LEGISLATIVE COUNCIL

Wednesday 25 October 1995

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

LEGISLATIVE REVIEW COMMITTEE

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

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE

The Hon. CAROLINE SCHAEFER: I bring up a special report of the committee.

FIREFIGHTERS UNION AND AMBULANCE EMPLOYEES ASSOCIATION

The Hon. K.T. GRIFFIN (Attorney-General): I seek leave to table a ministerial statement made by the Minister for Emergency Services in another place about the Firefighters Union and the Ambulance Employees Association.

Leave granted.

HUS EPIDEMIC

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I seek leave to table a copy of a ministerial statement made today in another place by the Premier on the subject of statements of Mr and Mrs Robinson.

Leave granted.

QUESTION TIME

SCHOOL SERVICES OFFICERS

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 SSO cuts.

Leave granted.

The Hon. CAROLYN PICKLES: There has been great disquiet in the education community about the Brown Government's cuts of 250 SSOs at the end of this year. Much has been said about the valuable role of SSOs and I have visited schools, as have many other MPs—including Liberal backbenchers—that are very agitated about this latest round of cuts in education. Some comments I would like to highlight have been made in relation to this issue include:

> It was generally stated that all facets in which the SSOs work are essential so they cannot see which areas can be cut out or cut back. It is very clear the SSOs have taken on work far beyond their job specifications and requirements, relieving pressure and time of teachers and principals. The question is: will they pick these functions back up again when SSOs' time is cut and they work to rule?

Another quote is:

> SSOs are doing hours far in advance of what they are paid for and undertake essential functions.

A further quote is:

> The taste of this dispute will take a long time to go away regardless of any decisions we might take to show compromise. The bottom line, I believe, is that schools need some sense of the security level and where the cuts will finally lead them.

Does the Minister agree with these comments and the criticism of the SSO cuts?

The Hon. R.I. LUCAS: I agree that the Government's decision to reduce both the number of SSOs and the number of above-formula teaching positions at the end of the year has been greeted with great concern by parents, teachers and principals. As Minister I have expressed concern, as have all Liberal members of Parliament, at the effects of the latest round of reductions. I have indicated in this Council and publicly on many occasions that the Government understands the concerns of the education community. These are not decisions the Government wished to take. The Government would have preferred not to have been placed in the position where it was forced to take these difficult and painful decisions for school communities.

The simple response is, 'Yes, I am aware of the concerns.' Indeed, I, and all Liberal members of Parliament, share the concerns of the education community about the painful decisions this Government has had to take as a result of the Labor Government's financial incompetence and ineptitude over almost a decade of rule in South Australia.

The Hon. CAROLYN PICKLES: I have a supplementary question. In the light of the comments made and concerns expressed by the member for Kaurna and other Liberal backbenchers to the Minister, will the Minister now reverse his decision to axe 250 SSOs from the school system at the beginning of 1996?

The Hon. R.I. LUCAS: I have already indicated my response to that question. I understand the concerns, not only of the member for Kaurna but from all Liberal members, including me, as Minister, about the effects and ramifications of these painful decisions that the ineptitude and financial incompetence of the Labor administration forced upon this Liberal Government.

HUS EPIDEMIC

The Hon. R.R. ROBERTS: I seek leave to make a brief explanation before asking the Attorney-General a question about a direction from the Ombudsman to the Health Commission.

Leave granted.

The Hon. R.R. ROBERTS: Last week the Minister for Health called into question the decision of the Ombudsman to give a direction to the Health Commission on 17 October 1995 to hand over all remaining documents in respect of the Freedom of Information inspection requests submitted on 8 February 1995 by the Leader of the Opposition in another place, the Hon. Mike Rann. The FIO request pertained to the Garibaldi affair and the Government's lack of prompt and effective action in respect of the HUS outbreak at the beginning of the year. The Deputy Ombudsman today responded to the dubious remarks of the Minister for Health. So that members can appreciate the full significance of my question, I will quote selectively the relevant part of the letter of today's date addressed to the Minister, the Hon. Michael Armitage, from the Ombudsman's office. The letter states:

> In the House of Assembly last week you made comments about the direction issued under delegated authority by me in the name of the Ombudsman, pursuant to the provisions of the Freedom of Information Act. After consultation with the Ombudsman, who is currently overseas, it is considered necessary to qualify certain aspects of this matter. On 18 October 1995 in the Parliament, you stated that 'Yesterday the Ombudsman, without any notification to

the South Australian Health Commission, issued a direction to the South Australian Health Commission to release the remaining documents.'

I advise that, by letter of 29 September 1995, the Ombudsman informed the South Australian Health Commission that full and final submissions in respect of the status of the remaining documents should be put to the Ombudsman by 5 p.m. on 17 October 1995. Subsequent to this letter, the Ombudsman received a letter from the commission dated 28 September 1995 which advised that the commission still considered that the remaining documents were exempt from release pursuant to clause 4(1)(d) of schedule 1 of the Freedom of Information Act. A telephone conversation between a staff member of this office and the commission's principal legal officer on 4 October confirmed that this was still the commission's position. The Ombudsman therefore wrote again to the commission on 5 October 1995. In this letter the commission was advised that, in the absence of any further submissions by 5 p.m. on 17 October 1995, the Ombudsman may finalise his review and direct release of the documents.

I consider that these two letters constituted significant notification to the commission of the Ombudsman's intentions. The commission did not respond either formally or informally to this office by the 5 p.m. deadline and so, in light of the lengthy period since the application had been made at 5.05 p.m., a direction to release the documents was issued.

He goes on:

Whilst I had become aware through media reports and *Hansard* that some documents had been provided to the Hon. Mr Rann by the SA Health Commission, it was not until after the direction had been issued that the SA Health Commission contacted this office and advised that it considered that all of the relevant documents had already been released.

Because of the discrepancy between the number of documents supplied to the Hon. Mr Rann and the number held by this office, it was logical to conclude that there were remaining documents which were considered exempt. Thus, it was necessary to issue the direction which had been foreshadowed in the Ombudsman's letter of 5 October 1995.

Does the Attorney-General agree with the Deputy Ombudsman that in all the circumstances 'it was necessary to issue the direction which had been foreshadowed in the Ombudsman's letter of 5 October 1995'?

The Hon. K.T. GRIFFIN: I am not responsible for the Ombudsman: the Ombudsman is independent of Government. The resources to service the Ombudsman are provided from within the Attorney-General's Department, but the Ombudsman is not accountable to me for what he or his delegates or officers may do in the exercise of their functions under the Ombudsman Act. In that context, the Ombudsman has not made available to me a copy of the letter that the honourable member has, and I have not therefore had an opportunity to consider it.

I understand that in respect of the freedom of information request by the Hon. Mr Rann the Ombudsman agreed that a significant number of the documents held by the Health Commission were beyond the request for disclosure by the Hon. Mr Rann. In those circumstances, the Hon. Mr Rann has himself to blame, not anybody else, for the fact that some documents were not made available. I understand that yesterday the Minister for Health indicated that some documents, even though they were beyond the scope of the FOI request, would be made available, and I understand that there was plenty of opportunity for the Hon. Mr Rann to correct the mistake that he made with respect to his request to the Health Commission.

I am not in a position to respond about the detail of the letter, because I have not seen it. If the honourable member cares to make it available, I will take appropriate advice on it and bring back a reply.

The Hon. R.R. ROBERTS: In view of that answer, I seek leave to table the letter for the Minister's perusal.

Leave granted.

NATIVE VEGETATION

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

Leave granted.

The Hon. T.G. ROBERTS: In the *Advertiser* of Monday 23 October there is an article headed, 'The island "greenie" who fells trees', and it relates to a species of eucalypt that apparently appreciates being felled at a particular stage in its growth cycle. The article states that the species of eucalypt benefits from being cut down by woodcutters and exported over to the mainland to be sold at $85 per tonne, and that this woodcutter and his three mates would be flat out all through spring and summer trying to keep up with the demand for those people in Adelaide who are affluent enough to have wood fires burning.

I am not doubting that the woodcutter's assessment is an accurate one, as he perceives it, but I am concerned that the description of that eucalypt fits the actual circumstances in which it is being cleared. The Native Vegetation Act defines clearance of native vegetation as 'the killing and destruction of native vegetation; the removal of native vegetation; the severing of branches, limbs, stems or trunks of native vegetation; the burning of native vegetation; and any other substantial damage to native vegetation'. The definition of the prescribed clearance that is taking place, or 'harvesting' as it is referred to, on Kangaroo Island, I would have thought, fell within the category of 'the severing of branches, limbs, stems or trunks of native vegetation'. I wonder whether the species benefited from this process or whether the woodcutter was in violation of the Act. My questions are:

1. How many licences have been issued for woodcutters to 'harvest' or clear native vegetation, and for what areas of the State have these been issued?

2. Does the woodcutter identified in the *Advertiser* article of Monday 23 October have the appropriate licences for the harvesting of native vegetation on Kangaroo Island?

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

GOVERNMENT LAND

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister representing the Minister for Environment and Natural Resources a question about the sale of Government land.

Leave granted.

The Hon. M.J. ELLIOTT: Cumberland Park is the only Adelaide suburb that does not have any public open space. Neighbouring Westbourne Park is almost as bad, having only one park. The whole community relies on the oval facilities of the Westbourne Park school for their recreational activities. In May this year, the school council agreed that the western-most oval, the soccer oval, comprising 1.14 hectares, was surplus to its requirements but it did not wish to see it lost from communal open space use. I understand that it was told that it could have no money to fix up its school unless it sold the oval, and they are the grounds on which the agreement was made.

The Mitcham council asked the Education Department to retain the land as open space because of Cumberland Park's lack of open space. It said it was willing to buy the land as open space at that value, but the State Government said it wanted residential values for the land—against its own present open-space policies. Again, it is worth noting that Government requirements are such that all new developments have open space incorporated within them. Here, the Government, owning the only space in the area, wants to sell the land at residential values.

Mitcham council has requested its officers to continue negotiations with a view to ensuring that all land remains open space. At this stage, the State Government is asking $2.3 million for that land. Locals say that the land was donated to the Education Department in 1949-50 by a pair of local women, Misses Espy, who lived next to the oval on the corner of Goodwood and Avenue Roads, Cumberland Park. The land was part of their father's farm, and the elder sister was one of the first teachers at the Westbourne Park Primary School, which started in 1914. There is no documentary evidence to confirm the donation of the land to the school, but the school council at the time was under the understanding that it was donated.

The school has undertaken all the upgrading of the site with most of its own funds and a small grant from the Education Department to help bituminise the netball and tennis courts. State Treasurer and local member (Stephen Baker) has stated publicly that he is opposed to the sale of the land, but apparently he has no influence. Effectively, what we are now seeing is Mitcham ratepayers subsidising the Education Department, because they are having to buy what is rightfully open space at residential values. I ask the Minister:

1. Will the Government accept open space value for the land given its open space planning policies; if not, why not?

2. Does the Treasurer support the Government's actions in negotiations over the price of the land?

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

ROAD TRAINS

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Minister for Transport a question about road train speed limits.

Leave granted.

The Hon. CAROLINE SCHAEFER: I hear persistent rumours that road train drivers are flouting the law and exceeding the agreed speed limit for such vehicles, which is 90 km/h. Some argue that there are some roads in South Australia, such as those west of Ceduna, where 100 km/h would be a more appropriate speed limit, but responsible drivers are currently driving within the speed limit, and any flouting of such laws penalises those drivers. The dangerous and irresponsible actions of a few are making the operations of commercial truck drivers (in particular, road train drivers) very difficult. I ask the Minister whether she has heard of these rumours and, if so, whether she intends to act upon them.

The Hon. DIANA LAIDLAW: I have certainly heard more than just rumours in relation to this matter. Last week, the South Australian Road Transport Association wrote to me, and also the Minister for Emergency Services, seeking to increase the police presence along that road, particularly west of Ceduna. Negotiations have been under way since that time between the Department of Transport and the police to increase the number of police patrols, particularly in the evening. I have also received correspondence from Victorian and South Australian based heavy transport operators, particularly operators of road trains, because they have accepted the challenge from the Federal and the State Government to be more responsible in terms of road behaviour generally.

The road transport industry has had problems with cowboys in the industry for years. The South Australian Road Transport Association has, in particular, championed more responsible behaviour, and there is a whole range of companies, from management level down, which insist on the speed limit (90 km/h) being maintained. I am aware of one letter that was received late last week. The complaint is that if they keep to the 90 km/h speed limit they are severely disadvantaged in terms of the competitive stakes of winning business, because it takes them that much longer to transport goods to Perth, Alice Springs or Darwin. Therefore, they are calling for increased police patrols or for the Government (essentially, me) to carry out the threat that I made to withdraw permits from road train drivers if they do not honour their obligations under the law in terms of a speed limit.

Last week, the police reported that a road train passed an unmarked police car at 113 km/h, which is 23 km/h over the speed limit. It is definitely a problem. I am pleased to report that as from yesterday the police have increased patrols from both Port Augusta and Ceduna at random periods, particularly in the evenings. I am also pleased to report that I have forwarded a letter, which I assume they were not so pleased to receive, to representatives of Active Haulage. I have written to Active Haulage on three occasions about various speeding offences over the past year. On the last occasion (18 July) I indicated that, if any of its vehicles were caught speeding again, all its permits would be withdrawn. It was in that vain that I wrote to the company yesterday indicating that, yet again, one of its road train vehicles had been detected exceeding the speed limit of 90 km/h. I have indicated to the company that 18 of its road trade permits will be withdrawn from 1 November for one month and that one vehicle, the offending vehicle caught on the last occasion, will have its permit withdrawn for 12 months.

It is my belief, supported by the Commercial Transport Advisory Committee and the South Australian Road Transport Association, that such action in terms of withdrawing the permits of road train operators together with increased police presence is necessary to encourage discipline with the industry amongst those few operators who are flouting the law. I hope that, for the honourable member who lives near Kimba and who may well have some personal experience with speeding road trains, these measures are successful in making travel on the Eyre Highway a much more pleasant experience for all who not only have to travel large distances but also compete with speeding road trains, which make it extraordinary difficult to travel in those circumstances. It is a road safety issue. I hope that these actions not only reinforce the need for good behaviour by other road train operators but also encourage all road train operators not to break the law in South Australia.

WOMEN POLICE OFFICERS

The Hon. ANNE LEVY: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Emergency Services, a question about police officers in the Upper South-East.

Leave granted.

The Hon. ANNE LEVY: The Government has made great play of the fact that it wishes to assist where there are cases of domestic violence and sexual assault, that it is concerned about violence against women, not only in the metropolitan area but in country areas as well. I have received a copy of correspondence, which was sent to the Minister for Emergency Services over four months ago, expressing grave concern that there will now be only one police officer in the whole of the Upper South-East based at Coonalpyn and that there will be no woman police officer throughout the entire region, despite the acknowledgment that women who suffer violence—be it sexual assault, rape or domestic violence—often do not wish to turn for assistance to a male police officer but wish to discuss matters with a female police officer.

This correspondence, as I say, was sent over four months ago. There has been follow up correspondence over two months ago but, as yet, there has not yet been any reply from the Minister for Emergency Services addressing the concerns of these women in country South Australia who are desperately concerned that there will be no woman police officer for hundreds and hundreds of kilometres from where they live.

Will the Minister for Emergency Services reply to correspondence which is sent to him on this matter? Also, will he reconsider and ensure that there are women police officers available in country South Australia so that country women who experience violence of any type do have a woman police officer to whom they can turn for assistance?

The Hon. K.T. GRIFFIN: I am not aware of the circumstances to which the honourable member refers. If she would care to let me have a copy of the letter it will more quickly enable me to follow it up.

The Hon. Anne Levy: Which letter?

The Hon. K.T. GRIFFIN: You said you had a copy of a letter to the Minister—

The Hon. Anne Levy interjecting:

The Hon. K.T. GRIFFIN: If you have the follow-ups, they would be helpful. They might have a docket reference.

The Hon. Anne Levy: There's been no reply.

The Hon. K.T. GRIFFIN: You said that there had been—two months ago.

The Hon. Anne Levy: No; there have been further letters, two months ago, to the Minister.

The Hon. K.T. GRIFFIN: I cannot answer the question without getting information, but I am happy to follow it up. If the honourable member would care to let me have a copy of the original correspondence, I shall be pleased to follow it up and ensure that there is an appropriate reply. I will bring back a reply for the public record, anyway.

DRIVER ACCREDITATION

In reply to **Hon. BARBARA WIESE** (21 March).

The Hon. DIANA LAIDLAW: The Passenger Transport Board (the Board) is aware of the previously expressed concerns that are held by community organisations which rely on the valuable help provided by volunteer drivers. Without the assistance of volunteer drivers, organisations such as Red Cross, council run community bus services amongst others, would not be able to provide free passenger services to the aged, disabled and the disadvantaged who rely on this transport to shop, get to and from hospitals and for that periodic trip as an outing.

When driver accreditation was first implemented in September 1994, volunteer drivers were not caught by the requirements of the Passenger Transport Act (PTA), because a compulsory fare was not charged to use community transport. The category of Volunteer Driver (Community Transport) Accreditation, has been introduced at the request of Agencies using volunteer drivers who believe that their accreditation is part of the broader issue of 'standards' and also a recognition of the outstanding community contribution made by volunteers.

Initial free driver accreditation was issued for one year as from 1 September 1994 to drivers who were nominated by their employer and who were driving a public passenger vehicle between 1 July and 1 September 1994. A number of organisations who relied on volunteer drivers also applied for their drivers to be issued with free driver accreditation due to uncertainty of the requirements of the PTA. As questions arose regarding the need to hold driver accreditation, council managed community transport services and volunteer organisations were advised not to obtain driver accreditation as the matter of volunteer drivers was under consideration.

To recognise this valuable service to the community, consultation was held with representatives of the Local Government Association, volunteer organisations, Bus and Coach Association and educational authorities to prepare measures to accommodate concerns and canvas broad issues and implications.

Parliamentary Counsel has assisted in preparing amendments to the PTA Regulations which have allowed authority to be delegated to Councils, identified organisations and educational bodies to issue a form of driver accreditation to volunteer drivers.

The Board has maintained a close relationship with organisations which use volunteer drivers and requested that they advise their drivers that it will not be necessary to renew their driver accreditation.

Special transitional arrangements are now in place whilst the administrative arrangements are negotiated and agreed.

A committee comprising of representatives from:

- Local Government Association
- Volunteer Organisations
- Department of Education and Children's Services
- Passenger Transport Board

has been established to prepare and implement a Volunteer Driver (Community Transport) Accreditation scheme by 1 May 1996.

It has been stressed that the Government is not placing a charge on the issue of volunteer driver accreditation for drivers of community transport services.

This accreditation is expected to be portable between organisations, with an organisation having the power of veto of a driver applying to transfer his/her services to an alternative community body.

PATAWALONGA

In reply to **Hon. T.G. ROBERTS** (26 September).

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

The Government has undertaken all appropriate scientific assessments and tests to be satisfied that the public is not being exposed to potential health problems.

Testing was carried out initially to satisfy requirements imposed by the Environment Protection Authority and the South Australian Health Commission.

Approval was given for the works to proceed only after all relevant environmental and health issues had been properly evaluated and the requirements of those authorities had been met.

Notwithstanding the above, when residents of West Beach came to the Government to express some concerns about the works, the Government listened and set up a process to respond to those concerns.

The outcome of that process was the commissioning of an independent evaluation of the proposed works specifically for the West Beach Residents Action Group.

Representatives of the Residents Group initially nominated companies who could undertake this task. They participated in interviews as a part of the selection process and they picked BC Tonkin & Associates to carry out the independent evaluation on their behalf.

Expertise in applied microbiology for this evaluation was provided by Dr Stuart Andrews, Principal Lecturer in the School of Chemical Technology at the University of South Australia.

The quotation from the Tonkin report provided by the honourable member in support of his question is inaccurate and selective.

For instance, the honourable member's quotation referring to the Patawalonga sediment is, '. . . it is concerned that there will be low survival rates of pathogens in such material'.

The report actually says, '. . . it is considered that there will be low survival rates of pathogens in such material'.

Again, the honourable member quotes from the report saying, 'The possibility of pathogens surviving in sediments or being present in significant concentrations is low'. The report actually says that, 'The possibility of pathogens surviving in the sediment or being present at significant concentrations is very low'.

The report also goes on to say, and the Minister for Housing, Urban Development and Local Government Relations quotes from the conclusions (Section 11.1):

'There is negligible potential for pathogens to be transmitted to nearby residents or to the environment from either the dredging activities or the sediment ponds by any means (eg. via dust, groundwater, surface water)'.

This is further interpreted in the risk assessment summary in the Tonkin report as a non issue. The report again states that, 'The issues of pathogens, flooding and groundwater contamination have negligible potential to occur, and are therefore not of concern'.

It is clear that the Government has already gone the second and third mile to ensure that the areas of concern to the public have been evaluated in an appropriate manner. All appropriate tests have been conducted and the works are proceeding.

GARIBALDI SMALLGOODS

The Hon. A.J. REDFORD: I seek leave to make a brief explanation before asking the Attorney-General a question about the Garibaldi inquest.

Leave granted.

The Hon. A.J. REDFORD: There has been a lot of discussion about what the Government did or did not do in relation to the Garibaldi inquest. One issue was the extent to which the Government responded to requests from the Robinson family for assistance. I understand that legal assistance to the Robinson family was made available by the Government. In the light of that, in what circumstances is Government assistance made available for coronial inquiries? What arrangements were made in this case?

The Hon. K.T. GRIFFIN: It is not normal for legal assistance to be made available to persons who have an interest in coronial inquiries. The view has always been taken by Governments—previous Governments included—that the Coroner is independent; the Coroner has an investigating responsibility and in some circumstances, where it is important to assist the Coroner, counsel assisting the Coroner have been made available from the Crown Solicitor's Office. Members will note that as from 1 August there has been a permanent counsel assisting the Coroner made available through extra funding provided in the most recent budget to the Courts Administration Authority.

That has a number of advantages. It deals particularly with one of the issues raised in the recommendations of the Royal Commission into Aboriginal Deaths in Custody. It also addresses the more immediate concern of assistance in those inquests which are not directly related to deaths in custody, whether Aboriginal or non-Aboriginal. That is now a permanent feature of the coronial system but, in the case of the Garibaldi matter, representations were made to the Premier and me, very soon after Nikki Robinson died, by Mr John Doherty, who was representing the family, that there should be some legal assistance granted by the Government to them in particular in respect of the inquest. In normal circumstances that request would not have been granted but, because the Health Commission in particular was likely to be required to give evidence on issues affecting the commission's own involvement in tracking down the cause of the epidemic, it was decided that the Government should make funds available for the purpose of appropriate representation.

We did that in two respects. We provided funding to the family of Nikki Robinson. There were requests from others for legal assistance, but we declined those on the basis that funds were being made available to the Robinson family. We also provided counsel assisting the Coroner to facilitate the consideration of the issues that were going to be the subject of investigation. We also had some consultation with the Coroner, who had a fairly heavy workload in respect of other inquiries at that time. We took the decision that we should find another person to take over a number of those coronial responsibilities. Mr Arthur Rogerson, who was formerly a District Court judge and recently retired, was appointed as Acting Coroner. He took over the day-to-day coronial inquiries and responsibilities while the Coroner, Mr Chivell, concentrated on directing the investigation into the Nikki Robinson death and also undertook the particular inquiry.

As a result of that, costs are likely to be about $255 000. The final accounting has not been resolved. Part of that goes to the Acting Coroner, Mr Rogerson; part goes also to counsel assisting the Coroner, Mr Bell, whose rate was agreed at $850 per day. The sum of $119 592 went to Gun and Davey, representing the Robinsons and other families. Three lawyers were involved particularly there: Mr Doherty, Ms Marcus and Mr Soulio. The Courts Administration Authority support services, including transcription and some other incidental expenses, take it up to about $255 000. The rate of payment of counsel for the Robinson and other families was $850 a day, which was the same as that paid to counsel assisting.

