with development. Every contribution has lent towards the difficulties and the failures in the past, and all contributors have given reasons as to why those developments have failed. The Bill itself does not address those difficulties experienced in the past. The Opposition cannot see inherent in the Bill any solutions to the centralising of authority in planning and development.

The contribution of the Hon. Mr Elliott indicated that the way to move towards development was by consensus; he said that there had to be cooperation and trust. The Hon. Mr Elliott also indicated two successful partial outcomes to moving down a stage development process. He also indicated a suggested form of negotiations and a protocol that can be developed by the Government to come to terms with some of the difficulties which it has and which the State faces, thereby getting support from his Party, the Opposition and the community.

If we proceed with the Bill in its current form, without amendments, there will not be too much left of the Bill in its

final stage, and I am sure the Government would not be particularly happy with that. The suggestions made, and the leanings indicated in the second reading debate, should send signals to the Government that perhaps there should be further discussion prior to the Bill's advancing any further, and that perhaps we should move into negotiations prior to any further stages of the Bill being addressed this evening.

The Hon. M.J. Elliott interjecting:

The Hon. T.G. ROBERTS: The interjection would indicate other examples of Bills moving into negotiated informal Committee stages through briefings and discussions to examine proposals that may be advanced drawing on consensus as to a way in which to proceed. An offer was made to me today to brief me on various aspects of the Bill, but I could not avail myself of those briefings. The Government's indicated amendments do not appear to address our concerns, either, so I guess the Government has two options: one is to proceed with the Bill in the knowledge that, at the end of the day, there will not be a lot coming out of it; or to try to get some negotiated position that may advance the Government's efforts in relation to what it is seeking to achieve, and we may be able to make some progress that way.

I am also aware that we are in the last week of the session, so those discussions would probably have to take place within the next 24 hours, and the Government would then have to make up its mind on how quickly it wanted to proceed to complete the third reading stage.

Progress reported; Committee to sit again.

ADJOURNMENT

At 10.39 p.m. the Council adjourned until Wednesday 26 July at 2.15 p.m.