So, we had no hesitation in approving assistance being made available. It was made available and that is the cost. We estimate that is the final cost but there are still some accounts to be received and vetted. As I say, in normal circumstances that sort of funding would not have been made available and even less so in the future because there is a permanent counsel assisting the Coroner. That counsel will be available in all cases across the board.

RESIDENTIAL TENANCIES TRIBUNAL

In reply to the **Hon. ANNE LEVY** (10 October).

The Hon. K.T. GRIFFIN:

1. The regulations for the new Residential Tenancies Act will be promulgated as soon as they have been prepared by Parliamentary Counsel. Cabinet has given Parliamentary Counsel approval to draft the required regulations.

The submission for the appointment of the Presiding Member will shortly be presented to Cabinet for consideration.

The process for appointment of Members to the Residential Tenancies Tribunal will be as outlined in my response in the Legislative Council on 10 October 1995.

2. The Acting Chairman of the Residential Tenancies Tribunal has expressed surprise at the suggestion that the Minister's office has been involved in the rostering of Tribunal members to hear applications to the Residential Tenancies Tribunal. This is certainly not her understanding of the situation.

The listing of sessions for Tribunal members is performed by the listing clerk of the Tribunal Registry in consultation with the Acting Chairman of the Residential Tenancies Tribunal. The availability of Tribunal Members is negotiated by the Acting Chairman and advised to the Registry, which in turn lists hearings based on the availability indicated.

My office has contacted certain Tribunal members in an attempt to determine availability of members in respect of what arrangements

can be made in the absence of the Acting Chairman. At that time it was evident that the Acting Chairman was available for the first week after the resignation of the Chairman, on a full time basis, and thereafter on a part time basis.

At no time has there been any outside influence on the normal listing procedure undertaken by the Tribunal Registry when preparing the daily cause list or allocation of matters to be heard before the Residential Tenancies Tribunal.

TOURISM, VFR PROGRAM

The Hon. P. NOCELLA: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Tourism, a question about the VFR tourist program.

Leave granted.

The Hon. P. NOCELLA: At page 10 in today's *Advertiser* an article deals with the increase in tourist flow into Australia. A periodical release of figures emanating from national bureaus and agencies describes how Australia is performing in terms of tourism and analyses the flow of tourists into and out of the country, destinations and so on. Whilst the figures are generally very pleasing for the whole of the country, unfortunately the number of tourists visiting South Australia is down, and the various reasons for this are analysed in detail in the article.

An in-depth analysis of some of the figures reported shows that 17 per cent of all arrivals are included in the so-called VFR (visiting friends and relatives) category which is a substantial number and which is growing, as the figures show, year after year. In March this year the Government released a program aimed at increasing the number of visitor arrivals falling into this category. The program was based on the realisation that some of our larger ethnic communities in this State are capable of attracting friends and relatives, business contacts, students, teachers, etc., who will increase the number of visitors to South Australia and who will, of course, bring about a number of economic benefits.

Can the Minister say whether the current program will be extended into 1996 and, in view of the fact that other communities would like to be included in the program (and there was the provision of linguistically and culturally appropriate material—material which was distributed by the members of the communities at their own expense), will he include communities that were not one of the initial four groups?

The Hon. K.T. GRIFFIN: Obviously, those questions will have to be referred to the Minister for Tourism in another place, and I will certainly do that. My information is that South Australia is the fastest growing State in terms of overseas tourism. Certainly our State and our Government are placing a great deal of emphasis on developing tourism both from interstate and overseas. In fact, this morning the Premier was speaking at an Australian Tourism Commission event, Breakfast with the Premier. As I understand it, no member of the Australian Labor Party was present at that breakfast.

I would hope that the Opposition could give fairly positive support to the Government's initiatives in relation to the development of tourism in this State, and that it would give bipartisan support to the Government whether it is at the Australian Tourism Commission breakfast or at some other event which seek to promote South Australia in a particularly positive light. I will refer the particular questions raised by the honourable member to the Minister and bring back a reply.

LEGAL COSTS

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Attorney-General a question about legal costs.

Leave granted.

The Hon. R.D. LAWSON: The report of the Legal Practitioners Disciplinary Tribunal for the year ended 30 June 1995 was recently tabled in this place. That report stated that the tribunal had, during the year, completed 10 matters concerning alleged professional misconduct by legal practitioners, resulting in six findings of guilty, three charges being withdrawn and one reprimand implemented. None of those charges involved gross over-charging, which is professional misconduct for the purposes of the legislation. The report stated that the tribunal has a performance standard of disposing of matters of complaint within two months after the complaint has been laid. However, the report further states that in cases of gross over-charging, where the allegation is disputed, it is appropriate:

> That the practitioner be required to justify the charges by preparation of a bill of costs for taxation by the Supreme Court. This process is necessarily time consuming and the standard mentioned previously, namely, two months, can have no application.

I mention also in this context the fact that the Legal Practitioners Complaints Committee has, since January 1994, had special powers to investigate and resolve allegations of over-charging by legal practitioners and to conciliate them. In the last annual report of the Legal Practitioners Complaints Committee the following was reported:

> The committee has recently recommended to the Attorney that consideration be given to amending the Legal Practitioners Act to enable the committee to have status to institute proceedings for a taxation of costs in lieu of or in addition to the Commissioner for Consumer Affairs and the client in appropriate cases.

That report also recorded:

> The process of investigation of over-charging complaints is very resource intensive. It requires a detailed analysis of individual items of legal work performed and a comparison of the charges made against the appropriate scale or scales. Legal costing is a complex and detailed area of law in itself. Its complexity is exacerbated by the various jurisdictional scales.

The report also stated that the costs officer of the complaints committee had been hampered by the lack of adequate computer resources. My questions to the Attorney-General are:

1. Will he ascertain further details of the extent of delays in taxing costs for disciplinary purposes before the Legal Practitioners Complaints Committee?

2. Has the Attorney yet formulated a view on the recommendations of the Legal Practitioners Complaints Committee that the Act be amended to enable the committee to institute proceedings for taxation?

3. Will the Attorney ascertain whether the lack of adequate computer resources continues to hamper the costs officer of the Legal Practitioners Complaints Committee?

4. Will the Attorney examine means of simplifying and streamlining procedures for the taxation of legal costs in disciplinary matters?

The Hon. K.T. GRIFFIN: The answer to the first question is 'Yes.' The second question relates to the Legal Practitioners Complaints Committee recommendation for amendment. That has not yet been resolved, but I have my officers working on a range of amendments to the Legal Practitioners Act, which may come into the Parliament before Christmas, but certainly in the early part of 1996, to deal with

a number of issues that have been identified as in need of attention, not only in relation to dealing with complaints but also more generally in relation to the legal profession. That is one of the issues raised by the honourable member to which I am still presently giving attention.

In terms of the lack of adequate computing power, I have approved an expenditure of about $65 000 from the guarantee fund for the Legal Practitioners Complaints Committee to upgrade its computing facilities, and that approval was given some months ago. I understand that it is largely in place or is well on the way to being put in place.

The streamlining of procedure is related to possible amendments to the Legal Practitioners Act. I should certainly like to see the streamlining not only of the procedure relating to the taxation of costs but also of the resolution of complaints. At the moment it seems to be a little more extensive than it needs to be, particularly with simple matters. Various options are being considered for resolution of the difficulties that confront the Legal Practitioners' Complaints Committee relating to the disposition of matters which are the subject of complaint or dispute. I will bring back any further replies that are necessitated by the questions.

AUDITOR-GENERAL'S REPORT

The Hon. G. WEATHERILL: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services, representing the Treasurer, a question about the Auditor-General's Report.

Leave granted.

The Hon. G. WEATHERILL: I refer to the information provided in the Auditor-General's Report on page 850 that the finance services of the Department of Treasury and Finances are provided by the Department of Premier and Cabinet. Was this arrangement made with the full support of the Treasurer and his own department; has this arrangement worked to the satisfaction of the department; and is the arrangement currently under review and, if so, by whom?

The Hon. R.I. LUCAS: I will refer those questions to my colleague in another place and bring back a reply.

BUS SERVICES

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Transport a question about bus contracts.

Leave granted.

The Hon. T.G. CAMERON: Yesterday I asked the Minister a number of questions about the Serco contract. In her answer the Minister said, 'In the event that it does not [win a contract extension], Serco. . . will regard the employees whom it took on as permanent employees and that they would be given opportunities within the diverse Serco employment network.' I take this opportunity to thank the Minister for arranging a briefing for me and for other Labor members of Parliament with Serco. It was extremely valuable. During this briefing with Serco, Mr Chris Bowman—

An honourable member interjecting:

The Hon. T.G. CAMERON: Well, this one wasn't—in response to a question about the long-term future of TransAdelaide employees who joined Serco, left us with the clear impression that these people would be retrenched if Serco's contract was not renewed. Yesterday the Minister refused to provide any details of the savings to Government by switching to Serco. The Minister said that she would not provide details of the tender. I guess that is another example of commercial confidentiality. My questions to the Minister are:

1. Has the payment of the $10 000 bonus been deducted from the forecast savings or at least provisioned for?

2. Will the Minister clarify whether TransAdelaide employees who join Serco will be liable for retrenchment at the end of the contract if it is not renewed?

3. The Minister has stated that Serco's price resulted in savings of $7.5 million over current operating costs. As she has released this information, will she tell us what the estimated savings would have been if TransAdelaide had been awarded the contract?

The Hon. DIANA LAIDLAW: I can seek information relating to the third question from the Passenger Transport Board. However, I repeat that, regarding price, quality of service and whole of Government costs, Serco's bid was seen to be the most favourable to passengers, taxpayers and, therefore, the Government. In the light of those issues, a number of undertakings were secured by the PTB from Serco relating to workplace practices and worker welfare in general. So, on three counts the bid was satisfactory to the Passenger Transport Board.

I was not at the briefing to which the honourable member referred when Mr Chris Bowman, in particular, briefed various Labor members, so I am not too sure what Serco said or what the honourable member believes he heard, but I know what I have been told by the Passenger Transport Board and by Serco. Mr Bowman has told me that the work force would be offered permanent employment for the initial 2½ years of the contract and that there would be career opportunities for people taken on as part of winning this contract. Serco has outlined to me the diverse work force that it has within this country, that it is a growing company and that there would be career opportunities. It certainly did not suggest retrenchments. Why would it when it believes that in winning this contract it will perform well and rebid and win it?

I recall Serco telling me that it has won 95 per cent or 98 per cent of rebids for contracts over recent years. So, I do not think that it saw this issue as being of concern, because it was not looking at this contract in the negative terms outlined by the honourable member. It said that, having won this contract, it would perform in the interests of the work force and its customers. If it does not work with the interests of the work force in mind, it will not please its customers. There are few other areas of public activity so powerful in terms of the relationship between a public servant and the customer than public transport. If the operator's work force is not happy, customer service soon falls away. In those circumstances, Serco would be the loser because it would lose passenger numbers and, in consequence, revenue.

The honourable member asked whether the payment of this bonus has been deducted from the forecast savings of $7.5 million. The whole of Government costs were considered in awarding the contract to Serco. The savings will be $3 million per year, totalling $7.5 million over the 2½ year life of the contract. They are savings to the Passenger Transport Board on the price that has been allowed for payment to TransAdelaide for that contract.

The $10 000 incentive arrangement payments come out of the pool of Treasury TBSP payments. It is a Treasury payment that would be transferred to TransAdelaide to administer. It would not go to the Passenger Transport Board and, therefore, it is not relevant to the assessment of the

savings. However, it is relevant in terms of the contract bid and the quality of the service, particularly in relation to whole-of-Government costs. As I mentioned, it is on that basis—not just the savings—that this contract was awarded. That included various scenarios prepared by the Passenger Transport Board on how many people would move across from TransAdelaide to Serco. In a sense, I suppose the answer is 'No.'

DRUGS

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I seek leave to make a ministerial statement on the subject of parents pushing drugs through children in schools.

Leave granted.

The Hon. R.I. LUCAS: A story was reported in the morning newspaper under the heading, 'Parents in schools drug trade,' which has created the impression amongst some in the community that there is a widespread incidence of parents pushing drugs within schools through children as young as eight. Obviously, as Minister for Education, over my weeties and sultanas in the morning, I was concerned when I saw the front page of the *Advertiser*. I have asked this morning for my—

The Hon. Anne Levy interjecting:

The Hon. R.I. LUCAS: I don't think anyone other than yourself is listening, so don't worry. As a matter of urgency this morning, I asked my officers of the Department of Education and Children's Services to take up this issue as a matter of urgency with representatives of the Police Force to ascertain the reasons for the statement made this morning, so that I would be in a position to make some sort of public statement this afternoon. I am advised from officers in my department who have spoken to the Police Department that the officer was referring to one incident that occurred about 18 months ago, when a parent had used a child to sell drugs in a school, and that parent had been prosecuted. I am further advised that the police have indicated that these occasions are rare. As I said, the only instance that we have been given in the past couple of years is one example of—

Members interjecting:

The Hon. R.I. LUCAS: The Hons Ms Levy and Ms Pickles have referred to it as a beat-up. Certainly, it is fair to say that it has given an unfair impression on what occurs within our schools—Government and non-government—because it was not specific in terms of which school in South Australia was involved. As Minister for Education, speaking on behalf of the Government schools in particular but non-government schools as well, I think it is important to place on the public record that, whilst there is obviously a drug problem in the community, similarly, we have drug problems and concerns within our schools—Government and non-government—in South Australia. However, in relation to this example, which has attracted much publicity this morning, that is, the article headed 'Parents in schools drug trade,' the information provided to me as Minister from the Police Department today is that that reference is to a single example some 18 months ago in a school in the metropolitan area.

MATTERS OF INTEREST

POPULATION

The Hon. L.H. DAVIS: South Australia was settled by Europeans in 1836. In the 1850s the expectancy of life in Australia for a male at birth was only 46 years of age; now it is 75 years of age. Vaccination, sanitation, refrigeration and improvements in hygiene have ensured that death by infectious disease is now virtually unknown—AIDS, of course, being a grim exception. By 1840, South Australia's population was 8 272. In the period to 1850, it surged to 35 902, and that represented about 15 per cent of Australia's total population. Indeed, in 1850, Burra had around 5 000 people. It was a population centre larger than that of Brisbane and Perth. Burra was the seventh largest population centre in the whole of Australia.

In 1880, South Australia's population still represented about 12.2 per cent of the national total, but by 1900 it had dropped to 9.3 per cent, and it remained around that figure until the 1970s, since which it has steadily fallen. Today, South Australia's population represents only 8.3 per cent of the national total.

One of the factors that has accounted for this fall in South Australia's population relative to that of other States is that we are now attracting a very small percentage of the nation's migrants. New South Wales is attracting over 40 per cent of immigrants, although it has only one quarter of the nation's population. South Australia, with 8.3 per cent of Australia's population, attracts a miserly 4.4 per cent of all migrants, and that has been the figure for some time.

The Hon. Anne Levy: They're not all misers who come.

The Hon. L.H. DAVIS: A miserly number. In 1966, though, we did attract 15.4 per cent of Australia's net migration and, during the 1970s, we averaged about 9 per cent.

But the period 1947 to 1966 was the only time since 1881 that South Australia's annual population growth did exceed that of the nation. In the period 1947 to 1966, our population growth was close to 3 per cent *per annum*, which was about .75 per cent higher than the national average.

One matter which is of concern to me is the fact that our population centres in the country are under pressure. For example, in the period 1992-93, Whyalla showed the most rapid decline in population of any major regional centre in the whole of Australia—a decline of 3.1 per cent. Whilst in 1991 it remains our most populated regional centre, with 25 526 people, it has lost nearly 7 000 people in the past 20 years.

The fact that Adelaide accounts for about 70 per cent of the State's population reflects the fact that the concentration of Australia's population always has been in the costal areas; it was an accepted method of establishing colonial outposts.

We see that in all States, except for Queensland, there are more people living within the capital city of a State than outside the capital city. Brisbane, with only 40 per cent of Queensland's population, is an exception. I seek leave to have inserted in Hansard tables of a purely statistical nature which set out the largest South Australian country centres in the census periods 1971, 1986 and 1991.

Leave granted.

Census	Largest S.A. Country Centres	Population
1971	Whyalla	32 109
	Mount Gambier	17 934
	Port Pirie	15 456

	Port Augusta	12 224
	Port Lincoln	9 158
1986	Whyalla	26 900
	Mount Gambier	20 813
	Port Augusta	15 291
	Port Pirie	13 960
	Murray Bridge	11 893
1991	Whyalla	25 526
	Mount Gambier	25 153
	Port Augusta	14 595
	Port Pirie	14 110
	Gawler	13 835

The Hon. L.H. DAVIS: This table reveals that Whyalla remains the largest centre, but Mount Gambier shows the most significant increase in population over that period of time amongst South Australia's regional centres.

NGARRINDJERI PEOPLE

The Hon. T.G. ROBERTS: I rise to thank the Tandanya arts board for putting together an occasion which celebrates the recognition of the Aboriginal writer, public speaker and inventor, David Unaipon, who is featured on the new $A50 note. Although I do not carry too many of those in my wallet, I have seen them and I think they provide an excellent example of a tribute to an Australian who has been unrecognised for so long. *The Murray Valley Standard*, which reported the event with a headline and a photograph of the note, states:

> Ngarrindjeri man, the late David Unaipon, is featured on Australia's new polymer $50 note, released earlier this month. An Aboriginal writer, public speaker and inventor, Mr Unaipon was born at Point McLeay and began his education at Point McLeay Mission School.
>
> Mr Unaipon was dubbed the 'black genius' and 'Australia's Leonardo' through his work on perpetual motion, polarised light and the prediction of helicopter flight through the boomerang. In 1909 he patented an improved handpiece for sheep shearing. Other inventions included a centrifugal motor, a multi-radial wheel and a mechanical propulsion device.

In those days, Mr President, as you would understand, being an aviator, these were quite difficult concepts with which to come to terms in engineering terms, particularly in theory, and he obviously worked from observation and practice. The article continues:

> However, he was unable to get financial backing to develop his ideas. He was the first Aboriginal writer to be published, with one of his earliest works titled *Aboriginals: Their Traditions and Customs*. Other articles, poetry and legends were published throughout his life, and in 1953 he was awarded the Coronation Medal for his work in public speaking.
>
> The first Aboriginal lay preacher, he translated parables of the Bible from English to Ngarrindjeri and Moorunde dialects. He married Katherine Carter (nee Sumner), a Tangani woman from the Coorong, in 1902. Mr Unaipon died aged 94 on 7 February 1967, and was buried at Point McLeay cemetery.

I raise this matter not only to pay tribute to a Ngarrindjeri elder who died in 1967 but also to highlight some of the difficulties that the Ngarrindjeri people face in relation to the royal commission. I certainly will not comment on various aspects of the commission, but I would like to comment on how it was formed. Many of us would have read the articles in the *Adelaide Review* put together by Chris Kenny, which provide for those interested in the issue a running commentary on the people connected with the Ngarrindjeri people in the clans that existed at Point McLeay and give an introduction into the personalities who were removed from Point McLeay in the 1950s and resettled in the South-East of the State.

These people in the South-East of the State are described in articles written by the media and in other places as 'the dissident women' who are contesting the observations that are being made by the Point McLeay women and other Aboriginal women in relation to Aboriginal women's business, that is, the basis on which the bridge from Goolwa to Hindmarsh Island is being held up. I would argue that the Aboriginal community is not divided because it raised the issues in relation to the divisions but that the divisions were raised for a far different purpose. Canberra powerbrokers have had more to do with the divisions that are now running within the Ngarrindjeri clans and Aboriginal groups in the metropolitan area, and it is a pity to see the family groupings that I knew, grew up with and went to school with and their parents divided. The divisions are getting worse each day, and there is little hope of reconciliation between some of the groups that are now contesting the events as they occur. The issues are far too complicated to finish speaking about in this contribution, so I will continue next time.

DOMESTIC VIOLENCE

The Hon. BERNICE PFITZNER: I would like to speak on a matter of importance, namely, domestic violence. Unfortunately, domestic violence is still prevalent in Australia and some statistics referred to at a Melbourne conference will support this fact. For example, 28 per cent of female patients who attend a GP practice report that they have been subjected to some form of domestic violence; 10 per cent have experienced serious physical violence; 66 per cent of female murders in Australia resulted from domestic violence; and 90 per cent of these abuses were perpetrated by males upon females. These abuses are of several different types: physical abuse—injuries that are usually within the T-shirt area or the head and not visually obvious except for the head area; psychological abuse—the victim is constantly put down with a resulting loss of self-esteem; sexual abuse—this includes rape in marriage and demands for unwelcome sexual activity; economic abuse—the refusal to provide adequate funds for housekeeping, clothes or personal items such as underwear and sanitary protection; social abuse—the forbidding of contact with friends and relatives (often the abuser rings home several times a day to make sure that the victim is there and is not talking on the telephone); and spiritual abuse—the victim is not allowed to follow her own religious beliefs.

The conference goes on to give reasons for the non-reporting of domestic violence or abuse, as follows: social values—marriage is for ever, you should live happily ever after; growing up with a background of family violence and regarding it as normal; ambivalent feelings about the partner (for example, 'I think I still love him'); practical difficulties—no money and nowhere to go; concern about the future of the children; fear of the consequences of reporting the abuse; and lack of information about facilities available to victims of domestic abuse. Dr M. Liddell, Senior Lecturer at Monash University, gives us a chilling account of the cycle of domestic abuse:

> She said a violent act would be followed by a phase of remorse ('Please forgive me, I'm under a lot of stress, I don't know what came over me'). This was followed by pursuit ('I can't live without you, I'll kill myself if you leave'). Next came the honeymoon phase when all was outwardly happy and loving. This soon degenerated into the build-up phase with increasing tensions, then the standover phase with increasing control and fear until the next violent act happened. Typically, the cycles got shorter and the violence greater.

We, as a caring nation in Australia, must try harder to prevent domination and victimisation of the physically less powerful by the physically more powerful.

FISHERIES MANAGEMENT

The Hon. R.R. ROBERTS: I rise to make a contribution on the subject of fisheries management in South Australia. Over the years, I think it is fair to say that the management of fisheries in South Australia compared with other States has been carried out in a very good fashion, but that does not mean to say that there has not been angst. When you are talking about competitive people competing for part of the marine estate, there will always be competition, but by and large there was developed in South Australia a series of integrated management committees which, in fact, was held up by many members of Parliament on both sides of the House as being the way in which to manage fisheries in South Australia.

The current fisheries Minister, when in Opposition, was a great supporter and, indeed, known to squire groups of fisheries people from time to time around South Australia and point with some pride to the system of IMCs in South Australia. I reinforce the observation that it was a very good system and was very successful when compared to other States. One notable exception to this was the management committee of the Gulf St. Vincent prawn fishery. I have made contributions on a number of occasions in this Council in respect of this fishery. It has been an absolute disaster for years. It was presided over by a previous Liberal Minister and longstanding member, Mr Ted Chapman. Ever since I have been involved in this portfolio there has been nothing but angst, argument and a run down of that fishery to the extent where on two occasions the fishermen themselves have had to stop fishing in an endeavour to try to preserve the fisheries in South Australia.

Since this Government was elected it has been decided that there would be a restructure of the fisheries. In particular, the scalefishing IMC has been looked at. It was necessary to conduct an inquiry into the future of net fishing in South Australia. The Government was not content with the good work that had been performed by the scalefishing IMC chaired by Mr Barry Treloar, who was an amateur. These IMCs contain a collection of representatives from across the State. Despite the good record of that committee under Mr Treloar's chairmanship, the Minister decided to set up his own net review committee. The committee has reported and it is the subject of another debate which will take place in this Council.

Recently, there has been friction between amateur fishermen in South Australia. One of those participants and critics of this Government's attitude to recreational net fishing in particular has been Mr Barry Treloar who was, as I said, the Chairman of the IMC. Over the past few months, Mr Treloar has been subjected to undue influence. He has been invited to not chair meetings and, in fact, on one occasion had to take his lawyer along to a meeting to ensure that there were no moves to usurp his chairmanship. The Minister has called for new chairmen of the IMCs, and it has been revealed to me in the past few days that Mr Treloar's application was not successful, despite the recommendation of the select committee. It may not come as a surprise to some, but I am reliably advised that the new candidate will in fact be an IMC chairman with the worst record in South Australia. I am reliably informed that Mr Ted Chapman has been given a sinecure.

People will remember that Mr Ted Chapman was the person who, with the great support of Dean Brown, advised on an occasion that the Minister for Primary Industries would be better served returning to the farm. I do not believe it bodes well for the people of South Australia that this mateship will influence decisions in respect of such important committees as the scalefish IMC in South Australia. I think that this is a matter of concern and is obviously another example of nepotism and mateship within this Government.

AUSTRALIAN LABOR PARTY FUNDRAISING

The Hon. A.J. REDFORD: I refer to the 'Minister for rent' article which was published in the paper this morning. Before I begin, however, I take this opportunity to say that last Tuesday evening in a speech to this place I stated that three State by-elections since the last State election were caused by Labor Party resignations. As correctly pointed out by the Leader of the Opposition, only two were caused in that fashion and, therefore, were unnecessary. In relation to the third, the by-election was caused by the untimely death of the member for Torrens, Joe Tiernan. I apologise to the family of Mr Tiernan for that inaccuracy and to the only woman who cannot make the shadow Cabinet in the other place, presumably because of her association with Peter Duncan, Robyn Geraghty.

I want to make a number of comments about the article appearing in today's paper regarding the ALP's fundraising activities, particularly on the topic of 'Minister for rent'. It was reported that private audiences can be given with Mr Keating, the Prime Minister, and Ministers for $20 000. It was not reported as to whether or not the audience and the price of $20 000 refers to all Ministers or just some of them. It was also said that there would be meetings with Cabinet Ministers and other privileges.

A letter from the Australian Labor Party regarding access to various important figures in South Australia has also come to my attention. The letter states:

> The South Australian branch of the Labor Party will soon hold its annual State convention and your organisation could have a box seat for the debates. . . For a fee of $500, we cannot only offer you an insider's look at the convention, but access to. . . Federal Shadow Executive, ALP National Secretary Gary Gray. . . Labor Leader Mike Rann. . . and New South Wales Premier Bob Carr. . . As an observer. . . you will automatically become inaugural members of the Business Labor Liaison Service—

That is how desperate they are. It continues:

> You and your partner will be special guests at the convention dinner to hear Premier Bob Carr talk about South Australian business opportunities.

Not bad! However, when one analyses the figures, we have the availability of the Prime Minister and nine Cabinet Ministers for two hours at a price of $20 000. On my calculation, that makes a value of $1 000 per Cabinet Minister per hour. If we look at the package available from the State Division of the Labor Party, we get the Leader of the Opposition, 11 shadow Cabinet Ministers and a meal for $500. If you take the meal out, about $320 would go into the coffers. If one works out that that time frame is about five hours (four hours for the meeting and an hour of State Council) and when one adds all these people in, it comes to a value of $5.33 per member per hour. I would have to say that there is a significant difference between that and the

$1 000 per member per hour being made for Federal Ministers. Why would there be such a difference?

Nationally, the ALP is in trouble. According to the latest Morgan poll it trails the Coalition by 10 points and we have Keating's cabal on the nose at a value of 200 times more than what we would describe as 'Rann's rabble'. I will not be entirely destructive in this contribution. I have a couple of positive and constructive suggestions we could make. Perhaps the ALP could offer Michael Atkinson making speeches on bikes or perhaps the Hon. Ron Roberts could talk about prawn fishing. John Quirke could give advice and make speeches about survival in quicksand. Ralph Clarke could speak about factional survival or about 'factional too much friction'. Kevin Foley could make a speech about how to talk about the water corporation with one arm twisted up behind your back, while Mike Rann could talk about radio journalism and post career opportunities.

ST PETERS WOMEN'S COMMUNITY CENTRE

The Hon. ANNE LEVY: I wish to make a few remarks about the Women's Community Centre at St Peters. This institution has existed for many years and has provided a very worthwhile service indeed to women from all over the metropolitan area. It is unique in many of the services it provides. Child care is available on the premises, and it is a women's centre which encourages women to come for advice, help, recreation and all the other services of a community centre, women who would not go to a general community centre where there can be men.

It has been raised in this Council before that the centre's funding has been cut by this Government from $45 000 a year to $8 000 a year. I am happy to admit it: attempts were made to cut the funding when we were in Government, but I found the resources within a very small discretionary fund I had, to maintain the funding for the centre at St Peters so that its funding was not cut by the previous Government. The current Minister has allowed this cut to occur from $45 000 to $8 000. When this matter was raised previously the Minister for the Status of Women said she would assist the centre to try to get other sources of funding. That was three months ago: it has heard absolutely nothing from her in the intervening time. No alternative sources of funding have been identified.

The centre has tried hard itself to raise money through sponsorship and fairs. I certainly did not notice the Minister or any of her colleagues at the fair held by the St Peter's centre last week to raise money. Its financial situation is absolutely desperate and it cannot continue as it has been on a measly $8 000 a year. This pays the telephone bill and such basic matters and leaves absolutely nothing for staff. While the staff are currently working on a voluntary basis, they cannot be expected to continue to do so for long into the future. I will be interested to know why the Minister said she would attempt to find other sources of funding and three months later has obviously not found any and has not had the courage to go and tell the centre that there is no alternative source of funding for it. I would also be interested to know what she finds of greater priority than this extremely valuable centre to be able to fund from her doubtless small discretionary fund. What does she spend it on that is of greater importance than this extremely valuable women's community centre at St Peters?

NATIVE VEGETATION

The Hon. CAROLINE SCHAEFER: I wish to speak today on native vegetation clearance approval rates. Last week the Hon. Mike Elliott, in a rather lengthy brief explanation prior to asking a question, implied that there had been some sort of dastardly and irresponsible shift in attitude to native vegetation clearance applications since the inception of a Liberal Government.

The Hon. A.J. Redford: He went further on TV that night.

The Hon. CAROLINE SCHAEFER: Indeed, we saw a glossy coloured graph on TV that night to illustrate his point. At the time I interjected that I believed his question was irresponsible and I have done some research of my own since then.

The Hon. T.G. Roberts: What did Dale say?

The Hon. CAROLINE SCHAEFER: It has nothing to do with Dale—it is a native vegetation clearance issue. Therefore, I would like to put on the record relevant figures. Of applications granted outright, in 1991 the figure was 17.09 per cent; in 1992, 1 per cent; in 1993, 6 per cent; and in 1994, .09 per cent. That was for scattered tree applications. As for property management applications granted outright, in 1991 it was .79 per cent—two of those were for 252 hectares a piece, which is quite a lot; in 1992, 17 per cent; in 1993, 5.1 per cent; and in 1994-95, 1.63 per cent. No unconditional grants for brush cutting were made last year. For wood lot clearing I do not have 1991 figures but for 1992-93 it was 5.5 per cent; for 1993-94, .088 per cent; and for 1994-95, .9 per cent. A whopping 98.9 per cent of those clearance applications which were granted had conditions attached.

As you know, Mr President, conditional grants are almost always extremely stringent, although I have not been able to get actual details. They include planting more hectares than have been cleared, setting aside areas for heritage, and setting aside areas for wetland and, in fact, such grants are often difficult to uphold. I do not believe that the reputation of the Native Vegetation Board, which is an independent body and not a Government body, is in tatters at all since the inception of a Liberal Government. The Hon. Mr Elliott also implied that all these dreadful things had happened since there were changes to the membership of the board, yet the board's membership changed only in April this year. We have no figures to support what may or may not have happened since the change in the board.

Most of the applications made in the last couple of years have been for scattered tree clearance and not broad acre vegetation clearance. Most of these applications are for the removal of one or two trees to enable such things as centre-point pivot irrigation. I do not know whether it is Democrat policy that, for example, we should not expand our wine industry or that we do not continue to use our ground sustainably or responsibly but, if it is not, I can only suggest that some poetic licence has been taken with statistics used.

DOGS, RIDLEY-TRURO

The Hon. R.D. LAWSON: I move:

That by-law No. 6 of the District Council of Ridley-Truro concerning dogs, made on 17 August 1995 and laid on the table of this Council on 26 September 1995, be disallowed.

This by-law was made by the District Council of Ridley-Truro, a council formed in 1991 on the amalgamation of the former District Council of Ridley and the former District Council of Truro. The by-law is made under the Dog and Cat Management Act and section 90(5) of that Act empowers a district council to make by-laws for 'the control or management of dogs or cats within its area'. The subsection provides, first, that a council must, at least 42 days before resolving to make a by-law under the Dog and Cat Management Act, refer the proposed by-law to the Dog and Cat Management Board. At the same time the council must provide a report to the Dog and Cat Management Board outlining the objects of the proposed by-law, setting out how it is proposed to implement or enforce the proposed by-law and explaining the reasons for any difference in the proposed by-law from any other by-laws about a similar subject matter applying to or proposed to apply in other council areas. Finally, the subsection provides that the council must consider any recommendations of the Dog and Cat Management Board relating to the by-law. In the case of the Ridley-Truro by-law, that council did not submit the by-law to the Dog and Cat Management Board at all.

The Legislative Review Committee took the view that the provisions, such as section 90(5), are very important procedural provisions which must be adhered to. The statutory regime that is established under the new Act has created the board, which has a central coordinating role in vetting by-laws to ensure that, for example, adjoining councils have relatively compatible regimes or, if the regimes are different, that there is some rational reason for any differences. The Legislative Review Committee recommended disallowance of this by-law on the ground principally that the council had not followed the appropriate procedure.

There was a second ground why, in the view of the Legislative Review Committee, this by-law should be disallowed. Clause 3 of the by-law provides for licensing of kennels. It provides that an application for a licence for premises as an approved kennel establishment, pursuant to section 42 of the Dog and Cat Management Act, shall be in a form which is prescribed and shall be accompanied by plans, drawings, specifications, and the like. The by-law goes on to provide that certain licence fees are payable for an approved kennel.

This by-law, which refers to section 42 of the Act, is inappropriate because that section deals with approved boarding kennels rather than breeding kennels. However, the objectionable part of the by-law is that it seeks to license kennels. The previous legislation, namely, the Dog Control Act, gave power to local councils to issue licences for kennels. However, under the Dog and Cat Management Act (the new legislation) there is no specific power in local councils to issue licences for kennels.

The Legislative Review Committee heard evidence from Dr Deborah Kelly, a veterinarian with the Office of Animal Welfare, Land and Business Service within the Department of Environment and Natural Resources. Dr Kelly had a long association with the development of the new legislation, and in her helpful evidence to the committee pointed out that those who propounded the new Act had in mind to eliminate any requirement for kennel licences to be issued under the new legislation. The reason advanced was that the Development Act appropriately regulates kennels and, in the interests of reducing the level of regulation for activities, it was felt inappropriate to require the operators of dog kennels to obtain not only approval under the Development Act for the establishment and use of a kennel but also to pay some ongoing licence fees.

The second ground upon which the Legislative Review Committee took the view that it was appropriate that this by-law be disallowed was this inappropriate licensing requirement. I commend the motion to the Council.

Motion carried.

DOGS, TUMBY BAY

The Hon. R.D. LAWSON: I move:

That by-law No. 4 of the District Council of Tumby Bay concerning dogs, made on 21 July 1995 and laid on the table of this Council on 26 September 1995, be disallowed.

The comments I have made in relation to the by-law of the District Council of Ridley-Truro apply equally to the by-law of the District Council of Tumby Bay. This particular by-law, although not in precisely the same form as the Ridley-Truro by-law, is in substantially the same form. It was made by the District Council of Tumby Bay on 21 July. It was not forwarded to the Dog and Cat Management Board for the comments or approval of that board. Therefore, the procedure specified in the Act has not been gone through and, like the previous by-law, this by-law contains licensing provisions which are not authorised by the enabling legislation. I commend the motion to the Council.

Motion carried.

TUMBY BAY TRADERS

The Hon. R.D. LAWSON: I move:

That by-law No. 12 of the District Council of Tumby Bay concerning traders, made on 21 July 1995 and laid on the table of this Council on 26 September 1995, be disallowed.

This by-law is, in the view of the Legislative Review Committee, *ultra vires* the provisions of the Local Government Act under which it is purported to be made. The by-law in question has two parts: its purpose was to regulate the presence of street traders and non-resident traders. Part 1 of the by-law deals with the regulation of street traders and is a conventional by-law. Part 2 of the by-law, which in the view of the committee was unsatisfactory, deals with non-resident traders. It is a by-law to control out-of-towners. It provides that no person who does not usually reside or carry on business within the area of the District Council of Tumby Bay shall sell any goods in or at any house used for that purpose without first having obtained a licence from the District Council of Tumby Bay.

The by-law goes on to provide for a licence fee of $20 per day. The offensive part of the by-law is that it seeks to regulate activities from within houses. The particular power in the Local Government Act is a power limited to controlling itinerant traders, and section 666(3)(8) of that Act provides that the power is to prohibit or regulate:

. . . the use of streets, roads and public places by street hawkers and street traders either generally or during particular hours.

The power given by the Local Government Act is a power to regulate street hawkers and those whose activities take place on streets, roads, and the like. However, the District Council of Tumby Bay has sought not only to control the use of its

streets and public places by itinerant traders, but also, as it were, to keep them out of town by regulating their use of houses and other premises. There are appropriate powers under the planning legislation to control this type of activity. The view of Legislative Review Committee is that it is inappropriate for a council to pass a by-law in this particular form. I commend the motion to the Council.

Motion carried.

WORKERS REHABILITATION AND COMPENSATION (MENTAL INCAPACITY) AMENDMENT BILL

The Hon. R.R. ROBERTS obtained leave and introduced a Bill for an Act to amend the Workers Rehabilitation and Compensation Act 1986. Read a first time.

The Hon. R.R. ROBERTS: I move:

That this Bill be now read a second time.

This Bill was introduced into this place in the past and, indeed, was passed. It was my intention today to recount an example of what can occur to the victim of a workplace accident which results in measurable psychiatric injury. I am having consultations with the specialists treating this particular person, so I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

SOUTH AUSTRALIAN WATER CORPORATION (PUBLIC INTEREST SAFEGUARDS) AMENDMENT BILL

The Hon. SANDRA KANCK obtained leave and introduced a Bill for an Act to amend the South Australian Water Corporation Act 1994 and for other purposes. Read a first time.

The Hon. SANDRA KANCK: I move:

That this Bill be now read a second time.

Last year the Government introduced to this place the South Australian Water Corporation Bill to provide, according to it, the 'corporatisation' of the then Engineering and Water Supply Department. At no time before the passage of that Bill did the Government inform South Australians of its specific intention to let for tender the management and operation of Adelaide's entire water supply and waste water services.

On 10 October last year I received a briefing from officers of the EWS about the Bill. They did not provide me with a copy at the time, so I had to take many notes of what was being said. I have a couple of significant things from those notes. One was that the Bill, when passed, would come into operation in July of this year, that there would be a review over 12 months to see how it worked and that we would then have legislation in 1996. That is somewhat different from the way it has proceeded. I was told about the build, own and operate (BOO) and build, own, operate and transfer (BOOT) schemes and their delights, and I was told that clause 16(3) would probably provide for more contracts. At the time that seemed to be the way we were going. We had the Hilmer report, we had competition policy, and I knew that we were bound to open all our services to more contracts. However, at no stage were we told that there would be one big contract for the management of our entire water system. Was I being lied to? I do not know.

At no time before the last election did the Government discuss the proposal or give any indication to the electorate. Since the Government decided to go down this path, at no time has it sought a mandate from the people for its action.

The Government pushed ahead with the tender process, prescribing prerequisites for tenders which have seen the exclusion of world-renowned Australian water companies. When asked by the *7.30 Report* this week to appear at an open debate on the issue and face questions from the public, the Minister for Infrastructure, along with the successful tenderer, refused to attend. I wonder what they had to hide. The Government has kept from the public the details of the proposed contract between SA Water and the successful tenderer.

When asked for a referendum on the issue, the Government said that it would be too expensive. When informed about public concern over the proposal, the Government dismissed this as the result of a fear campaign by supporters of the Opposition Parties in this State. In fact, a poll conducted just two weeks ago for the Community Water Action Coalition found that only 6 per cent of people in Adelaide were convinced by the Government's arguments for the privatisation while a massive 75 per cent opposed the deal.

The Hon. T.G. Roberts interjecting:

The Hon. SANDRA KANCK: Yes; the *Advertiser* will have to do a much better job to win us around to the Government's point of view. These sorts of figures are despite a massive public relations campaign, funded by taxpayers, which the Government has put in place to promote the deal, with the help of the *Advertiser*, of course.

The Minister for Infrastructure has promised to enable scrutiny of only some of the details of the contract after it is signed. The Government has to be out of its collective tree if it thinks that the Democrats will support it in signing the contract now without any meaningful guarantees.

Members interjecting:

The Hon. SANDRA KANCK: Yes. Despite these very reasonable challenges to the proposed privatisation of the management of Adelaide's water supply and waste water systems, the Government has arrogantly pressed ahead with it. Only last week, nearly a year after the passage of the South Australian Water Corporation Act, did the Government provide details of the proposal adequate to allow South Australians to form a picture of the proposed new arrangements.

The Minister for Infrastructure has promised to enable scrutiny of only some of the details of the contract after it is signed, when South Australia is committed to the contract for 15 years and it is too late for Parliament to do anything about it. In short—

Members interjecting:

The Hon. SANDRA KANCK: There are plenty of carcases lying around. In short, the Government has totally subverted the democratic process. It has delayed, avoided, played semantics, ignored, bagged opponents and attempted to discredit opponents—anything to keep from the South Australian public the full details of this privatisation. It subverts the democratic process for some time into the future. Even if there were to be a change of Government at the next election over this issue—and it is a big issue—the next Government would be unable to do anything about this whole matter because it would be a matter of contract.

The Hon. M.J. Elliott: Or the one after that.

The Hon. SANDRA KANCK: Or the one after that. Indeed, it will probably be three or four different elections before anything can be done about it. I am introducing this Bill so that we will be able to keep the Government to the

commitments that the Minister made last week on the privatisation of the management of Adelaide's water supply and sewerage system, that is, now they have finally made some commitments. They were outlined in the Minister's ministerial statement, when he announced the preferred tenderer, United Water. While I do not support the privatisation and will continue to campaign to keep Adelaide's water supply and sewerage systems wholly publicly managed and operated, in the event that the Government goes hell bent down this road and signs the contract, South Australians deserve to be protected from the negative effects of privatisation and deserve to enjoy all its promised benefits.

Members interjecting:

The Hon. SANDRA KANCK: Well, I'm not sure whether there are any benefits, but we'll see. South Australians are surely dubious about the deal, as I am, given the sneaky way in which the privatisation process has been conducted. It is quite clear that we cannot stop the bastards being bastards but, in true Democrat tradition, we will at least try to keep them honest.

An honourable member: You've got your job cut out.

The Hon. SANDRA KANCK: We have got our job cut out. When Don Chipp made that promise many years ago, he didn't tell us how many bastards there were. This Bill will also seek to ensure that small investors, what the Federal Government calls the mums and dads investors, are able to participate in the ownership of the contractor. When the Federal Government put up a float for Qantas and for the Commonwealth Bank, many plain ordinary people who would not normally speculate in the share market put up their hands to buy those shares because they wanted to make sure that those two bodies remained in Australian hands. Similarly, we should be allowing South Australians, in particular, but in general Australians, to make sure that the company that operates the Adelaide water supply and waste water treatment will be owned by the public. This will be done by providing in the Bill that at least 15 per cent of the total issued capital of the contracting company be issued in $1 000 lots.

The Bill seeks to ensure that the Government retains control of water pricing, as the Minister has promised, assets and environmental standards by directing the South Australian Water Corporation to ensure that the contract permits this. The Bill ensures that 80 per cent of supply subcontracts for the local industry will go to Australian companies so that local companies maintain their position in the local market, as well as having a chance to participate in the export strategy.

The Bill will ensure the contract provides that export and employment targets are met by ensuring that the water corporation imposes penalties to be set down in the contract to enforce compliance. The water corporation would also have to ensure that the contractor guarantees technology transfer to local firms under the contract. Most importantly, the Bill provides that SA Water must resume management of Adelaide's water supply and sewerage systems if the contract is breached. In addition, the Bill will provide that at least 60 per cent of the successful contracting company must be Australian owned. As has often been said ever since the Government announced the privatisation plans, water is our most precious resource.

Water supply and sewage collection are essential services, and control over them should not be handed over haphazardly to private interests to provide. South Australians have a right to a guarantee that the Government's assurances about the deal are true, and I challenge the Government to prove to South Australians that there is nothing improper about the deal and to support the Bill. There nothing in this Bill which should offend the Government, apart from the opportunity for ordinary people to be part owners of the company, and I cannot see why they would have any problems with that. There is some sense of urgency that this Bill be debated because the Government intends that the new operators will take over the management of our water system on 1 January next year. I commend the Bill to the Council.

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

VETLAB

The Hon. M.J. ELLIOTT: I move:

That the Legislative Council:

1. expresses its concern about the State Government's plans to cut its financial support of the South Australian Veterinary Laboratory; and
2. calls on the Government to announce its commitment to retain Vetlab services, including its five specialist sections covering diagnostic needs for bacteria, viruses, parasites, chemicals and pathology, to enable it to undertake its responsibilities, including to—
   (a) maintain a rapid response capability in the case of suspect exotic diseases;
   (b) pursue the cause of new or unusual outbreaks of disease;
   (c) provide laboratory-based accreditation of livestock for export;
   (d) comply with Australian National Quality Assurance Program standards;
   (e) conduct research of vital importance to State and national imperatives; and
   (f) provide the animal health information needed (through diagnostic activities and surveys) to establish Australia's *bona fides* in world markets.

The South Australian Veterinary Laboratory provides vital support for South Australia's primary industries. The laboratory is part of the South Australian Department of Primary Industries. It offers essential resources that are not available elsewhere in South Australia. Its role includes diagnosis, surveys and monitoring diseases in livestock in South Australia, including aquaculture as well as land-based stock. It is also involved in health certification testing of local and exported livestock, testing products for human consumption and assisting in disease investigations and control programs.

Recent outbreaks of equine morbillivirus in the racehorse industry, the escape of the rabbit calicivirus disease and the HUS outbreak in the smallgoods industry serve as important reminders of the importance of a Government laboratory of this kind. The laboratory's vital work has included the recent outbreak of the rabbit calicivirus, Garibaldi meat investigation and research into kangaroo blindness. There are increasing reports about plans to gut the service and outsource its operations. Many associations and groups have raised concerns about the future of the laboratory, and I will raise these matters later.

I will first examine the role of Vetlab. The principal role of the State Veterinary Laboratory is to provide health assurance to promote interstate and overseas market access for South Australian livestock and livestock products by compiling State-wide livestock disease information from the South Australian Department of Primary Industries, the Commonwealth and the Office of International des Epizooties (OIE), which is an international disease recording organisation responsible for the recording of animal disease occur-

rence throughout the world. It requires annual reporting of animal disease in all countries. The OIE also assesses the presence of an acceptable standard of State veterinary service. The information is distributed to all interested countries, who use it as a basis for international trade in livestock products, based on documented freedom of the exporting State from specific diseases and the health certification of the individual animal or animal products. I can see that the Hon. Mr Irwin for one, who is a producer of livestock, is gravely concerned by this.

This process requires Vetlab to properly monitor, survey and investigate disease in South Australian livestock species and to certify freedom of an animals and animal products from specific diseases. To achieve this, the laboratory must have access to routine diagnostic material from livestock around the State. The laboratory also plays an important role in assisting local livestock industries and others by facilitating diagnosis of animal disease, to improve efficiency of production, minimise stock losses, assess disease research priorities and plan disease control programs. To fulfil this role, the laboratory must have five specialist sections to cover diagnostic needs for bacteria, viruses, parasites, chemicals and pathology. Each section must have specialised trained and skilled staff. It must also be responsive in emergency situations such as assisting in the diagnosis and containment of serious diseases, rapid development of appropriate test technology and disease contingency planning.

Extension programs to improve industry knowledge of disease, the release of information to the general public and providing information to the disease recording system are other important duties. Many of its activities cannot be carried out by private laboratories as many of them are not cost recoverable due to the constraints of cost, time and lack of skills or facilities.

When one looks at the chronology of events, one sees that there have been seven reviews into Vetlab since 1982. In fact, in the past six years I think that there has been only one year in which there has not been a review. In November 1992, the Organisational Development Review into the laboratory was released by the previous Administration. The review entitled 'Plotting a course for agriculture in South Australia' made several findings in relation to Vetlab. These included calling for a scaling down of work, and the discontinuation of almost all research and community work. It must be noted that there were about 60 full-time equivalent employees at Vetlab at that stage.

However, the validity and basis for the conclusions which led to the report's recommendations were seriously and successfully challenged by the animal health managers of the Department of Primary Industries and strongly supported by the industry. It resulted in a considerable modification of the subsequent submission to Cabinet. The animal health managers' response to the review, released in January 1993, raised several issues regarding the importance of maintaining the service. These included the role of Vetlab in providing services to other sections of government and the wider community. The report stated, in part:

> The role of Vetlab in servicing sporting, companion and laboratory animals is supported on the basis that it:
> - better utilises and generates revenue from expensive equipment;
> - builds vital communication links with veterinary practitioners;
> - provides laboratory staff with wider experience and contributes significantly to their development.
>
> The importance of the veterinary practitioner to disease surveillance and exotic disease preparedness should be recognised, especially the relationship to Vetlab as the only laboratory servicing rural areas of South Australia. Because South Australia does not have a veterinary school there are many activities that cannot be undertaken in South Australia unless Vetlab retains specialist services. The maintenance of effective South Australian based veterinary diagnostic capabilities to assist exotic disease emergencies and surveillance activities must be recognised as an imperative. . . The majority of Vetlab research is of value to the animal health service or supports accepted test development and refinement; some of it supports valuable extension programs such as Wormcheck; many of the projects have value to the South Australian livestock industries and 14 receive direct funding from State-based industry funds.

I understand that in 1993 the then Chief Executive of the department engaged two external consultants—the Chief Veterinary Officers of New South Wales and New Zealand—to redefine South Australia's requirements in terms of a State veterinary laboratory and what resources were required. Their recommendations, released in September of that year, were quite different from the Organisational Development Review. The Chief Veterinary Officers (Dr H Scott-Orr and Dr P O'Hara) said that they did not believe there were viable private sector or outsource supplies for the range of services with which Vetlab supplied the Government. They said that Vetlab was an integral part of the Department of Primary Industries, for which there was no external alternative. They also felt that Vetlab should retain its present range of functions (pathology, microbiology, bacteriology, virology, parasitology and biochemistry) and that its base capability would be degraded with the loss of any of its current functions.

They were unable to identify any research capability which could be transferred to the South Australian Research and Development Institute but felt that Vetlab should develop close working relationships with SARDI and that staff should retain access to research funds, conduct research and development. The pair recommended that if staff levels dropped below 35 full-time equivalents (which was the staffing level at the end of 1993), there would be a significant loss of response and service capability. We must note that the level was 60 in 1992, but by the end of 1993 it had dropped to 35. I understand that in March 1995 a new review was called for because of budgetary shortfalls within the department. In other words, the Treasurer put on the screws and said, 'You've got to save more money.'

Despite the seriously flawed recommendations of the original Organisational Development Review, which has been discredited by subsequent reports, it appears that the present departmental hierarchy has exhumed these recommendations as a basis for slashing the service. I understand that as a result of the review, the Department of Primary Industries is seeking budget cuts of $700 000 from within Vetlab alone. Vetlab staff have been cut back from 60 to 35, and the department is seeking a further cut to Vetlab of $700 000. This move would also mean that about $500 000 currently won in research grants and other earnings would also be jeopardised, taking the total amount of money lost to $1.2 million from its present budget of about $2.3 million. That is sheer lunacy.

To tackle this, it has been proposed that the entire laboratory function be outsourced. The Government would then buy back the services that it needed. I have been told that the terms of reference were limited and designed to achieve certain outcomes. The report, released to the departmental executive in June this year, was conducted with very little input from anyone with laboratory experience. I am told that the only review team member with any knowledge in this area was not invited to all meetings and was basically

sidelined. A supplementary report prepared by Vetlab Manager, Mary Barton, reveals concerns about the lack of input by an independent manager of a Government veterinary laboratory. It also reveals that the review was restricted by using only the Victorian and Tasmanian systems for comparison and not other States' models. The supplementary report also highlights the problems with proposals to outsource Vetlab activities. It states:

> In South Australia we can only outsource a limited range of tests locally and the rest have to be sent interstate. This presents problems with many types of specimens, for example bulky and/or fragile samples. In addition, clients have a definite view on what is an acceptable time delay for results—there's not much point in a detailed report if an individual animal is already dead or the losses in a herd or flock scenario have escalated significantly. Another significant impediment is ever-tightening air transport regulations and the high cost of air freight.

The Hon. T.G. Roberts interjecting:

The Hon. M.J. ELLIOTT: That's right. The report also mentions the lack of a veterinary school in South Australia which offers fewer opportunities to outsource. It says that the one private sector competitor in South Australia does not have the facilities, equipment or scientific expertise to handle most of the infectious disease work. The report states further:

> This (outsourcing) model generally fails to take into account the specialised skills needed to operate a multi-disciplinary comprehensive laboratory service in the absence of any real alternative provider. I am concerned that this model will result in a down-spiralling of confidence of clients, interstate laboratories and health authorities in the capability of the laboratory to provide components and sustainable service. In many cases this will result in cessation of submission of samples because of the lack of an alternative provider, with the consequent risk of undiagnosed serious disease outbreaks and lack of disease information for the OIE.

Mary Barton suggests that a veterinary-based laboratory operated by a consortium of interested parties, which could include universities, the Institute of Medical and Veterinary Sciences, the Primary Industries Department and its Research and Development Institute, the Health Commission and perhaps the private sector, should be considered as an option. The most recent recommendation of the review to slash staff numbers would lead to a loss of critical mass, a loss of confidence in the laboratory's ability to provide services, and an end to any public health work as well as research and development. In fact, if you look at the recommendations, the slashing and spending of $700 000, which would lead to a loss of $500 000 in funding for research (a total loss of $1.2 million), must imply that that combined with outsourcing would be a disaster. Certainly, an outsourcer would not attract any sort of research funding, which would help to build up that critical mass to which I have just referred.

Concern has been raised about the lack of consultation and information sharing with staff about proposal's for the laboratory's future. I understand that the department's Chief Executive Officer, Michael Madigan, met with staff on 6 October and said that his preferred personal option was to outsource all Vetlab activities. I now understand that the head of Vetlab has now effectively been demoted by administrative moves whereby the Vetlab chief must now report to the Chief Veterinary Officer, which was formerly a separate role with no control over Vetlab. What is the reaction to these proposals?

Many groups have come out in defence of Vetlab against any moves to slash the Vetlab budget or outsource it operations. The Australian Veterinary Association is strongly opposed to the budget cut on the basis that it was not in the public interest. It says that it is not in the interest of South Australia's primary producers or the community at large. The association is concerned that budget cuts will lead to staff sackings which will lead to the demise of the laboratory as the remaining staff will not be able to cope with the services expected and provided. The highly qualified staff needed to service the laboratory are not easily found, and their loss will impact further on the brain drain now being experienced in South Australia.

The AVA believes that it is essential that South Australia maintains a viable State veterinary laboratory to provide the services required to the State and to maintain animal health in South Australia. AVA President, Dr Pam Scanlon, has raised concerns about the threat to Vetlab in the *AVA News* of October 1995. She says that while no longer riding on the sheep's back, Australia still depends heavily on farm animals and produce for export income. She asks whether the States should be backing away from their traditional monitoring roles when GATT warns us that more, not less, monitoring is needed to protect our overseas markets.

I make an observation at this point that as tariffs have come down there has been increasing use of non-tariff barriers. I am sure that the farmers in this place will be quite aware of these problems with non-tariff barriers. Any outbreak of any disease, or even a suggestion of lack of adequate controls in relation to disease, will be used as an excuse for non-tariff barriers. That again underlines the point that Dr Pam Scanlon makes. I will quote directly from her article which states:

> A weakness in diagnostic capabilities by a State, especially a smaller one, could prove a trade advantage for another State. If States do relinquish power to the Commonwealth Government laboratories, problems unique to one State may not be investigated because it is not in the national interest. . . Worldwide evidence shows that livestock-based laboratories do not usually achieve full cost recovery. The Government laboratories have a role in areas which could best be described as 'the public interest' and as such should be supported by public funding. Private facilities cannot be expected to perform such functions, nor can they maintain the level of specialist expertise that has been traditionally found in the Government services. . . Once laboratories are lost they are difficult and expensive to rebuild. The Governmental complacency to national animal health issues, which is reflected in the Victorian and South Australian cutbacks, denies the excellent performances which have contributed to our low-risk environment.
>
> It also fails to recognise the increased risks which will be faced when the Asia Pacific Economic Community moves towards a free-trade agreement. Alterations in quarantine restrictions brought about by GATT, domestic pressure for increased diversity in live imports and cheaper animal products, and increased movement of people and animals by air transport increase the risks to our own livestock industries. It highlights the need for more surveillance, not less.

South Australia's role in the national animal health security network, and the threats to this caused by budget cuts, have also been raised as concerns by the Australian Animal Health Committee. The committee's subcommittee on Animal Health Laboratory Standards states:

> South Australia's contribution to an effective Australia wide system of animal health intelligence depends on its ability to provide adequate laboratory support for diagnosis, research and accreditation programs. . . There is no source of laboratory support for the agricultural industries other than State Government institutions. This situation prevails in all Australian States, regardless of the presence of private veterinary laboratories and university veterinary schools. It is State Government laboratories that accept the responsibility to:
>
> · maintain a rapid response capability in the case of suspect exotic diseases;
> · pursue the cause of new or unusual outbreaks of disease;
> · provide laboratory-based accreditation of livestock for export;
> · comply with Australian National Quality Assurance Program standards;

- conduct research of vital importance to State and national imperatives; and
- provide the animal health information needed (through diagnostic activities and surveys) to establish Australia's *bona fides* in world markets.

The committee has raised concerns that private sector laboratories do not provide these functions and do not retain the expertise in the specialist disciplines needed to achieve these objectives, so are not able to respond in depth to animal health emergencies. The committee says that State Government laboratories are not only necessary but a vital component of successful animal industries in Australia. It also says that, as a result of GATT resolutions, the Australian livestock industries will be operating in a global market that is becoming more quality conscious and competitive. Retaining Australia's market share will be difficult, and preserving our competitive advantage of being one of the most disease-free nations in the world will be even more important.

State Government laboratories have a crucial role to play in this and so should be resourced at a level to enable them to operate with a full range of competencies and to use the most efficient and precise techniques available. Last month, the South Australian Farmers Federation also publicly rejected the latest report into the future of Vetlab. SAFF Wool and Meat section chairman, Lachlan Gosse, said in the *Stock Journal* that the report had 'lost the plot'. He says that the industry could only implement the report as an elaborate attempt to achieve the outcomes of the 1992 Organisational Development Review. Mr Gosse said:

> These outcomes had been discredited by producers and by the veterinary profession. . . The practical reality is that South Australia's access to approved laboratories in other States for the purpose of compliance with OIE requirements cannot be assured because the needs of those other States would take precedence over South Australia. . . Vetlab's community service obligations should also be recognised.

The Dairy Farmers' Association of South Australia has also raised concerns that the State Government's threatened budget cuts will decimate the service. An association newsletter says that such a budget cut would mean that 12 employees out of 34 now working in VetLab would be removed. The association's newsletter states:

> We have established that all sections of the laboratory are interdependent upon one another and so remove any one section and the complete diagnostic service is fragmented and weakened. With the emphasis on food safety and market protection we have to do our utmost to give them as much support as we can.

I now refer to outsourcing. To fulfil its role, the laboratory must have sufficient resources, staff and skills in the fields of pathology, bacteriology, virology, parasitology and biochemistry to carry out the required tasks and to competently cope with increasingly complex test demands. If all Vetlab activities are outsourced, there would be several huge impacts. First, there would be no facility in South Australia capable of carrying out a range of livestock tests required; secondly, the transportation of many specimens interstate would be unfeasible due to their bulk and perishability; thirdly, international trading partners and watchdogs would be concerned about the lack of a Government veterinary laboratory in one Australian State; fourthly, the Government would lose control of information and testing priorities, test development capacity, access to advice and skills and its capacity to investigate disease outbreaks; and fifthly, South Australia's credibility would diminish, along with its capacity to respond immediately to emergency situations.

South Australia's capacity to respond to incidences like the HUS outbreak would have been hugely expensive. For example, Vetlab charged about $6 each for e-coli serotyping, which would have cost at least $140 to outsource due to infectious goods transport and laboratory fees. If the recent release of rabbit calicivirus onto mainland South Australia were to have happened, the cost of transporting the material interstate for testing would have also been exorbitant. In the rabbit case, Vetlab has played an important role in collecting and coordinating all material to be tested. No private laboratory would have the expertise to handle such cases, or would have charged higher fees for the work.

This week's re-emergence of a disease outbreak in racehorses, the equine morbillivirus, has reiterated the need for on-the-ground government testing facilities. If South Australia were involved in the outbreak and South Australia's Government laboratory services were outsourced, a privately run veterinary laboratory would not be concerned with such problems. Other States are unlikely to investigate South Australia exclusive problems, and outsourcing would be very costly. Existing competition between States for primary produce export revenue does not support reliance on their laboratories to solve problems in South Australia's animal industries. It is important to note that Victoria has already attempted to go down the outsourcing track in relation to its veterinary laboratories and has failed miserably.

A private company, Centaur, which took over the management of four of Victoria's Government veterinary laboratories late last year is in financial difficulty and will be closing two of its four laboratories. It took over four laboratories and it is now closing two. It has already sacked 32 staff and has had to raise $1 million from shareholders to continue. This illustrates the difficulty of trying to run a full-cost recovery or profit recovery venture testing livestock specimens.

In Victoria, Opposition Leader John Brumby has questioned the Victorian Government's capacity to monitor and control livestock diseases following their outsourcing moves. He says their vet laboratory services are now in crisis and their livestock industry is being jeopardised.

The Hon. T.G. Roberts interjecting:

The Hon. M.J. ELLIOTT: It could be. I will quote him briefly:

> The cost of the basic tests like worm counts and postmortems have skyrocketed, forcing many farmers to stop having carcasses tested and increasing the likelihood that a serious disease outbreak will be identified later rather than sooner. Staff levels have been reduced, with more than 24 staff at the Benalla, Bendigo and Hamilton vet labs being sacked. The number of vets working in Victoria's regional vet labs is a quarter of the previous level.

I emphasise that the number of vets working in Victoria's vet labs is a quarter of the previous level. He continues:

> This gutting of Victoria's vet labs has left our multi-billion dollar rural industries vulnerable to a major disease outbreak. The Government must step in to ensure adequate disease monitoring and controls are maintained right across Victoria. Quality assurance and disease control are absolutely crucial to continuing and increased agricultural export opportunities.

Already the Victorian Government has had to defer rental payments to assist the private company, Centaur, to recover from its financial difficulties. It closed two labs and sacked most of the staff, lost $1 million and the company is getting a rent rebate from the State Government.

In conclusion, the economic risks of a loss of Government financial support for Vetlab are enormous. A reduction in funding opens South Australia to enormous risks—the

problems to human health through food contamination, the risks to our export markets and the loss of professional expertise. As the Council has just heard, the threats to our system through outsourcing are too onerous for not only our primary industries, but our wider community. Outsourcing would leave South Australia as the only State in Australia without at least one fully functioning Government funded and controlled veterinary laboratory. This in incompatible with our obligations at a national level in terms of disease surveillance, certification of export materials and exotic disease emergencies. In short, it jeopardises our vital exports and our local human and animal health.

Yesterday, while I was preparing this speech I received an answer from the Minister for Primary Industries in response to an earlier question about Vetlab. The Minister stated:

> The Government is aware of the concerns expressed by the Dairy Farmers Association of South Australia about the possible losses in veterinary services if changes are made to Vetlab. However, the Government is acutely aware that while there is an imperative to maintain essential services there is also a need to ensure that those services are delivered cost effectively.

That sounds fairly daunting when we consider the cutbacks that have already occurred. When we read between the lines, the Minister is saying, 'However, we have to save more money.' That is the $700 000 that I talked about previously. The Minister continued:

> Primary Industries, South Australia, like many other Government agencies is required to make budget savings and this requires that all activities are closely examined to ensure that services are delivered as efficiently as possible. The Government's major concern is to improve, where possible, the operational efficiencies of its departments and not to cut back services which are essential to the South Australian community. Vetlab cannot be excluded from this process. If any changes to Vetlab are considered, the change process will take place in consultation with interested groups, including the Dairy Farmers Association of South Australia.

Again, we have another example of a Government that says, 'We have to cut,' and it then goes to a service that cannot bear a cut and tries to cut it anyway. No-one in South Australia has said there is not a need to cut back Government spending: the question is how much and where. This Government has gone too far and has gone too far in some areas, and this area is an obvious example of an area cut to the bone where staff, before this Government came in, had been cut from 60 to 35. It has been cut to the bare bones and the Government says it wants to cut spending by another $700 000, which implies $500 000 in research money gone. It means that the total budget for these services currently operating is effectively halved. To do this—and it could not even be done at Government level to cut back that far—the Government is going to outsource and create a whole range of risks that are absolutely intolerable.

It is unconscionable behaviour by this Government—it is unconscionable in a whole range of areas where it has been cutting back. Certainly, I cannot believe that rural members in this place and in the other place can so silently and acquiescently put up with this sort of behaviour. It is absolutely imperative that they act and tell the Minister and the Treasurer to back off, because the Vetlab resources have been cut as far as they can go and we can go no further. It does not mean that there are not other alternatives, and I presented one alternative in my speech, but to cut back any more on the scale and independence of this sort of service would be a mistake which this State would pay for dearly. I urge all members to support my motion.

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

GREAT AUSTRALIAN BIGHT MARINE SANCTUARY BILL

The Hon. T.G. ROBERTS obtained leave and introduced a Bill for an Act to constitute the Great Australian Bight Marine Sanctuary and for other purposes. Read a first time.

The Hon. T.G. ROBERTS: I move:

That this Bill be now read a second time.

This Bill seeks to establish a sanctuary over an area in the Great Australian Bight to protect the critical breeding and calving areas of the endangered southern right whale, and the breeding colonies of the rare Australian sea lions. The boundaries of the sanctuary and management provisions adopt in full the recommendations made to the Government in the draft management plan of the Great Australian Bight Marine Park which is dated February 1995 and which was prepared by the South Australian Research and Development Institute. Included in that plan are recommendations for the establishment of the sanctuary as part of the marine park.

Conservation values are high in this zone and priority is given to managing the area to protect the very high natural and cultural values. The sanctuary will protect the endangered southern right whale and the Australia sea lions by prohibiting activities that potentially threaten or disturb these species in the area, such as public access, fishing, mining, and mineral and petroleum exploration. Potential threats also include fish net entanglements, vessel strikes, vessel crowding, acoustic disturbances from boat engines, seismic blasting and low-flying aircraft.

To protect a representative example of the marine habitats in the region, habitat disturbance is prohibited. The establishment of this sanctuary will provide the highest level of habitat protection and protection for the flora and fauna free from human disturbances. The sanctuary is the most important site for southern right whales calving and breeding in Australia, and over half the number of calves born in Australian waters are born at this site. The sanctuary represents the key area at the head of the Bight and along the Nullarbor cliffs where the whales congregate, breed and calve. This is the sanctuary that was rejected by the Government.

The Government also tried to ensure that its own report was not released publicly. The framing of this Bill is based on that report. It would be an embarrassment to the Government if its own report is not acted upon. In fact, the Minister for Primary Industries indicated that the Government did not intend to act on the report at the time the report was compiled. Application was made through the FOI Act to release the documents but they were withheld because they were potentially damaging to the Government. The documents did not contain any confidential information of a financial kind; they did not contain information affecting the legal rights of the Government or any individual; and they were not potentially embarrassing in any other respect, except that the Government was not acting on its own report. It was not the preferred plan of the Minister, so the public had difficulty in obtaining copies of it.

In Western Australia operators have reported a growth rate in visitors of 50 per cent over five years. At Ningaloo Marine Park (WA) whale/shark visitors have increased by 400 per cent from 500 visitors in 1992 to 2 000 visitors in 1994. In Queensland two operators reported a 100 per cent growth of visitors over two years, and boat-based whale watching

(mainly watching humpbacks in Hervey Bay) generated an income of $3 million in 1993. The Great Australian Bight Marine Park, including the sanctuary zone, has the potential to generate millions of dollars in direct income to the communities of western Eyre Peninsula.

It was estimated that 10 000 whale watchers visited the area in 1994 and spent over $500 000. I want to mention the importance the establishment of this sanctuary, and the marine park as a whole, will have for Aboriginal people and, in particular, the community of Yalata. The Yalata community supports the establishment of the marine park. Some of the issues already being addressed by the Yalata Land Management Program include the management of visitor entry and its impact at the head of the bight, visitor safety measures, revegetation of damaged areas, rubbish removal, information kits and the employment of rangers.

Obviously, the marine park will be of great economic significance to the people of Yalata and other Aboriginal interests in the region. Tourist operators will benefit and employment opportunities that are greatly needed in country and regional areas will be created. South Australia is the only State in Australia not to declare any marine parks. It is behind other States and many developing nations that have declared areas to protect marine habitat and diversity. These include Vietnam, Thailand and the Philippines. South Australia presently has the least proportion or area of its jurisdictional waters protected under habitat conservation and management legislation—1.4 per cent for South Australia compared with 20 per cent for Western Australia and 25 per cent for Queensland.

Extensive research both in Australia and overseas indicates that whales are affected by acoustic disturbance from boats at distances up to 2-7 kilometres. The whales at the head of the Bight are calving mothers. The potential from disturbances from adjacent boats can cause mothers to desert their calves and leave them prone to malnourishment and predation from white sharks. The compromise sanctuary also fails to protect the other critical breeding area at the Merdayerrah Sandpatch, and also the migratory route between the two identified breeding areas. The Premier also announced that an economic analysis would be carried out and that a new management plan would be prepared before the marine park is established.

The establishment of the marine park should, of course, be based on scientific values associated with the habitat, and the Government's decision to commission the economic analysis ignores the extensive consultation that took place and that the recommendations took into account existing commercial interests in the area. Preparation of the management plan involved extensive consultation with key interest groups from 1993. A 16 person Marine Park Management Plan Advisory Committee was specifically established in February 1994 to facilitate input into the plan.

Non-government representatives on this committee included one representative from local tourism, two representatives from commercial fisheries, one representative from recreational fisheries, one representative with expertise in conservation, one representative from local government, five representatives from Aboriginal communities, and one representative with cetacean expertise. The committee included Government representatives from SARDI, as the convenor, National Parks, Mines and Energy and Fisheries. The establishment of this sanctuary and the marine park has enormous potential for the development of tourism. Whale watching is a growth business. The estimated direct value of shore and boat-based dolphin and whale watching in Australia in 1993—and it might be a surprise to you, Mr Acting President—was $5 million, employing about 200 persons.

The Hon. R.D. Lawson interjecting:

The Hon. T.G. ROBERTS: Although he is widely read, I am not sure whether he has read those figures recently. The proposal for the Great Australian Bight Marine Park, including the sanctuary, gives South Australia a rare opportunity to gain considerable national and international recognition. The management plan recommends that the Great Australian Bight Marine Park should have three management zones: the sanctuary, which is the subject of this legislation, a conservation zone, and a general use zone. Under the Commonwealth's Ocean Rescue 2000 program, States and Territories have been urged to establish a national representative system of marine protected areas in order to conserve biodiversity and promote the ecologically sustainable use of Australia's marine and coastal resources.

This proposal complies with that program. The Minister for the Environment and Natural Resources has backed the marine park plan and has stressed that any park would have to include exclusion zones to protect the fragile breeding grounds of the southern right whales and the Australian sea lion. The environment Minister went so far as to release a statement that said:

> The breeding ground exclusion zone is proposed to be only a small part of the overall Great Australian Bight Marine Park. The proposed park will cover an area of about 8 600 square kilometres of State and Commonwealth waters from near Cape Adieu to near Eucla on the Western Australia border.

The Minister for Mines and Energy disagreed and eventually the Premier was forced to intervene and announce a compromise deal that rejected the draft management plan and declared an exclusion zone over a small area at the head of the Bight. The remaining recommendations for the establishment of the marine park, including the conservation and general use zones, were put on hold. We ended with a postage stamp size area at the head of the Bight that was not going to be of any use to anybody. Hence, we have introduced this Bill.

The exclusion zone declared by the Government is a small 'temporary' sanctuary and covers only 175 square kilometres of the recommended sanctuary area of 552 square kilometres. This compromise zone does not include all the critical calving and breeding areas and is not of sufficient size to protect the whales.

Under this proposal—and I am sure that you, Mr Acting President, will be supporting it when you are back on the benches—to establish the sanctuary by an Act of this Parliament, 552 square kilometres, or 6.4 per cent, of the total recommended marine park will be excluded all year round from extractive and exploitative activities such as fishing and mining. While some fishing and mining interests want access to this area for six months of the year when the whales are not present, research has clearly demonstrated that these activities cause disturbance to the whales and their habitat. We had the unedifying spectacle in Western Australia recently of marine park officers trying to clear a whale's tail that had collected a rope around it and it was thrashing around trying to get rid of it. The key issue is that this habitat must be protected all year round. To suggest that the habitat could be mined in the 'off season' is totally unacceptable and ignores the presence of the Australian sea lions.

It is worth noting the value of existing and potential exploitative activities. The marine park area has poor prospects for mineral and petroleum activity, and commercial fishing activity is minimal. For example, less than 1 per cent of southern rock lobsters are caught within the marine park area. The total catch from southern rock lobster fishing within the total area of the proposed marine park was 44 tonnes in 1994. At current prices of $35 per kilo—and that is pretty high—this translates to about $90 000 from rock lobster within the proposed sanctuary zone. It is also important to note that the vast majority of lobster caught in the total marine park area is taken east of the head of the Bight. This area would be opened seasonally under the proposed conservation zone.

The Minister responsible for declaring the marine park is the Minister for Primary Industries, who is responsible for fisheries, and this issue has created a major conflict of interest for him. There has been reticence by the Minister to support the marine park proposal and strong opposition to recommendations for the sanctuary. As a result, Australia's international imagine as one of the world's leading advocates for sustainable management of the marine environment is at risk.

South Australia has the opportunity for international recognition by legislating to create this sanctuary. The very fact that the sanctuary will be protected by its own legislation is significant and will send a very positive message to the international community. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

PART 1

PRELIMINARY

Clause 1: Short title

This clause sets out the short title of the measure.

Clause 2: Objects

This clause states the objects of the measure.

Clause 3: Interpretation

This clause defines various terms used in the measure.

Clause 4: Non-application of Part 4 Division 2 of the Fisheries Act 1982

This clause provides that Division 2 of Part 4 of the *Fisheries Act 1982* does not apply to or in relation to the Great Australian Bight Marine Sanctuary ("the Sanctuary") constituted by this measure.

Clause 5: Abolition of the Great Australian Bight Marine Park Whale Sanctuary constituted under the Fisheries Act 1982

This clause abolishes the Great Australian Bight Marine Park Whale Sanctuary constituted by proclamation under section 48(1) of the *Fisheries Act 1982* on 22 June 1995.

Clause 6: Native title

This clause preserves native title.

Subclause (1) provides that nothing in this measure affects the continued existence, enjoyment or exercise of rights conferred by native title in land within the Sanctuary.

Subclause (2) provides that the powers of control and administration conferred by this measure cannot be exercised so as to exclude, or limit the exercise of rights conferred by, native title in land within the Sanctuary.

PART 2

CONSTITUTION AND MANAGEMENT OF THE GREAT AUSTRALIAN BIGHT MARINE SANCTUARY

Clause 7: Constitution of the Great Australian Bight Marine Sanctuary

This clause constitutes the Sanctuary.

I.e., The waters specified in the schedule and the land below those waters and the airspace above those waters to a height of 1 000 metres.

Clause 8: Management Plan

This clause provides that the South Australian Research and Development Institute's *Draft Management Plan for the Great Australian Bight Marine Park* (February 1995) ("the Plan") is adopted and that the adopted plan as amended from time to time applies to and in relation to the Sanctuary. It also empowers the Minister to amend the Plan in accordance with a process (that must include public consultation) to be prescribed by regulation.

Clause 9: Control and administration of the Sanctuary

This clause provides for the Minister for the Environment and Natural Resources to have the control and administration of the Sanctuary and requires the Minister's control and administration to be consistent with the Plan.

Clause 10: Prohibited activities

Subclause (1) prohibits certain activities in the Sanctuary unless authorised by a permit granted by the Chief Executive of the Department of Environment and Natural Resources. The maximum penalties are: for a first offence—division 7 fine ($2 000), for a second offence—division 6 fine ($4 000) and for a subsequent offence-division 5 fine ($8 000).

Subclause (2) provides that subclause (1) does not apply to or in relation to fishing with a rod and line or a hand line from a beach comprising part of, or that is adjacent to, the Sanctuary.

Subclause (3) defines terms used in subclause (2).

Clause 11: Permits

Subclause (1) empowers the Chief Executive to authorise a particular activity or the doing of a particular thing if, in his or her opinion, it is in accordance with the measure and the Plan. A permit may be limited to a particular period and be subject to conditions.

Subclause (2) empowers the Chief Executive to vary or revoke conditions of a permit or impose further conditions.

Subclause (3) provides that if a person contravenes or fails to comply with a condition of a permit, the Chief Executive may revoke the permit and the person concerned is guilty of an offence. The maximum penalties are: for a first offence—division 7 fine ($2 000), for a second offence—division 6 fine ($4 000) and for a subsequent offence-division 5 fine ($8 000).

Clause 12: Prospecting and mining prohibited

This clause provides that rights of entry, prospecting, exploration or mining cannot be acquired or exercised pursuant to the *Mining Act 1971*, the *Petroleum Act 1940* or the *Petroleum (Submerged Lands) Act 1982* in respect of land forming part of the Sanctuary.

PART 3

ENFORCEMENT

Clause 13: Authorised officers

This clause provides for national parks and wildlife wardens, fisheries officers and members of the police force to be authorised officers for the purposes of this measure.

Clause 14: Powers of authorised officers

This clause sets out the powers of authorised officers.

Clause 15: Offence to hinder, etc., authorised officers

This clause creates various offences.

Clause 16: Offences by authorised officers, etc.

This clause makes an offence for an authorised officer, or a person assisting an authorised officer, to address offensive language to any other person or, without lawful authority, to hinder or obstruct or use or threaten to use force in relation to any other person. The maximum penalty is a division 6 fine ($4 000).

PART 4

MISCELLANEOUS

Clause 17: Immunity from personal liability

This clause gives the Chief Executive, authorised officers and other persons engaged in the administration of the measure immunity from personal liability for an honest act or omission in the exercise or discharge, or purported exercise or discharge, of a power or duty under the measure. A liability that would otherwise lie against a person lies instead against the Crown.

Clause 18: Evidentiary provisions

This clause provides certain evidentiary aids in proceedings for an offence against the measure.

Clause 19: Service of notices

This clause specifies the manner in which notices may be served.

Clause 20: Proceedings for offences

Subclause (1) allows proceedings for an offence against the measure to be commenced at any time within 12 months after the commission of the alleged offence.

Subclause (2) provides that proceedings for such an offence must not be commenced without the consent of the Minister.

Subclause (3) is an evidentiary aid.

Clause 21: Regulations

This clause empowers the Governor to make regulations.

SCHEDULE

Great Australian Bight Marine Sanctuary

The schedule defines the boundaries of the Sanctuary.

The Hon. R.D. LAWSON secured the adjournment of the debate.

7.30 REPORT

Adjourned debate on motion of Hon. M.J. Elliott:

1. That the Legislative Council expresses its concern about the impact of the cessation of local production of the *7.30 Report* on the depth and diversity of current affairs coverage in South Australia;

2. That the Legislative Council calls on the Board of the Australian Broadcasting Corporation to reverse its decision to cease local production of the *7.30 Report*; and

3. That a message be sent to the House of Assembly transmitting the foregoing resolution and requesting its concurrence thereto, and that the foregoing resolution be referred to the ABC Board and the Federal Communications Minister, Michael Lee, for their consideration.

(Continued from 11 October. Page 123.)

The Hon. ANNE LEVY: The Opposition supports this motion and prefers it to Orders of the Day: Private Business No. 13. I am in somewhat of a dilemma as I understand that agreement has been reached between the movers of Orders of the Day: Private Business Nos 12 and 13 on a compromise which amalgamates portions of the two motions. Therefore, I am not quite sure to which motion I am speaking, but the amendment, which I understand has been agreed, has not yet been moved.

The ACTING PRESIDENT (Mr Crothers): The honourable member is speaking to Orders of the Day: Private Business No. 12.

The Hon. ANNE LEVY: I am speaking to No. 12, but No. 13 is relevant as it is on the same topic. I understand that the two are to be combined, leaving out the second part of No. 13, but combining the other attributes of the two motions. While I am speaking to motion No. 12 on the Notice Paper, I think I can also make comments which are relevant to No. 13, or to the proposed amendment to No. 12 which has not yet been moved. In any case, such an amendment, as I have seen it, is perfectly acceptable, provided that part 2 of No. 13 is omitted.

The decision by the ABC board to axe the local *7.30 Report* around the country has caused a great deal of consternation not only here but in other States, particularly what I call the BAPH States. In ABC jargon that acronym means Brisbane, Adelaide, Perth and Hobart.

The Hon. A.J. Redford: It does not even mention Darwin.

The Hon. ANNE LEVY: No. The BAPH States are Brisbane, Adelaide, Perth and Hobart.

The Hon. A.J. Redford: Darwin does not get a mention.

The Hon. ANNE LEVY: Not under the definition of BAPH States. As the Hon. Mr Redford seems to have difficulty in understanding, I will say again that BAPH means Brisbane, Adelaide, Perth and Hobart. There has certainly been consternation in these areas, as well as in the Northern Territory, as was evidenced by the correspondence we received today from the Speaker of the Northern Territory Legislative Assembly.

The idea that there could be adequate coverage of news and current affairs by the ABC where, although the news may be produced locally, the current affairs is to be a national program, is greeted with alarm by people in all the smaller States—smaller in terms of population, not area, I might say. We have all witnessed programs coming from Sydney and/or Melbourne that purport to be national, and it is not without good reason that many people refer to the ABC not as the ABC but as the SBC, which stands for 'Sydney broadcasting corporation'. There is a predominance of Sydney in production, reporting, stories and whole emphasis, and this occurs even under the current situation. There is obviously a fear that it will be worsened if the ABC carries through the decision which was made.

Regrettably, there is, as it is, very little diversity in current affairs coverage in this State. We have the *Advertiser*, which gives one point of view, and that is considered by many people to be a very limited point of view. We also have Channel 7, which provides current affairs, but it is agreed by many people that it is fairly superficial current affairs, tending to concentrate on what the Hon. Mr Elliott has elegantly called the cat-up-the-tree items—and even such items are treated in a fairly superficial manner. Certainly, they rarely provide the solid background to current affairs in this State that many people are looking for.

Of course, one cannot say that the ABC has been perfect in supplying the diversity or depth that many people want, but at least the *7.30 Report*, as it existed, was produced in South Australia. While national items in our *7.30 Report* have come from Canberra or Sydney, there has always been some South Australian content—some information about current affairs in South Australia. I am sure that this is what attracts a lot of South Australians to watch it, and they expect to have a source of information about current affairs in South Australia that is different from the monopoly situation of the *Advertiser* and occasional excursions by Channel 7 which are not of the cat-up-a-tree variety.

We certainly endorse that it is regrettable that the ABC has decided to cease local production of the *7.30 Report* and replace it with a nationally produced report. I am sure everyone is most apprehensive that a nationally produced one will mean that it contains only items from Canberra and Sydney, with occasional reference to Melbourne, but no information whatsoever on current affairs elsewhere. This is our fear and, while I would be delighted to be proved wrong, I am not overly hopeful that we will be proved wrong in this suspicion.

The further suggestion that there would be a single weekly production of local current affairs is hardly a satisfactory alternative. Stories break by the day and, while there is not necessarily a great variety of absolutely enthralling stories each day, nevertheless it occurs sufficiently often that there is something of interest which should be aired and discussed on the day itself and not left for up to six days later to be discussed in a weekly program. The suggestion that this weekly program might be shown at 7.30 Friday night is not one which would enthral many people.

I have been assured that the board of the ABC has certainly not decided the time at which this locally produced program will be screened. The notion of 10.30 p.m. Friday is one possibility, but there are others. No decision has yet been made as to when it will be screened. I certainly hope that the ABC will reverse its decision and decide to have a *7.30 Report* produced locally, five nights a week. If it will not do that, despite the urging from this Parliament, the Northern Territory Parliament and doubtless other Parliaments from the back States, and if it is to persist with a weekly local program, it should be screened at a time when people who are interested in current affairs expect to watch programs, and that is about close to the time of the normal news program.

There has been a great deal of discussion, and there is mention in Orders of the Day: Private Business No. 13 of the

role of John Bannon in this decision. Why his former position of National President of the ALP is relevant, I cannot imagine. His membership of the ABC Board is obviously a relevant consideration. I would like to draw to members' attention to an article that appeared in the *Courier Mail* on 2 October this year, under the by-line of a *Courier Mail* journalist Neil Wiseman, who quotes Penny Chapman, the new Director of Television for the ABC nationally, as follows:

> Ms Chapman said former South Australian Premier John Bannon, a member of the ABC Board, argued strongly that in the 'only one local paper' capitals—Brisbane, Adelaide, Perth and Hobart—the ABC had a responsibility to provide an alternative coverage. Mr Bannon's argument influenced the ABC decision maker's plans, said Ms Chapman. But not enough to save the State-based *7.30 Report*.'

This quote makes very clear that the South Australian member of the board argued most strongly against losing the State-based *7.30 Report*.

Members interjecting:

The Hon. ANNE LEVY: If you have been given other information, you are wrong.

Members interjecting:

The Hon. ANNE LEVY: It is very clear that the decision of the ABC board was not unanimous and that John Bannon argued strongly for maintaining a local *7.30 Report*, but he did not have the numbers, and surprisingly he was not supported by members of the ABC board from the other BAPH States. So, he did not achieve the numbers to save the local *7.30 Report*. Mr Bannon is a thoroughly democratic person, and he has accepted the decision which has been made democratically. Even though he was in the minority, he has accepted—

The Hon. R.I. Lucas interjecting:

The Hon. ANNE LEVY: It was not unanimous; it was definitely not unanimous and Ms Chapman makes that very clear.

The Hon. R.I. Lucas interjecting:

The Hon. ANNE LEVY: I know perfectly well that it was not a unanimous decision of the ABC board, and Ms Chapman makes that clear in the *Courier Mail*. Like all good Democrats, Mr Bannon accepts a majority decision even he is part of the minority—and I hope that all members of this Council will do likewise. He argues strongly for his point of view, but when a decision has been reached in a democratic fashion the minority must accept it. I might say, *inter alia*, that—

The ACTING PRESIDENT: Order! There are too many interjectors wasting the valuable time of the Council. The Hon. Ms Levy.

The Hon. ANNE LEVY: Mr Bannon, as a South Australian on the ABC board, fought very hard for the interests of South Australia on numerous occasions. I quote the earlier proposals which were to abolish not just the State produced current affairs program, the *7.30 Report*, but to abolish the State produced news and to have only a nationally based news for the ABC. Mr Bannon was one of those who fought very hard against that proposal, and on that occasion he was able to achieve a majority to defeat it. He also fought very hard for proper funding for the ABC orchestras, as members of the South Australian Government would be well aware: they are fully cognisant of his effort in this regard, although they have never had the grace to acknowledge it publicly or to congratulate him for it.

I pick up the comment made by Ms Chapman in the *Courier Mail*: it is particularly important to have locally based current affairs programs where there is only one local newspaper—and that applies in all the BAPH States. Where there is only one newspaper there is only one point of view, one slant on current affairs which is available through the printed media, and it is particularly important in such a situation that an alternative viewpoint be brought to bear on current affairs. An alternative viewpoint will not necessarily be different; it is just that there will be more than one person deciding what is important and how it should be covered. This can lead to diversity and variety and much greater discussion of serious current affairs matters.

An honourable member interjecting:

The Hon. ANNE LEVY: Weren't you listening? I have already discussed that. I suggest that you read *Hansard* tomorrow. In supporting this motion, and strongly stressing the need for South Australia to have an ABC locally produced current affairs program such as the *7.30 Report*, is not to imply that I feel that the *7.30 Report* is perfect. I am sure that there are many members who could criticise it—as indeed I have myself on numerous occasions—and I am not alone in feeling that in recent times the *7.30 Report* has become more and more boring and less and less relevant. However, the fact that it is not fulfilling the expectations of many who watch it is certainly not a reason for axing it. It is surely a reason for reforming the *7.30 Report*, for approaching the current affairs programming with more imagination, for invigorating the whole area, and for the ABC to give it more attention, so that it could again become the high quality, relevant program which so many people expect to receive from the publicly funded broadcaster, the ABC.

I am sorry that neither of the two motions on the Notice Paper, nor the proposed amended motion, makes any mention of improving the local current affairs programming by the ABC. The fact that we wish to have a local current affairs program should not imply that we are complacent about what is currently being provided. However, I hope my remarks will be endorsed by the mover of the motion. You do not cure an illness by killing the patient: you apply remedies to cure and improve the patient. The Opposition strongly supports the idea that the ABC has a public responsibility to provide topical local current affairs programs, that this is part of its charter and that it should be doing so in all parts of Australia, particularly in the BAPH States where there is one newspaper only. It would be of lesser importance to abolish a local *7.30 Report* in Melbourne and Sydney where there is already greater variety in the printed media.

I can assure the Council that if the ABC does not reverse its decision—and I know the ABC board is meeting today and decisions may be made which are relevant to this matter—to maintain locally produced current affairs there will be many people who will be monitoring very carefully the nationally produced program to determine just what proportion of the time and stories come from Adelaide, Perth, Brisbane, Darwin, Hobart—in fact anywhere other than Sydney, and perhaps Melbourne and Canberra.

On a proportionate basis, South Australia should expect a certain proportion of stories in a nationally produced program, and we will certainly be monitoring to see what proportion of these stories do in fact originate in South Australia. But, as I said earlier, I am not holding my breath as I imagine that most people in the BAPH States expect to vanish from the map as soon as such a national program is introduced. I certainly endorse the motion before us, that is,

Notion of Motion: Private Business No. 12. I do not endorse No. 13 but I do endorse the amended form of No. 12 if the amendment when moved is as I have seen a draft of it on file.

The Hon. A.J. REDFORD: I move:

Paragraph I—

After '7.30 Report' insert the words 'and other local current affairs programs'.

After paragraph I, insert new paragraph IA as follows:

IA. the Legislative Council calls on the board of the ABC to ensure that the ABC does not centralise the presentation and production of daily ABC current affairs programs in Melbourne and Sydney;.

I indicate at the outset that, if these amendments are accepted, I propose to move immediately following the conclusion of this debate that Notice of Motion: Private Business No. 13 be discharged. I am grateful to the Hon. Michael Elliott who has informed me that there is a board meeting of the ABC today. We will not be sitting for another two weeks, and, indeed, it is important to have this over and done with quickly.

The Hon. Anne Levy interjecting:

The Hon. A.J. REDFORD: The Hon. Anne Levy interjects and says that she told me. I do not recall that. She may have told the Hon. Michael Elliott who in turn told me. If she wants that sort of acknowledgment, and if that will improve her electoral prospects, I will acknowledge that she heard it first. In relation to the other issue—

The Hon. Carolyn Pickles interjecting:

The Hon. A.J. REDFORD: And a lot younger, too. I note that the South Australian Press Club will have a luncheon in two or three weeks where the current General Manager, who seems to have his sticky fingers all over this move, will be the guest speaker. I urge fellow members to attend that luncheon, which I think is on the first Tuesday that we come back. Hopefully, we can give him a difficult time, and perhaps he might think more kindly about making decisions which affect South Australia before he comes back to this State.

In the context of the rather Goebbels like performance of the Hon. Anne Levy regarding the position of John Bannon, I ought to correct the record. The Hon. Anne Levy quoted a report in the Brisbane *Courier Mail* where John Bannon is quoted by some journalist—

The Hon. Anne Levy: No, by Penny Chapman.

The Hon. A.J. REDFORD: —Penny Chapman, as the Hon. Anne Levy interjects—as being vociferous and forceful in his opposition and stated as much to the Brisbane *Courier Mail*. It is a shame that he was not as vociferous in his objection when he was interviewed by Keith Conlon on 28 September 1995.

The Hon. Anne Levy: He accepts the majority decision.

The Hon. A.J. REDFORD: The Hon. Anne Levy interjects and says that he was not vociferous on that occasion, because he accepted the majority decision. I do not want to bore members but, for the sake of the record and for everyone to completely and fully understand just how ineffectual John Bannon was at the board meeting and during that interview, certain passages of what he said on that occasion ought to be put in *Hansard*. I will read the exchange. Keith Conlon said:

I'm sure you'll want to react to the Premier first of all. What is your response?

John Bannon said:

Well, just—just two brief points.

This is the vigorous defence that he has made of local production. He said:

Firstly, the Federal Government has absolutely nothing to do with it. The ABC and the ABC board are totally independent, and the last thing they're going to do is dictate to us what happens.

I might add that in this case it would not be such a bad thing if the Federal Government intervened, quite frankly. He goes on to say:

Secondly—

and he is interrupted by Keith Conlon, who says:

But just before you go on to that one, what do you make of the Premier's comment then on that aspect, that it's the Federal Government's work?

Bannon says:

Well, I just don't understand why the Federal Government is involved in this, unless there is some other political agenda. But let's concentrate on the ABC.

Conlon says:

Secondly?

Bannon says:

Secondly, I am not just a board member from South Australia, I'm the only board member from South Australia, and throughout my life I've been a dedicated South Australian, and I'll fight for South Australia, and I'll stand up and defend it. And indeed I will certainly do that in this current position. But you know, I'm not in politics now, and I don't think, you know, there's any point in, in sort of, personalising the argument.

He goes on to say:

The chief issue, as I see it, is whether and how South Australia can benefit from this, from this decision, and there's no question it's got some down sides. Certainly, the down side is that we're not going to get a daily, a week, daily diet of purely local current affairs in the *7.30 Report* format.

I am hardly overwhelmed by the strength with which he has put the argument about retaining local production in the *7.30 Report*. He goes on, and this is the beauty: it is not John Bannon's fault. It is not anyone's fault. He has presided over the greatest economic disaster this State has ever seen, and he goes on and says this, and this is what happens when you appoint your mates to positions:

The other side of the coin, though, and this is the one I would be very concerned about if I was the Premier, is that South Australia has to increase its impact at the national level. We are dropping out of sight. We've got to be, we've got to be, seen to be doing and saying things, and in fact influencing the national debate. I think this new format gives us a real opportunity to do that.

The Hon. Carolyn Pickles interjecting:

The Hon. A.J. REDFORD: I will repeat it for the Leader of the Opposition. I will quote the last sentence again:

I think this new format gives us a real opportunity to do that.

The Goebbels-like performance of the Hon. Anne Levy saying that he fought vigorously hardly stands up against that statement. About the only thing that he has done to give us a national perspective is to preside over the greatest financial disaster this State has ever seen.

The Hon. R.I. Lucas: This country.

The Hon. A.J. REDFORD: That this country has ever seen. In fact, in some cases it has been described as the biggest financial disaster in the western world. And this is the man members opposite supported for 10 years. He says this about South Australia in the same interview, this same man that the Hon. Anne Levy says is fighting for our interests in Sydney with this ABC board. He says that he agrees with Mike Rann and Dean Brown and then he says:

. . .there is a kind of inexorable force pushing activity in this country onto the east coast of Australia.

Quite frankly, with that sort of performance on the ABC board, no wonder there is an inexorable force pushing activity onto the east coast of Australia, because he is doing nothing to stop it.

The Hon. Carolyn Pickles interjecting:

The Hon. A.J. REDFORD: I will get on to that. The Hon. Carolyn Pickles interjects, 'What did he do on this occasion?' Let me look at the first occasion, because I have been on the record and I did not criticise him on the first occasion. He voted against it on the first occasion. But let us look at what he said on the second occasion. Keith Conlon said this:

> Well, you fought it last time, I understand, Mr Bannon, the last August attempt at closing down the local *7.30 Reports*. Did you fight against it this time?

One would think that that was a simple enough question for a hard man who has fought the tough battle for South Australia. One could assume that he turned around and said, 'Yes, Keith, I did fight it again this time.' But now listen to the answer of the man about whom the Hon. Anne Levy, in a Goebbels like performance, said fought vigorously against this decision—

Members interjecting:

The Hon. A.J. REDFORD: She wanted to raise the issue and highlight it. I did not intend to raise it but she put it out on the table, and I am going to correct the record. Mr Bannon said:

> Yes, I fought it very strongly last time because what was being offered is total marginalisation. The point I was making about us having some ability to be present, to be up there at the national level, would have totally disappeared under that proposal.

The Hon. T.G. CAMERON: Mr President, I rise on a point of order and ask the Hon. Mr Redford to withdraw his unparliamentary comment about the Hon. Anne Levy: comparing her with Goebbels is unparliamentary and is a disgrace to this Chamber.

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Redford did not refer to the Hon. Anne Levy as Goebbels: he said, 'A Goebbels like performance', if my memory serves me correctly. There is no point of order.

The Hon. A.J. REDFORD: Thank you, Mr President. In this vigorous defence, where he is asked the simple question, 'Did you fight it again this time?', which would warrant a simple answer, 'Yes, I did', or, 'No, I did not', he goes on to state:

> The point I was just making about us having some ability to be. . . to be present, to be up there at the national level, would have totally disappeared under that proposal. It was a. . . it was a bad and wrong proposal—

He is talking about the previous years and defending his position in opposing that. He then said:

> Remember that this one not only carries with it that. . . that opportunity to be part of a national program in a way that we're not. . . I mean, there are national stories in South Australia, they do not get a guernsey anywhere at the moment, and they should, and they need to. But, secondly, we are going to have our own dedicated *7.30 Report* but in a much more authoritative style. It will be a *Lateline* format. Because it's a weekly show it will be of much higher quality. It will be better prepared. I agree, incidentally, that the time slot in which the program is, is provided is important.

Hardly a vigorous statement of opposition about what the board was proposing. It was hardly vigorous and, if that is the sort of vigorous defence that John Bannon provided when he went to Premiers' Conferences for the 10 years that he was there, no wonder we gradually slid down the tube. No wonder there is, as he describes it, an inexorable slide to the Eastern States. Then, in response to a question from Keith Conlon about the *7.30 Report* appearing at 10.30 on a Friday night not being worth a great deal, he said this:

> That's one of the things that's definitely under consideration. In one of the proposals that Friday night time slot was mentioned, but I have been assured that is by no means cut and dried, that the program will be placed where it can have maximum effect. And I think that will make a big difference to. . . current affairs coverage in South Australia, because it gives that opportunity to have an in-depth and very high quality presentation.

John Bannon was given an enormous opportunity to repeat what he said to the journalist from the Brisbane *Courier Mail*. Keith Conlon gave him every opportunity to say, 'I fought hard.' But he did not—he sought to support and justify the decision of the ABC.

The Hon. Carolyn Pickles interjecting:

The Hon. A.J. REDFORD: The Hon. Carolyn Pickles says, 'Pollies who get rolled do it every day.' Let us analyse that interjection. The Hon. Carolyn Pickles says that, when politicians get rolled, they have to go out and support the Cabinet decision. John Bannon certainly did not do that when he spoke to the journalist from the Brisbane *Courier Mail*. When he was talking to the Brisbane *Courier Mail* he turned around and said, 'I didn't support that decision.'

Members interjecting:

The PRESIDENT: Order! I think it would be wise if we got back to the subject in hand.

The Hon. A.J. REDFORD: I certainly never intended to take this amount of time, but when people come into this Parliament and defend John Bannon, or people of that nature, they ought to get their facts right. That interview makes a lie of the facts. Quite clearly, John Bannon, on his own admission—if one can believe what was published in the Brisbane *Courier Mail*—is ineffectual. Asking him to publicly renounce the decision based on what was said to the Brisbane *Courier Mail* and, more importantly, on what he said to the local media will not achieve very much at all.

The Hon. P. HOLLOWAY: I should like to say a few words on this debate, in view of the comments we have just heard from the Hon. Mr Redford. It is most unfortunate that he has turned what is a very important motion for this State into a rather grubby attack on John Bannon. Whether or not one agrees with Mr John Bannon's politics or with all the decisions he made in the past, he has always been a fighter for this State. Quite frankly, the Hon. Mr Redford does not know, and nor do I or any other member present, what went on when the board made this decision, because we were not there. What I do know is that John Bannon would be well aware of the precedence for the behaviour of a board once it has made a decision. It is most unfair to criticise a member of a board who defends the joint decision of that board after it has been made.

How often does the Hon. Mr Redford hear company directors come out and criticise board decisions? Board members just do not do it. Once a decision is taken by a board, the precedent is that that is where it stays: it stays within the boardroom. I would imagine that that is what happened on this occasion. I do not think that those of us who were not present at that board meeting should pass judgment on individual board members in respect of what was decided. In fact, the Hon. Mr Redford's comments were quite incorrect when he said that John Bannon spoke to the *Courier Mail*. The article that the Hon. Anne Levy referred to was a quote

from a Miss Penny Chapman who is a director of television within the ABC and who, presumably, was aware of what did happen with the board. It was not John Bannon who spoke to the *Courier Mail*. The whole premise on which the Hon. Mr Redford made his statements was incorrect.

The Hon. T.G. Cameron: Never let the truth get in the way of a good story.

The Hon. P. HOLLOWAY: Indeed. Anyway, let us return to the important matter at hand, which is the motion. I do not intend to spend a great deal of time on this matter because other members have adequately covered it. All members would agree that we have media outlets within this State which are far too constricted, particularly since the loss of the *News* three or four years ago. We have only the *Advertiser* and the *Sunday Mail* and, unfortunately, they tend to drive what is on the television news each day. The *Advertiser* sets the agenda, and local television appears to follow. The Hon. Mr Lawson, when he was in the Chamber earlier, interjected and said, 'What about the commercial television stations? What about their contribution to a diverse media in this State?' Unfortunately, in most cases, the only contribution we have is a half hour television news service. Most of the items on that news comes from overseas or interstate. Usually, only a minute or two is devoted to local political news, and that is usually a grab of only a few seconds.

The importance of the *7.30 Report* is that it provides South Australian viewers with a greater in-depth coverage of political stories in this State, and that is so important for healthy debate. What greatly concerns me is that, ever since the *Advertiser* assumed a monopoly position in this State, and particularly since it decided to back the Liberal Party so strongly, South Australia now has a totally stifling media. We are not exposed to genuine debate on political issues, and I believe this has had a devastating effect on us all. Because we have only a one-sided media we do not have a balanced discussion on the issues, as do other healthy societies.

Political issues are debated at length in the newspapers of Melbourne and Sydney, and this creates a more vibrant society and encourages people to form new ideas. The *Advertiser*, in its haste to support the Government in this State, is having the reverse effect: it is switching people off, as I suspect happened in the Soviet Union, where *Pravda* and *Izvestia* were the only choices. People did not believe anything they read and just switched off. I believe we are in great danger of that happening in South Australia.

The *7.30 Report*, as other members have said, may not be the greatest program on television, but at least it provides some depth and coverage on important local issues, and without that we will have very little indeed. Certainly, the very small amount of time devoted to local political issues on the news will not provide any adequate alternative.

The Hon. M.J. Elliott: I think the Messenger is the major voice in South Australia.

The Hon. P. HOLLOWAY: It is rather sad when one must look forward to the *Adelaide Review* every month, or indeed the Messenger, for a decent in-depth discussion. The Hon. Mike Elliott is quite correct that nowadays, I, as do most members, look forward to receiving the *City Messenger* each week to read some in-depth comments on politics, because, unfortunately, we do not get that discussion in our daily newspaper.

Members interjecting:

The Hon. P. HOLLOWAY: Relative to the *Advertiser*, it is in-depth.

The Hon. M.J. Elliott: That newspaper has several good writers.

The Hon. P. HOLLOWAY: Indeed, and the *City Messenger's* coverage and discussion on issues is actually greater than those of the *Advertiser*. As an example, in recent days the mental health issue has been discussed in far greater detail in the *City Messenger* than in the *Advertiser*. What an indictment of our State that we have such a narrow, constricted media. Unfortunately, with the loss of the *7.30 Report* that situation can only get worse. I therefore support the motion and the amendment moved by the Hon. Mr Redford. Let us hope that, with the passage of this motion, John Bannon, as the board member in South Australia, will have his case strengthened when bringing this issue before the board and arguing South Australia's case, as I rather suspect he did in the first place.

We should be helping John Bannon to defend this State at the ABC board level rather than trying to attack him on a personal level. That will not achieve anything. Hopefully, with the passage of this motion, the ABC board will reconsider and the *7.30 Report* will continue in this State.

The Hon. M.J. ELLIOTT: Since there has been no difference of opinion on the substance of the motion but only on the substance of another motion that we are not debating, there is no need for me to respond at any length in closing the debate. It is clear that all members in this place believe there is a need for the *7.30 Report* to remain and, although it was not in the substance of my motion, when I debated I certainly expressed concern about the impact on current affairs generally in South Australia. The amendment moved by the Hon. Angus Redford has broadened the motion in a constructive fashion, and I will support that amendment.

I only hope that some other State Parliaments will follow the example of the Northern Territory and now South Australia, and that the message might eventually get through to those people in Sydney.

Amendment carried; motion, as amended, carried.

CURRENT AFFAIRS PROGRAMS

Adjourned debate on motion of Hon. A.J. Redford.

(Continued from 11 October. Page 123.)

That this Council—

1. Deplores the reported proposals concerning the changes to the production of local current affairs programs of the Australian Broadcasting Corporation and calls on the board of the ABC to ensure that the ABC does not centralise the presentation and production of daily ABC current affairs programs in Melbourne and Sydney:
2. Calls on the former national President of the Australian Labor Party and a current member of the ABC board, John Bannon, to publicly renounce the recent decisions regarding current affairs television coverage by the ABC in South Australia; and
3. Urges the ABC to reinstate a local *7.30 Report* in Adelaide.

The Hon. A.J. REDFORD: I move:

That this Order of the Day be discharged.

Order of the Day discharged.

[Sitting suspended from 6.2 to 7.45 p.m.]

EDUCATION POLICY

Adjourned debate on motion of Hon. Carolyn Pickles:

That this Council condemns—

1. the way in which the Minister for Education and Children's Services has broken the Government's election promises on

eduction and embarked on a policy of cutting resources for education in South Australia.
2. the reduction of 790 teachers and 276 ancillary staff between 30 June 1994 and 31 January 1995.
3. the Minister's decision to cut a further 250 school service officer full-time equivalents from January 1996 that will result in up to 500 support staff being cut from essential support work in schools.
4. the Minister's decision to cut a further 100 teachers from areas including the Open Access College, special interest schools and Aboriginal schools.

(Continued from 11 October. Page 127.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): I wish to make some final remarks in support of this motion. I focused on the issue of school services officers and the indispensable work that they do.

The Hon. R.I. Lucas: Hear, hear!

The Hon. CAROLYN PICKLES: It is all very well for you to say 'Hear, hear', but you are going to get rid of them. The cutting of school services officers is just crazy because it means that teachers—those few who are left in the system—will be doing administrative and basic supervisory work when they could be getting on with the job of teaching, and those teachers are already overloaded because of this Government's commitment to increased class sizes.

The motion also condemns the Minister's decision to cut a further 100 teachers from areas including the Open Access College and special interest and Aboriginal schools. This aspect of the motion refers to the Minister's decision to knock off another 100 or so teacher salaries by the beginning of 1996. To be precise, the Minister is zealously going after a reduction of 98 salaries. It is worth pointing out that the Minister's commitment is to reducing the number of full-time salaries paid. In many cases this will mean the loss of two part-time jobs as opposed to one full-time job. In addition, 24 music teacher salaries will go, 12 Open Access College salaries will go, three outreach service salaries will go, 10 English as a second language salaries will go, five Aboriginal education salaries will go, six special interest school salaries will go, five focus school programs will go, five mother tongue development salaries will go, five Aboriginal schools salaries will go and, on top of that, there will be 12 salaries' worth of cuts in the School Card area. Finally, there will be a cut in the assistance given to the South Australian Institute of Teachers. We all know what the Minister thinks about—

The Hon. R.I. Lucas interjecting:

The Hon. CAROLYN PICKLES: We all know what you think about the Institute of Teachers because you have said it often enough in this place.

The Hon. R.I. Lucas: I work very well with them.

The Hon. CAROLYN PICKLES: That is not what they say. It is fairly obvious where the targets are. Most of these cuts fall into two categories. First, there are cuts to music teachers and to special interest schools such as Woodville High School and Marryatville High School, which have brilliant music education programs.

Members interjecting:

The PRESIDENT: Order!

The Hon. CAROLYN PICKLES: The second major target area relates to those members of our community whose background is a little less mainstream than some of ours. Education for Aboriginal children is being seriously attacked again in these times when there is talk of reconciliation between the descendants of the original inhabitants and the descendants of those who colonised this land. At a time when young Aboriginal people along with young people in the rest of the community are being encouraged to get the education and training they need to stand on their own two feet, it is shocking and immoral that the Minister is willing to target Aboriginal children in this way.

Similarly, many children in our community are disadvantaged because of language difficulties. They are children who have come from countries sometimes as refugees or children whose parents have only limited English, making it difficult for students to get parental assistance with school work. Generally, children in these categories will be among the poorer members of our community. It is a matter of social justice that they receive a little extra care in our schools. It is that little extra care that this Minister is gradually eradicating.

In relation to music education and special interest school cuts, probably the best way that I can make my point is to refer to a sample of the many letters that the Opposition has received on this issue—letters which, I am sure, the Minister has received, and ignored. The Minister does not seem to be listening to parents, school councils and teachers, so it is important that I highlight some of the points made by parents, in particular, in order that the Minister might genuinely reconsider his decision to cut staff and funding in the areas of special interest, music centres and music education generally.

I do not intend to read the names of these parents into the record, but I am sure they are all genuine letters and that the Minister has copies of them. This parent wrote:

> It is clear that the present music curriculum could not be delivered to hundreds of SIMC students across South Australia if these proposed reductions take place. Areas severely affected would be the instrumental teaching area, classroom music teaching expertise, ensemble performances, accompaniment of students, performance opportunities and individual attention. It has been mentioned in the press that these reductions will not affect the outcome for students. This is plainly not a realistic comment—it attempts to lull the public into the security of believing that things will not change.
>
> With vision, resolution and the needed support, this important area of education in Australia will continue to grow and flourish as the valuable asset that it is in the field of music and music education. Funding and staffing reductions can only lead to mediocrity.

This letter is important because it makes the point that music education cannot be seen in isolation. Music education in our high schools is linked to the standard of music achievement in our universities and ultimately in our music profession. I am confident in saying that the Symphony Orchestra and the State Opera would not be where they are today had it not been for the opportunities provided at high school level to develop musical ability. A number of other parents wrote along these lines.

The Hon. R.I. Lucas: Hear, hear!

The Hon. CAROLYN PICKLES: I am sure that the Minister will continue to agree with me and with these parents, but he will not do anything to change it. Another parent wrote:

> I believe that the music centres and the instrumental teachers have contributed and continue to contribute to the level of musical expertise in South Australia and Australia, and this should not be jeopardised. In my experience, the music teachers already put in many more hours than their official time in evening, weekend and after school activities, and any cuts would undoubtedly have a serious impact on 'productivity' and morale.

The Hon. L.H. Davis interjecting:

The Hon. CAROLYN PICKLES: I thought that the Hon. Mr Davis supported the arts. It seems that the Minister also underestimates the value to students in subjecting themselves

to the discipline of music training. It is not just about learning to play an instrument: it is about self-discipline, accepting instruction, being creative and being able to work as part of a team. This point was made very well in the letter of another parent, who wrote:

> Special interest music centres prepare students who are self-disciplined, motivated and committed. Leadership, team skills, communication and creativity are all major skills acquired here,skills which employers identify as vital to the future of this country. I read daily in the paper of the need to encourage excellence. Why then is this Government dismantling such a shining example of State school excellence as these centres?

These letters go on. The next letter from which I will read highlights another important point:

> We have the education music branch to thank for the identification and development of our three musically gifted children. In fact, it was the high standard and dedication of the music branch teachers, their encouragement and professionalism that enabled both [children] to win music scholarships to the special interest music centre at Marryatville High School to study music as a double subject. Without the assistance of the music branch and the scholarships, our children would not have had the opportunity to develop their talents as we could not, on a mechanic's wage, afford private lessons.

Two of my children also attended Marryatville High School many years ago and were also able to take part in the excellent music program.

The Hon. R.I. Lucas: Excellent school.

The Hon. CAROLYN PICKLES: It certainly was an excellent school until you got your hands on it. Musical talent and family wealth do not necessarily go hand in hand. Without extensive and advanced music education in our high schools, there will be many students from lower socioeconomic groups whose talents will be utterly wasted through lack of development. This will certainly apply in many country schools also and I am sure my colleague the Hon. Mr Roberts will highlight the plight of country students later in this debate. In another letter the parent made the comment:

> The reasoning that music is a luxury to be paid for by parents does not hold up. Our children are not interested in science, and do not wish to be scientists; we do not expect, however, that science teachers should have a cut of the same magnitude.

This letter makes a good point about this Minister and this Government. This Government is willing to increase expenditure by millions of dollars to assist people in business and industry. That is fine: we should never forget the importance of the economic well-being of our State, but there is more to life than commerce. Just because some subjects at school and university do not immediately and tangibly lead to paid employment, that does not mean that they are without value.

This is a very serious question. If the Minister is willing to slash funding to special music schools, why have not other subjects been subjected to specific attacks? I suppose that is yet to come. Will the Minister explain why technology or woodwork are more important than music? This raises a question of great significance.

The Hon. R.I. Lucas interjecting:

The Hon. CAROLYN PICKLES: We do not at this stage, but I am sure that if we had one you would manage to cut it somehow. I hope that the Minister will seriously reconsider his cuts in this area. His fatuous interjections would make most parents, if they could only hear them, quite ashamed of him. Finally, I will put on the *Hansard* record something that a music student at Marryatville High School wrote. It probably sums up how most parents and students feel about what this Minister has done. The letter states:

> This year I am learning the piano and the oboe through school and cannot bear to think what it will be like if I could not continue with these next year as we cannot afford private lessons for these instruments. Music is beautiful. It is one of my options for the future. I hate thinking that it will restricted and I won't learn as much because there will be fewer teachers to teach us.
>
> Not only will cutting staff and instrumental teachers limit our education, but it means more unemployment. For many of them it is too late to go back to university but too early to retire. Please consider all of these points and rethink your decision carefully.

Clearly, this letter was directed at the Minister and a copy was sent to me. I believe that these cuts are totally unrelated to any pay rises for teachers.

The Hon. R.I. Lucas interjecting:

The Hon. CAROLYN PICKLES: They have not got them yet.

The Hon. R.I. Lucas: We haven't made a cut yet.

The Hon. CAROLYN PICKLES: But you intend to.

The Hon. R.I. Lucas interjecting:

The Hon. CAROLYN PICKLES: You intend to do it, irrespective.

The Hon. R.I. Lucas interjecting:

The Hon. CAROLYN PICKLES: They have not got it yet. The Minister seeks to blame the teachers themselves for these cuts. This can only mean that he knows the cuts are unfair and will have a disastrous impact. That is why he seeks to shift the responsibility away from himself.

Teachers, like other groups in the community, are entitled to an increase in salary every so often. Certainly, we are entitled to a salary increase every so often, as are teachers also—not just because of inflation but because the work of teachers has become increasingly difficult and complex over the past few years. Larger class sizes and increasing administrative loads have made teachers' work more difficult, and changes to subject and assessments have also brought fresh challenges to our teachers. Teachers are now working in a more stressful environment. It is interesting to note that, if you go around to schools and ask teachers who have been in the system for 20 years or so about that, they will all say, 'Yes, teaching is much more difficult than it used to be.'

The South Australian Institute of Teachers—much maligned by the Minister—and also the PSA have been highlighting the drastic effect of the Government's education cuts, particularly in relation to SSOs. Clearly, the Minister does not like the South Australian Institute of Teachers highlighting these issues, and that is why he is cutting the annual funding—

The Hon. R.I. Lucas: Every month we have a chat.

The Hon. CAROLYN PICKLES: That is not what I have heard. You treat them with the utmost contempt, in the same way as your Government treats most of the trade union movement.

The Hon. R.I. Lucas: Every month they talk to me about things they want done.

The Hon. CAROLYN PICKLES: And you totally ignore it. Even the Minister's own backbench members do not agree with the cuts. He has also been receiving numerous letters from his backbench members. They have been sending letters all around the State saying that they do not agree with what the Minister is doing to SSOs. At every meeting I and other members of my Party have attended and at which Liberal members have been present, those who do turn up—

The Hon. R.I. Lucas: They share the same concerns as I do.

The Hon. CAROLYN PICKLES: They share the same concerns as you do, and they do nothing about it; not one

thing. The member for Kaurna has written a very lengthy report to the Minister, sections of which I quoted during Question Time today. It is interesting that she highlights the concerns but she does not call on the Minister to reverse his decision. It is quite interesting that although she believes that—

The Hon. M.J. Elliott interjecting:

The Hon. CAROLYN PICKLES: Yes, it is. I will share these thoughts with the Hon. Mr Elliott later. He would probably be very interested to read this, too. She certainly highlights the cuts to SSOs in every single school in her electorate but she does not at any stage—

The Hon. R.I. Lucas: She's certainly spoken to me and asked, 'Is there any way that we can change this—reverse it?'

The Hon. CAROLYN PICKLES: She does not at any stage put in writing her request to the Minister to reverse his decision. Of every single one of these backbenchers who have been complaining about the Minister publicly, not one has put pen to paper and said, 'We urge you to reverse your decision.'

The Hon. R.I. Lucas interjecting:

The Hon. CAROLYN PICKLES: They might raise it with you privately, but they are not prepared to put pen to paper and demand that you reverse your decision.

Members interjecting:

The PRESIDENT: Order!

The Hon. CAROLYN PICKLES: The cuts to SSOs have been condemned by the whole education community in South Australia. This is the first time that I can recall all the education community banding together to expose the Government for its absolute hypocrisy and uncaring attitude about the fate of SSOs in our schools today. I urge all members who care about the future of education in this State to support the motion.

The Hon. R.I. LUCAS secured the adjournment of the debate.

BENLATE

Adjourned debate on motion of Hon. M.J. Elliott:

That the Legislative Council draws to the attention of the South Australian Government the emerging scientific and other information in relation to the fungicide Benlate.

(Continued from 11 October. Page 139.)

The Hon. M.J. ELLIOTT: I rise to conclude the speech which I commenced a fortnight ago, when I covered most of the ground in relation to Benlate itself but said that subsequent to that speech I would be speaking directly with Du Pont, giving it an opportunity to respond to the issues raised, and that I would return after doing so. I also said that other issues had arisen in my investigation of Benlate which also need to be brought to the attention of the Government in relation to agricultural chemicals more generally. I met with Mr Forbes from Du Pont on the Friday before last and, after a meeting where we discussed the issues in general terms because he felt that he himself was not competent to explore them in detail, I told him that I would welcome any submission he might like to make in more detail in response to material I had raised in the speech so that if I felt that the record needed to be amended I could do so. I raised a couple of other issues with him as well as those arising directly in the speech and invited him to respond to those as well. I did not speak last Wednesday, because I agreed to give Du Pont sufficient time to respond, and I received the response last Friday. I understand that all members of Parliament have received a copy of a document titled 'Benlate: addressing the issues'.

Members interjecting:

The PRESIDENT: Order!

The Hon. M.J. ELLIOTT: Certainly, some members of this place have spoken to me outside this Chamber and made comments on how superficial the document was. I must say that personally I was stunned at its lack of depth and the fact that it did not attempt to address the issues raised. It was suggested to me that it was done by the PR person, but I responded by saying that I thought it was more likely to have been done by the tea person who had been multi-skilled. It really does not come to grips with the issues at all, but I will try to pick up the issues as far as Du Pont has touched on them and take them further. I will follow the order in which I raised the issues in my original submission and, as far as the Du Pont submission touches on it in any way, I will try to refer back to the submission it made to all members in this place.

I talked about the historic problems that had occurred with Benlate. In fact, scientific data going back to 1975 indicated there were problems. Du Pont did not address any of that in their submission circulated to all members, so I cannot respond on what they did, other than to say they did not respond on that issue. They did respond in relation to the *Ficus* in the Netherlands. I note in their response on page 2 that they talked about the plaintiff's expert making certain claims. It was not the plaintiff's expert, it was an expert appointed by the court, an independent expert, who made those claims. I also referred to Du Pont documents which showed that they had some concern about what was happening there as well. In so far as they refer to what happened in the Netherlands, they in fact got it wrong. At no stage do they really get to the major thrust other than trying to suggest that they do not have any records of it happening again, although that is an issue I will touch on later, about how often these events of plant death or damage occur. They do appear to be infrequent.

They do not address at all the subject of atrazine, which is the first of the contamination issues I raised. They do not give any explanation as to how or why it happened. They simply ignored the question of atrazine contamination. They did not touch the issue of flusilazole contamination in their response. They did not address the issue of reworking, which was first demonstrated in relation to flusilazole, where the flusilazole entered the Benlate due to reworking in the plant; nor did they address my allegation that reworking was a major route of entry, potentially for sulfonylureas or dibutylurea. It was most likely the way that atrazine also found its way into the mix. So they ducked that issue as well.

The next issue I addressed was that of sulfonylureas. Their only defence in relation to that was to point to a court case in Florida which they won. They said, 'Because we won that case, that shows that sulfonylureas have been cleared.' If they want to play that game, they have to point to all the cases that they lost in the courts, because sulfonylureas were deemed to have been present and caused the damage.

At this stage I want to raise a few matters in relation to sulfonylureas. When I spoke in this place a fortnight ago, I failed to read in two other internal memoranda which clearly demonstrated that sulfonylureas were finding their way into Benlate in their plants and were causing a problem. The first example, dated 7 January 1992, is an inter-office memoran-

dum, from C. David Osbun to Thomas Fort. Subject: TCAL's for hot herbicides in N6573, or it may be H6573—it is not terribly clear. It reads:

> It was my understanding that we would no longer tolerate ANY herbicide contamination in our fungicides, let alone sulfonylureas or similarly hot actives. It seems that we are backing away from this position. I have talked to Ray Geddens about this note and he indicates we may be setting TCAL's in PPB [parts per billion] range. Are we comfortable in assuming that contamination at this level would be homogenously distributed? In short, if there is the chance for herbicide contamination, how do we expect any reasonable number of samples to accurately reflect all of the product? With these questions to ponder, I wish you all a merry Christmas.

On 6 October 1992 there is another inter-office memorandum from Madan M. Joshi to Douglas W. Senn, 'Subject re: TCALs for SUs in fungicides and Lannate at Cernay'. This is a French plant.

> I cannot go along with this one. As far as I am concerned we shouldn't have any SUs in our fungicides especially when they will be used on perennial crops (e.g. grapes).

It is also used on grapes in Australia, and I hope they are not putting SUs on those. I note that they were particularly concerned. It continues:

> I would like to see data that these levels have no chance of causing any phyto, including at temperatures and humidity that predispose plants to phytotoxicity. Regards.

I really should not have failed to read those two in last week: they were probably the most damning of the documents that I had. I had them in my hand at the dinner break last time but put them down and did not pick them up when I returned. Here we have two inter-office memoranda both of which clearly indicate that sulfonylureas were finding their way into Du Pont's fungicides and causing internal concern, recognising, among other things, problems in relation to temperature and humidity, to which I have referred in this place on a number of occasions—the fact that temperature and humidity tend to create extra problems.

In relation to the other internal memoranda and all other information I put forward on sulfonylureas, Du Pont did not respond other than saying, 'We won the court case in Florida and we have done lots of tests and when we have done all our tests nothing terrible has happened.' That is paraphrasing somewhat, but that is essentially what they are saying. There is not a supply of any indepth scientific analysis, which I had assumed they would provide, because I had based all my original submission on scientific papers and other concrete materials, rather than generalised claims, which is the way they have sought to treat the issue.

Whilst talking about sulfonylureas, I talked about the case before Judge Elliott and the findings that he made. What did Du Pont do with him? They set about trying to discredit the judge himself. They talked about the fact that in the *American Lawyer* he was listed as one of the worst Federal judges in America—a bit of character assassination is not a bad start. They did not set about doing a character assassination on the judge in Hawaii who also fined them $1.5 million for doing exactly the same sorts of things that they had been fined for in Georgia.

There has been another stop press on this matter. During this week I had faxed to me an excerpt from the *Wall Street Journal* sent to me by one of my contacts. It is not dated but I understand it was within the last week—'Du Pont faces US probe of Benlate DF'. It appears that Judge Elliott is held in such low regard and his judgment is held in such low regard that—and I quote:

> A Federal grand jury has been empanelled in Macon and yesterday heard testimony from Robert Bethem, an analytical chemist hired by Du Pont to analyse soil samples from the properties of the plaintiffs in the case. According to one person familiar with the case, Mr Bethem isn't suspected of wrongdoing, the person said. Later the grand jury is expected to hear from Nicholas Albergo, an environmental consultant who testified about the results. Neither man's lawyer could be reached for comment.

I referred to Mr Albergo, among others, in my earlier contribution, but I am certainly prepared to make copies of this article available to anyone who wants to see it. What is quite plain is that what has happened in Judge Elliott's court has been deemed to be sufficiently serious that a Federal grand jury has been empanelled, and a criminal investigation is now being conducted into Du Pont and its lawyers with the allegation that they illegally withheld test data and misrepresented the results in the trials. There has been a character assassination attempt on Judge Elliott, but it appears in Georgia generally that it may not be too terribly successful. Du Pont then quoted two legal experts who questioned the judge's ruling. But, if one actually looks at the way it has questioned it, it has actually questioned the size of the sanction and those sorts of things. He did fine them $115 million, which was pretty steep, but it did not actually say that he made errors in law and neither did it criticise the way the case was run or his findings. In fact, the only criticism was in relation to the sanctions themselves. I do not think that Du Pont has really made any point at all in that regard. As I said before, Judge Elliott's court was not the only court which found Du Pont guilty of abuses: Du Pont was fined $1.5 million in the circuit court of Hawaii.

The next issue that I raised concerned contamination in relation to dibutyl urea. Before I get to dibutyl urea more generally, when I met with Mr Forbes the Friday before last I put a specific question to him. It was really an issue that I alluded to when I spoke the previous Wednesday. The benomyl molecule, as I noted, breaks down when it contacts with water to form carbendazim and butyl isocyanate. The carbendazim when formed is a known fungicide; in fact, you can buy it as a fungicide and it is put out by a number of companies. But the butyl isocyanate does not appear to have any purpose whatsoever. In fact, it is the butyl isocyanate which is the precursor of the dibutyl urea about which allegations have been made. I asked him: why is the BIC (butyl isocyante) in the molecule? What is its purpose? He has not responded to that specific question.

An honourable member: It's a carrier.

The Hon. M.J. ELLIOTT: No, it is not a carrier; it is not a filler. There was an interjection from an unknown source that said that the BIC was a carrier. I am sure that the materials he refers to are the fillers and the other materials (the sugars, the starches and various other materials) which are not active ingredients. The BIC does not fit into that category. In my previous contribution I actually noted that from the very beginning Du Pont had major problems because the compound, the benomyl, was so unstable. Du Pont had real problems getting a formulation that worked, and getting those fillers and other things was a major problem. The question was posed at the very start: why did it even bother producing the benomyl molecule when carbendazim, one of the breakdown products, was the true, active ingredient. I asked that question during my speech. I posed it directly—

The Hon. T.G. Roberts: Why don't you ask the President?

The Hon. M.J. ELLIOTT: Yes. I will ask the President outside the Chamber later, because I cannot ask him now. Unfortunately, in general terms, it has not really tackled the dibutyl urea question with any vigour. It talks about relatively low levels of dibutyl urea in sampling that was done by the University of Florida on 14 August 1994 and sampling that Du Pont itself did, talking about levels between .25 per cent and .59 per cent. I have data that shows that dibutyl urea has been found as high as 13 per cent in some boxes. I know that testing has been done in South Australia that has levels approaching that sort of figure, which is about 50 times as high as some of the levels Du Pont is claiming. It is trying to suggest that the levels in which the dibutyl urea has been found in boxes cannot cause damage. The point being made is that I have several papers that demonstrate that there have been boxes found with much higher levels of dibutyl urea, and again in my last contribution I discussed how that would have occurred.

It talked about butyl isocyanate itself, which Du Pont itself referred to as a breakdown product, might I add. It did not refer to it as any sort of active ingredient, carrier or anything else, just as a breakdown product, and said that several field test sites in the United States were monitored for levels of BIC in the air. Then it said that it was detected only at extremely low and barely detectable levels. Nobody is suggesting that in field trials it will cause a problem. Where dibutyl urea has caused a problem has been in enclosed environments, in hothouses, the first recorded case being in 1983 with the ficus in the Netherlands. Every case in South Australia bar one has happened in a hothouse. Most of the cases overseas have been in hothouses or have been in sub-tropical areas such as Florida, where still air, high humidity and heat probably produce similar circumstances.

It is a question of what sorts of trials Du Pont set up. I have just received information of another trial it is about to set up in Hawaii, and I am informed that the species it will test it with are species that are not known to have had any particular problems, yet species known to have been sensitive and caused problems in the past will not be involved in the trial. That does not give it a great deal of credibility.

On page 11 of its submission Du Pont talks about what it calls a 'precautionary recall' in Australia, and talks about the fact that a business decision was made in the United States to cease production of Benlate DF. There are some interesting questions to ask here. Why do you make a business decision to stop making something that does not do any damage? It was selling extremely well until lots of farmers came in and said, 'Hey, my crops are dying,' and it did not sell quite so well after that. But if there are no problems with that product, why pull it off the market? The company had Benlate WP; it had largely replaced it with DF, with small amounts of WP still being sold. When there were claims—and virtually all the claims were against DF—it made a business decision to pull Benlate DF off the market. There was no suggestion—at least no public suggestion—that the formulation had any other problems, that farmers were having problems with it, that they did not like the way it worked. In fact farmers did not like the old WP.

I am told that farmers do not like the new WP formulation because it tends to fluff up more, which was a problem with the original formulation. I covered the business decision they made in relation to some of the correspondence, particularly between Australia and the US. It was handled in a way that attempted to hush things up as much as possible, but there is clearly a problem with DF and it is likely that there is something about the DF formulation that exacerbated Benlate's problems. At page 12 they make this comment:

> There had not been one reported incident of plant injury associated with Benlate usage since its introduction in 1969.

Elsewhere in the document they talk about the fact that it has been used in hundreds of countries and it has not caused problems. At page 3 they say:

> It protects the crops and livelihoods of hundreds of satisfied farmers throughout Australia and tens of thousands in more than 100 countries around the world every year. There are no published reports of plant damage due to the application of Benlate WP or Benlate DF when used according to labelling instructions.

That claim is probably right 99.99 per cent of the time. The key problem is that there have been occasional glitches in manufacture, glitches which have produced dibutyl urea in higher concentrations than it should or, if sulfonylureas have found their way in or atrazene or flusilazole, on a one off basis, it is only a slight blip: just a few boxes are contaminated and everything is okay again.

So, we find that the vast and overwhelming majority of users of this product will not have a problem with it because it does all the things it is supposed to do. It will have an enormous reputation, but it is clear from the internal memoranda that I have read out that they have had problems. I have seen other memoranda beside those that I have read into the record. They examined one of their contract packaging plants—one of the problems with outsourcing—and they saw how the reworking was done. They saw that the packaging plant was not sealing packages properly and there were occasional quality control problems. Again, in documentation that I read a fortnight ago they conceded that they would have to be careful with quality control because of the problems in getting the formulation right.

I am not at all surprised that this product has been used for years without any complaints becoming public. I am not at all surprised that there are tens of thousands of satisfied customers, but that does not mean that the people I am referring to have not had damage done to their crops. It means that on a few occasions in the company's plants something has gone wrong, and unfortunately something went seriously wrong in 1991-92. What went seriously wrong at that time seems to have something to do with either the DF formulation itself or the plants that were packaging it. It was evident in another document that I read into *Hansard* that they were producing the WP in their own plant but the DF was often being produced in contract plants. Indeed, it may be the contract plants that caused the problems, and that may be why DF went seriously wrong. It is either the formulation or the fact that contractors were more involved with DF. Either way, there is no dispute from me about whether or not Benlate is generally a good product or whether or not farmers find it a useful product.

The Hon. T.G. Roberts interjecting:

The Hon. M.J. ELLIOTT: It is quite clear, as the evidence I read a fortnight ago shows, that there was a bit of slackness in the plants from time to time and something went wrong. A couple of growers were wiped out as a consequence. Du Pont, because the size of the claims was so great, decided to tough it out. Despite the fact that it has paid $800 million, I am told that it could be facing at least another $2 billion in claims in the United States. It is no wonder it has decided to tough it out. It could be because, as it claims, it is innocent, but the weight of evidence is overwhelmingly against it.

I also note that on a couple of occasions in its response it talks about registered uses. On page 1 it says:

> Currently there are no drench uses nor any ornamental uses on our Benlate labels.

I am not talking about currently: these plants died three or four years ago. Its labelling has changed in Australia, but it has changed even more radically in the United States. In the United States Benlate has been withdrawn from all hothouse applications and from certain crops, including cucumbers. Some comments it has made in this document are misleading in terms of what Benlate can be used for. In fact, the company says, 'We have done experiments and it does not do damage'. In fact, the company has changed the allowed uses over time and, as I said, it has changed them far more in the United States than it has in Australia.

Out of the 11 cases in South Australia that I know of, every user but one would not have used it under the current United States' recommendations. I do not think that that is any accident or a coincidence. I think I have covered every issue where it has raised anything of any substance. On the very last page it talks about calls for the withdrawal of Benlate WP. I am not calling for the withdrawal of Benlate WP; I am calling for proper investigations to be carried out. Unfortunately, South Australia so far has not carried out proper investigations. I believe the Department of Primary Industries should have sent an officer to the United States to obtain first-hand evidence in relation to this issue. At the very least, if South Australia did not do it, it should have happened at the national level. In that way we could have learnt quite a few lessons which could have been applied in relation to agricultural chemicals generally. That is all I will say with respect to Du Pont's response.

There are a couple of associated issues which deserve some attention. I will not go into them in the depth they deserve tonight, but I will at least raise these issues. It is something I will pursue outside this place in future. The first question I will look at is the registration of chemicals. Certainly, I have the impression that in Australia we are rather reliant upon what happens in the United States. If the United States is prepared to register, there is a fair chance that we will simply follow suit. When I met with various experts in the United States, I was staggered to find how little work the EPA does in relation to either the registration or monitoring of chemicals. In my own mind I always had a picture of the American EPA as being a body of great significance that had pockets of a reasonable size and was capable of looking into not only agricultural chemicals but a whole range of environmental issues.

I found that in fact it has very few resources of its own. It does not even have the laboratory facilities to test for things such as sulfonylureas, and that came as an absolute shock to me. I thought the EPA in America would have the latest whiz-bang technology so that it could keep an eye on what was happening. I do not know whether the Australian regulators assume that the Americans, when registering a chemical, have put the chemical through the hoops—in fact, they do not. It appears that when a chemical is registered we are totally reliant on what the company tells us. The company supplies the information about what the chemical is and what it is supposed to do. The company is supposed to carry out all the experiments. It then presents the documentation to the EPA, which says, 'On the basis of the documentation, we will register.' That is effectively it. It means that things can go awry from time to time.

The company had two formulations of DF with respect to Benlate: DF 75, which was 75 per cent benomyl, and DF 50 (to which it returned), which was 50 per cent benomyl. When the company went through that change it did virtually no testing whatsoever, yet there was a significant change in the formulation, in relation not only to percentage benomyl but also, and more importantly, to some of the other filler chemicals that were also in the mix.

Significant changes were made but, despite that, very little testing was going on. One cannot assume that, just because the active ingredient has stayed the same, the product will react in the same way. That is what the experts are telling me. That change-over from DF 75 to DF 50 may be a crucial step, and it appears to be one on which the EPA did not do its work. There is some question whether or not Du Pont behaved correctly with that change.

Questions need to be asked as to what happens at the point of registration: whether or not the regulatory bodies should carry out a series of tests from time to time, such as quality control and growth tests, which might pick up the sorts of things that independent people are now finding in the universities. I refer, for instance, to the finding that Benlate, under some circumstances, actually stunts the growth of plants. How on earth can we have a chemical registered for such a long period, yet the regulatory bodies are not even aware of such a basic fact?

Questions arise as to whether or not labelling is done appropriately. When a label is changed in America, should not alarm bells ring in Australia? A substantial change in labelling and recommended use took place in the United States, but it did not happen in Australia. I should have thought that the Australian authorities would be very quickly asking, 'Why have you done this? We want some background information,' and we may have re-examined the issue. For the life of me, I do not understand why there is such a substantial difference in the labelling between the two countries and why our own regulatory body has not taken a closer look at that.

In relation to manufacturing, I have suggested that it is likely that quality control is the major causative factor as to whether or not what is ultimately affecting the plants is SUs, DBUs, atrazine, or whatever. Quality control is the problem. A chemical having been registered, there really needs to be some quality assurance program, which should happen either with the product or with the manufacturer. It appears that there is no quality control. It was causing concern inside Du Pont, and I have put forward ample evidence in this place to show that. We must insist on quality control, and perhaps some other rules can be applied. For instance, should a plant which manufacturers something like Benlate, a fungicide, also be manufacturing sulfonylureas, when we consider that trace amounts of one can cause a serious contamination problem in the other?

If that plant produced another fungicide of similar activity and there was a bit of cross-contamination, it would not matter. Even if it had a herbicide, which was not potent at parts per trillion but was potent at parts per million, a small trace of it in the Benlate would not have mattered. With respect to quality control, rather than insist that a plant should operate in a particular fashion, we should say that we are prepared to source chemicals only from plants that have clear means of keeping chemicals separate where cross-contamination has any potential to cause a problem. That would be a reasonable requirement to put on any company that wants to register a chemical.

The Hon. T.G. Roberts: A lot of them have outside storage, too.

The Hon. M.J. ELLIOTT: There are any number of ways in which contamination could occur. Another memo that I did not read in this place ponders what hope we have to keep SUs out when we cannot keep the helmets out. Helmets and screwdrivers fall into the product and it is asked what hope a company has, if it cannot keep those out, of keeping out another chemical of a few parts per billion being manufactured in the same plant.

The issue of detection is important and it relates back to registration. How responsible are we to register a chemical for use when there is no laboratory in Australia that is capable of detecting that chemical at the very low levels at which it can cause damage? In fact, as I said previously, there are only two plants in North America that are capable of detecting sulfonylureas at those very low levels.

The Hon. T.G. Roberts: Check with the manufacturer!

The Hon. M.J. ELLIOTT: There are one or two ways that manufacturers can do it: they can produce chemicals that are capable of being detected by equipment that is accessible to us, or part of the process of producing the chemical is to produce a test that can be used fairly readily. They have to do one of the two. Although we have allowed onto the market a chemical that causes the sorts of problems that SUs can cause, a farmer with damaged crops would have no way of knowing what caused it. The farmer would assume that the crop had a fungus on it and would probably spray Benlate on it in an attempt to fix it up.

The Hon. T.G. Roberts: Do they do any batch testing?

The Hon. M.J. ELLIOTT: I understand that random testing did not happen very often.

The Hon. T.G. Roberts: Very randomly!

The Hon. M.J. ELLIOTT: Yes. One problem I came across with sulfonylureas in the United States is that the recommended dosage for use on crops is different from that recommended for roadsides. Councils use it for weed control. In several court cases in the United States, farmers adjacent to roadsides had prosecuted the local council because the SUs had settled on the soil, the soil had dried and the dust had blown into the crops and killed the crops.

I am sure that the same chemicals are being used in Australia, and perhaps a warning needs to be put out that, if there is a recommended dosage use on farmlands, we should not have a higher recommended use on land elsewhere. These are potent chemicals and the usage rate should be at the same level: there should not be differential use. Otherwise, councils or State Governments will find themselves getting sued by farmers. It has happened in the United States and it is only a matter of time before it happens here.

The problem of sulfonylureas and their capacity to form residues is one that the State Government will have to look at. I have talked to one or two farmers, even in this place, and they are aware that sulfonylureas have a residue effect: that they have an impact in following years. Some farmers have pointed out to me that some work has been done in South Australia recently looking at a decline in field pea yields. They have asked me whether it is possible that part of this drop in yields of field peas over recent years has been because the soils have been getting an accumulation of herbicides. I do not know the answer to that question, but it is a reasonable question to postulate.

It has also been suggested to me that, since the SUs are also used in vineyards fairly regularly, there is some concern, particularly in the Coonawarra where the ground water is close to the surface, that SUs are being put on, going down into the ground water and the plants are pumping the stuff up again and again and that SU residue is building up there. If so, that could be a problem for our grape growers. Again, I think that the State Government should follow that up as a matter of urgency.

The big issue on which I have not spent any time is health. There is accumulating evidence that Benlate has the potential to cause health problems. I put on the record again that that evidence is accumulating. However, I have not chosen to address it in my contribution: I have focused on the horticultural and agricultural aspects of Benlate and associated matters.

I have found this issue very challenging. It is disheartening to see farmers who have been wiped out, as a number have been, from the effects of a farm chemical. I believe that they have a substantial case. I would have hoped that Du Pont in South Australia might have done what it did in the United States and settled many of the cases out of court. At this stage I think it has decided to chance its arm, and it looks as though it will be fought out in the courts in South Australia. That is most unfortunate because some of these people have been through too much already. It is not just the fact that they have lost their farms: the psychological and health damage to some of them is horrific.

It is unconscionable that these people should be going through what they are at the moment. It is clear that Du Pont had to get its act together, particularly in relation to quality control in its plants and contracting plants. It should be facing the issue head on. I should like to leave this subject matter behind, but I am not prepared to do so until justice has been done. I urge members to support the motion.

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

BUILDING WORK CONTRACTORS BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to regulate building work contractors and the supervision of building work; to repeal the Builders Licensing Act 1985; to make consequential amendments to the District Court Act 1991 and the Magistrates Court Act 1991; and for other purposes. Read a first time.

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

That this Bill be now read a second time.

Since coming to office, one of the key objectives of the State Government has been to undertake a comprehensive micro-economic reform program to ensure competitive market outcomes which provide benefits to consumers and businesses alike.

In early 1994, a Legislative Review Team within the Office of Consumer and Business Affairs was established. The Government's key objective in the review process was:

- to ensure that fair trading occurs in an efficient, competitive and informed marketplace, where there is a balance between the rights of individual consumers, businesses, landlords and tenants;
- to develop and maintain an effective framework for fair trading with the minimum regulation necessary;
- to encourage a tripartite approach to consumer and business issues—Government, consumers, business.

While there have been a number of *ad hoc* reviews of single Acts since the inception of the majority of consumer

legislation during the late 1960s and early 1970s, this major review of all legislation is the most comprehensive and far-reaching review conducted in the Sate in the last 30 years.

The review was aimed at going back to first principles, to examine every aspect of the regulatory framework of each Act and to determine whether the provisions met the contemporary needs of Government, consumer and industry. The team has now completed the comprehensive review of 16 Acts and has undertaken intensive and detailed consultations with the peak building industry organisations, unions, relevant Government agencies and other interested parties. The views of all these parties have been taken into account in developing the proposals.

The following outline of the extensive consultation process, which has been undertaken over the last 18 months, demonstrates the Government's commitment to canvassing and reaching agreement on the key policy issues in the building industry.

- The review of the Builders Licensing Act was part of the overall review of all consumer legislation administered by the Office of Consumer and Business Affairs. This review began with a public forum for industry conducted in January last year. Following this, written submissions were invited on all the relevant legislation. During this period a number of submissions were made by representatives of the building and construction industry.
- The written submissions were then reviewed by the Legislative Review Team, which proposed that, as any amendment to the Builders Licensing Act would require full and complete consultation, a discussion paper summarising the issues and options for solutions should be released for a further period of public consultation with the building industry. The discussion paper was released during March and April of this year.
- This discussion paper acknowledged the work of other organisations contributing to the process of reform of the building industry. In particular, it requested industry parties and any other relevant agencies to feed their proposals into the current review process to avoid any duplication in the consideration of issues.
- Thirty-five written submissions were received on the discussion paper and were considered by the Legislative Review Team. Following this process a draft Bill was prepared based on the review team's recommendations and this was released for a further period of public comment during August and September. Further written submissions were received and on 20 September 1995 a major meeting was held with a wide range of representatives of the industry and Government agencies to discuss the draft Bill.
- At this meeting, a committee of key industry representatives, including the executive directors of the Master Builders Association and the Housing Industry Association, representatives of the specialist contractor groups for both the domestic and industrial/commercial building sectors and union representation, was convened to consider and seek resolution on a number of issues. This group carried out an intensive review of all comments received on the draft Bill.
- The work of this committee, and all other associated work, enabled a final draft Bill to be prepared.

The intention of the Bill is to repeal the Builders Licensing Act 1986 and update the legislation by removing problems encountered since the 1986 Act's inception, with the aim of improving standards of practice within the industry and providing appropriate systems for the involvement of industry in a co-regulatory system. A major element of the approach is to minimise the number of disputes which require formal judicial process for resolution, through the involvement of industry in conciliatory dispute resolution mechanisms. Another objective of the Bill is to bring the legislation into line with the changes that have been incorporated in the reviews of other consumer legislation during 1994-95. In particular, the Bill is, where possible, consistent with the new Plumbers, Gas Fitters and Electricians Act 1995 enabling streamlining of licence and registration systems relevant to these industries. Other changes consistent with new consumer legislation include a change in licensing/registration authority from the Commercial Tribunal to the Commissioner for Consumer Affairs, moving the judicial authority for disciplinary matters to the District Court and dispute resolution to the Magistrates Court, Civil (Consumer and Business) Division (to the extent that disputes fall within the financial limits of matters heard by the Magistrates Court).

In general, the Bill reflects the industry parties' support of the proposal to introduce a competency-based system for licensing and registration and to significantly streamline the administrative processes associated with the system. The industry parties also indicated strong support for the formation of an industry advisory committee similar to those recently established under the Retail Shop Leases Act 1995 and the Plumbers, Gas Fitters and Electricians Act 1995, and this concept has been included in Part 6 of the Bill. The role of this committee will be to advise the Government on policy matters relevant to the licensing and registration system, including the introduction of competency-based standards, training and assessment procedures and standards of practice in the industry. A number of the changes particularly sought by industry parties will be able to be accommodated in the regulations under the Act (for example, competency-based educational requirements), or through the increased flexibility of the administrative arrangements (for example, photograph, expiry date and format of the licence/registration).

Summary of the Major Changes Proposed

Licensing and Registration

The Bill proposes to streamline the current four categories of builders licences and building work supervisors' registrations to two major categories for licences and two for registrations. The categories can then be detailed in the regulations and updated in response to the industry's changing needs. This system is the same as that recently introduced for plumbers, gas fitters and electricians under their new legislation. It means that the licences and registrations can effectively be tailor-made to each individual's level of competence (or financial capacity, and so on). When combined with a flexible administrative system that allows the precise scope of work to be clearly defined on the actual licence, the adjustment of fees for multiple licence/registration categories and the simplification of forms and procedures, the benefits to consumers as well as industry participants will be maximised.

The industry parties were concerned to ensure that adequate measures exist to prevent directors of insolvent companies from operating in the building industry. The Bill includes tightened provisions in this area so that a director who was involved with a company during a period of 12 months prior to the insolvency of the company will not be eligible for a licence in future (for a period of 10 years). To address industry concerns about licence swapping and other

forms of cheating, it is also proposed to administratively introduce photographs on the licence cards and a mechanism which identifies that the licence is current (without affecting the continuous licensing process).

Competency Standards

The use of national competency standards as base requirements for both technical qualifications and business skills was strongly supported by industry. The licence/registration system outlined above will allow each competency standard relevant to the industry to be adopted as a standard licence/registration endorsement as soon as it is finalised at a national level and accredited training and assessment is available.

It is anticipated that the industry advisory panel established under Part 6 of the Bill will provide advice concerning appropriate competency standards, particularly as they relate to the business skills of the building contractor. Regard will also be given to the development of nationally consistent requirements in this area.

Industry Advisory Panel

The introduction of a flexible and responsive licensing/registration system based on competency will be assisted by the establishment of an industry advisory forum which can meet as required to provide advice on the myriad of associated issues. In particular, the forum will assist the authority to pro-actively address the concerns of industry and consumers when problems emerge.

This type of forum has recently been established under the Plumbers, Gas Fitters and Electricians Act 1995 and the Retail Shop Leases Act 1995 and is seen as an effective mechanism to assist the development of a successful co-regulatory approach to consumer legislation.

It is further intended that the building industry forum would provide a link to other industry forums which exist for the purpose of providing advice on issues relevant to other building industry authorities. These forums include the Building Advisory Forum (Development Act) and the Construction Industry Advisory Council.

Partnerships

The single most common complaint from licensees to the current licensing authority concerns the lack of arrangements for the recognition of partnerships. In particular, concerns centre on the fees and paperwork currently required of each partner. To address these concerns, the discussion paper proposed that a system involving less prescriptive administrative requirements would allow the licensing authority to operate with a policy of reducing the fees and paperwork applying to partnerships. The Government has accepted this approach but, as a consequence of the reduced fees for this group, it will be necessary to marginally increase the other fees applying under this legislation.

Owner Builders

A number of options have been proposed by various interest groups to address perceived problems concerning owner-builders who are not required to be licensed under the existing legislation. The two main issues of concern are allegations that speculative builders use the owner-builder exemption to avoid obtaining a licence and that the purchasers of owner-built houses are unable to obtain redress for substandard work.

The views expressed on these issues were varied. The Government, in consultation with the industry, has considered a wide range of options for controlling the work performed by owner-builders, including a registration/permit system, statutory warranties, indemnity insurance, inspection requirements and disclosure statements. While the industry's preference is for the introduction of substantial regulatory controls, it is the Government's view that there is insufficient evidence to justify such an approach.

There is little factual information regarding the extent of problems experienced by consumers as a result of building work performed by owner-builders. However, as a means of addressing the industry concerns on this subject, the Commissioner for Consumer Affairs has been asked to establish a project to collect information and to identify what really are the problems and complaints arising from work performed by owner-builders. This work will then be used in due course to evaluate the need for an extensive regulatory system over owner-builders such as that proposed by the industry parties.

In order to address the problem of those seeking to avoid licensing requirements, it is proposed in the Bill (in clause 59) to limit owner-builders to building one house every five years instead of the one per 12 months under the existing Act. The period of five years ties in with the period for statutory warranty applying to licensed builders.

In addition, the Government is in favour of a disclosure statement requirement at point of sale, which would ensure that potential purchasers of an owner-built house less than five years old are fully aware of the fact that no statutory warranty applies. The appropriate means of achieving this are being investigated.

Licensing/Registration Authority and Judicial Forum

Consistently with other recently reviewed consumer legislation, the Bill proposes to change the licensing/registration authority from the Commercial Tribunal to the Commissioner for Consumer Affairs and to move appeals and disciplinary matters to the Administrative and Disciplinary Division of the District Court.

Discipline and Dispute Resolution

Industry representatives were concerned to ensure that the new Act will contain provisions which will ensure that effective disciplinary action can be taken where appropriate.

The Commissioner's powers under this legislation arise from the Fair Trading Act. As this Act is currently under review, the Government will be ensuring that the adequacy of the Commissioner's powers are examined as part of the review process. As with other new consumer legislation, the Bill provides for the industry organisations to enter into formal agreements with the Commissioner as part of the new co-regulatory approach.

The Bill proposes that the appropriate forum for the hearing of disputes is the Civil (Consumer and Business) Division of the Magistrates Court, and that where a dispute involves an amount greater than the Magistrates Court financial limit, the District Court be accessed as appropriate.

Further, provision is made (in Schedules 1 and 2) for industry experts to be appointed as court assessors to provide technical assistance to the judiciary. Appropriately skilled and competent persons will be nominated as assessors after consultation with relevant industry organisations.

Finally, the Bill replaces the 1986 Act and, at the building industry's request, has been retitled the Building Work Contractors Bill to more accurately reflect the current nature of the industry.

I commend the Bill to members and seek leave to have the detailed explanation of clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of clauses

PART 1—PRELIMINARY

Clause 1: Short title

Clause 2: Commencement

Clause 3: Interpretation

The terms building work contractor, building, building work, domestic building work, domestic building work contract and minor domestic building work are substantially the same as those terms under the Builders Licensing Act 1986 (in the Bill defined as the repealed Act but in these explanatory notes referred to as the current Act).

District Court is defined as the Administrative and Disciplinary Division of the District Court. As in other occupational licensing schemes recently reviewed, the current role of the Commercial Tribunal in disciplinary proceedings is transferred to the District Court. Magistrates Court is defined as the Civil (consumer and Business) Division of the Magistrates Court and it is to this Division of the Magistrates Court that the current role of the Commercial Tribunal in relation to statutory warranties and domestic building work contracts is transferred.

Director of a body corporate is defined broadly to encompass all persons who may effectively control the body corporate. All such persons must be considered for eligibility if the body corporate applies for a licence and all such persons are subject to discipline under the proposed Act.

Clause 4: Non-derogation

The provisions of this proposed Act are in addition to and do not derogate from the provisions of any other Act.

Clause 5: Commissioner responsible for administration of Act

This clause places responsibility for the administration of the proposed Act on the Commissioner for Consumer Affairs, (the Commissioner) subject to the control and directions of the Minister.

The current Act is similarly administered by the Commissioner for Consumer Affairs under section 7.

PART 2—LICENSING OF BUILDING WORK CONTRACTORS

Clause 6: Obligation of building work contractors to be licensed

This is the central provision requiring a person to be licensed to carry on business or to act as a building work contractor. The penalty for an offence against this proposed section is $20 000 while the current penalty is $10 000. The clause is similar in effect to section 9 of the current Act.

The clause also provides that commission or other consideration paid to an unlicensed person acting as a building work contractor is not recoverable unless a court is satisfied that the person's failure to be licensed resulted from inadvertence only. This is similar to section 39 of the current Act.

Clause 7: Classes of licences

There are 2 classes of licences for building work contractors—

1. a building work contractors licence; and
2. a building work contractors licence with conditions (ie: a licence subject to conditions limiting the work that may be authorised by the licence).

These classifications replace the system of categories of licence under section 8 of the current Act. For example, a building work contractors licence is the equivalent of a category 1 builders licence under the current Act.

Clause 8: Application for licence

The Commissioner is to determine the form of application and the regulations are to fix the fee. Under section 10 of the current Act applications are made to the Tribunal in the prescribed form.

Clause 9: Entitlement to be licensed

This clause sets out the eligibility of a natural person and of a body corporate to obtain a licence under the proposed Act.

The requirements for a natural person are that the person—

- has appropriate qualifications and experience; and
- is not suspended or disqualified from practising or carrying on an occupation, trade or business; and
- is not, and has not been, during the period of 10 years preceding the application for the licence, an undischarged bankrupt or subject to a composition or deed or scheme of arrangement with or for the benefit of creditors; and
- has not been, during the period of 10 years preceding the application for the licence, a director of a body corporate wound up for the benefit of creditors when the body corporate was being so wound up or within the period of 12 months preceding the commencement of the winding up; and
- has sufficient business knowledge and experience and financial resources for the purpose of properly carrying on the business authorised by the licence; and
- is a fit and proper person to be the holder of a licence.

The Commissioner may grant a licence to an applicant who does not satisfy the requirements as to qualifications, business knowledge, experience or financial resources if satisfied that the applicant will only carry on business as a building work contractor in partnership with a person who does meet those requirements.

These requirements are not unlike those contained in section 10 of the current Act and are in line with provisions recently enacted in relation to other occupational groups.

The requirements for a body corporate are similar to the requirements recently enacted in relation to other occupational groups and expand on the requirement in section 10 of the current Act for directors to be fit and proper persons to hold the licence.

Clause 10: Appeals

An applicant who is refused a licence may appeal against the decision of the Commissioner to the Administrative and Disciplinary Division of the District Court. This is equivalent to provisions recently enacted in relation to other occupational groups. Currently, the question of appeals is dealt with by the Commercial Tribunal Act.

Clause 11: Duration of licence and fee and return

Licences are continuous, but annual fees and returns are required. This is similar to section 11 of the current Act, although the process for cancellation of a licence for non-payment of a fee or failure to lodge a return has been simplified and shortened. The requirement for the Commissioner to consent to surrender of a licence is not retained as it serves no useful purpose.

PART 3—REGISTRATION OF BUILDING WORK SUPERVISORS

Clause 12: Building work must be supervised by registered and approved supervisors

A licensed building work contractor is required to ensure that there is an approved registered building work supervisor in relation to the building work contractor's business at all times during the currency of the licence and that building work of any kind performed under the authority of the licence is properly supervised by an approved registered building work supervisor. (This clause is similar to section 14 of the current Act.)

Clause 13: Classes of registration

The 2 classes of registration for the purposes of this proposed Act are—

1. building work supervisors registration—registration authorising a person to supervise building work of any kind;
2. building work supervisors registration with conditions—registration as a building work supervisor subject to conditions limiting the work that may be supervised under the authority of the registration.

These classifications replace the system of categories of registration of building work supervisors under section 13 of the current Act. For example, a building work supervisors registration is the equivalent of a category 1 registration under the current Act.

Clause 14: Registered architect to be taken to hold registration

This clause deems a registered architect to hold building work supervisors registration and is similar to section 16 of the current Act.

Clause 15: Application for registration

The Commissioner is to determine the form of application and the regulations are to fix the fee. Under section 15 of the current Act applications are made to the Tribunal in the prescribed form.

Clause 16: Entitlement to be registered

This clause sets out the eligibility of a natural person to be registered under the proposed Act. A natural person only (and never a body corporate) can hold registration if the person has—

- the qualifications and experience required by regulation for the kind of work that the person would be authorised to supervise by the registration; or
- subject to the regulations, qualifications and experience that the Commissioner considers appropriate having regard to the kind of work that the person would be authorised to supervise by the registration.

Clause 17: Appeals

An applicant who is refused registration may appeal against the decision of the Commissioner to the Administrative and Disciplinary Division of the District Court. (See also comments in respect of clause 10.)

Clause 18: Duration of registration and fee and return

Registration is continuous, but annual fees and returns are required. This is similar to section 17 of the current Act, although, again, the

process for cancellation of registration for non-payment of a fee or failure to lodge a return has been simplified and shortened.

Clause 19: Approval as building work supervisor in relation to licensed building work contractor's business

This clause provides that the Commissioner may approve a person as a building work supervisor in relation to a building work contractor's business and is similar to section 18 of the current Act.

A person is not eligible to be approved as a building work supervisor in relation to a licensed building work contractor's business unless—

- the person is a registered building work supervisor; and
- the person is—

a. if the building work contractor is a body corporate—a director of the body corporate; or

b. in any case—employed by the building work contractor under a contract of service.

If the Commissioner is satisfied that a person approved as a building work supervisor in relation to a licensed building work contractor's business is no longer eligible to be so approved, the Commissioner must cancel the approval.

PART 4—DISCIPLINE OF BUILDING WORK CONTRACTORS, SUPERVISORS AND BUILDING CONSULTANTS

This Part is generally equivalent to Part 4 of the current Act except that disciplinary proceedings are to be taken in the District Court rather than in the Commercial Tribunal.

Clause 20: Interpretation of Part

Building work contractor is defined to ensure that former building work contractors (and builders under the current Act) and licensed building work contractors not currently in business may be disciplined.

Director is defined to ensure that former directors may be disciplined. (Note that director is broadly defined in clause 3.)

Clause 21: Cause for disciplinary action

The grounds for disciplinary action against a building work contractor are as follows:

- licensing was improperly obtained; or
- the building work contractor has acted contrary to an assurance accepted by the Commissioner under the Fair Trading Act 1987; or
- the building work contractor or another person has acted contrary to this Act or otherwise unlawfully, or improperly, negligently or unfairly, in the course of performing functions as a building work contractor; or
- the building work contractor has failed to comply with an order made by a court under Part 5; or
- events have occurred such that the building work contractor would not be entitled to be licensed as a contractor if the contractor were to apply for a licence.

The grounds for disciplinary action against a building work supervisor are as follows:

- registration of the supervisor was improperly obtained; or
- the supervisor has acted unlawfully, improperly, negligently or unfairly in the course of acting as a building work supervisor.

The grounds for disciplinary action against a building consultant are as follows:

- the consultant has acted contrary to an assurance accepted by the Commissioner under the Fair Trading Act 1987; or
- the consultant has acted unlawfully, improperly, negligently or unfairly in the course of acting as a building consultant.

(The current grounds for disciplinary action are set out in section 19(11) of the current Act.

The clause also provides for the following results:

- if a body corporate may be disciplined, so may the directors;
- an employer is excused in relation to the act or default of an employee if the employer could not reasonably be expected to have prevented the act or default.

Clause 21(6) ensures that conduct occurring before the commencement of the proposed Act may lead to disciplinary action (equivalent to section 19(13) of the current Act).

Clause 22: Complaints

As in section 19(3) of the current Act, any person may lay a complaint.

Clause 23: Hearing by District Court

This clause allows the District Court to adjourn a hearing to allow for further investigation.

Clause 24: Participation of assessors in disciplinary proceedings

The presiding judicial officer is to determine whether the District Court will sit with assessors. This is similar to the provisions of other occupational licensing legislation recently reviewed.

Clause 25: Disciplinary action

This clause sets out the orders that may be made if disciplinary action is to be taken as follows:

- a reprimand;
- a fine;
- suspension or cancellation of a licence or registration or imposition of conditions;
- imposition of conditions after the end of a period of suspension of licence or registration;
- disqualification from being licensed or registered;
- prohibition from being employed or otherwise being engaged in the business of a building work contractor or building consultant;
- prohibition from carrying on business as a building consultant;
- prohibition from being a director of a body corporate that is a building work contractor or a building consultant.

This provision is similar to that contained in section 19(6) of the current Act although the penalty for contravention of an order has been increased from $5 000 to $8 000 and the ability to prohibit a person from being involved at all in the industry has been broadened.

Clause 26: Contravention of orders

This clause makes it an offence to contravene a condition or order imposed in disciplinary proceedings. A maximum penalty of $35 000 or imprisonment for 6 months may be imposed for such a contravention.

PART 5—PROVISIONS WITH RESPECT TO DOMESTIC BUILDING WORK

DIVISION 1—REQUIREMENTS IN RELATION TO CERTAIN DOMESTIC BUILDING WORK CONTRACTS

Clause 27: Application of Division

With minor exceptions, this Division applies to a contract entered into on or after 1 May 1987 (i.e. the date of commencement of the corresponding Division of the current Act).

Clause 28: Formal requirements in relation to domestic building work contracts

This clause sets out the formal requirements that must be complied with in respect on a domestic building work contract and is the same as section 23 of the current Act (although the penalty for contravention of this proposed section has been increased from $2 000 to $5 000).

Clause 29: Price and domestic building work contracts

This clause sets out the requirements in relation to price for the performance of domestic building work and is similar to section 24 of the current Act (although, again, the penalty for contravention of this proposed section has been increased from $2 000 to $5 000).

Clause 30: Payments under or in relation to domestic building work contracts

This clause is the same as section 25 of the current Act and prohibits a person from demanding payment under a domestic building work contract unless the payment constitutes a genuine progress payment or is allowed by the regulations. The penalty has again been increased from $2 000 to $5 000.

Clause 31: Exhibition houses

This clause is similar to section 26 of the current Act but the plans and specifications are not required to be displayed at the house but are to be available on request and the penalty has been increased from $2 000 to $5 000.

DIVISION 2—STATUTORY WARRANTIES

Clause 32: Statutory warranties

This proposed section applies to a contract entered into on or after 22 January 19871 (ie: the date of commencement of the corresponding section of the current Act) and is the equivalent of section 27 of the current Act.

The clause provides that the following warranties on the part of the building work contractor are implied in every domestic building work contract:

- a warranty that the building work will be performed in a proper manner to accepted trade standards and in accordance with the plans and specifications agreed to by the parties;
- a warranty that all materials to be supplied by the contractor for use in the building work will be good and proper;
- a warranty that the building work will be performed in accordance with all statutory requirements;

- if the contract does not stipulate a period within which the building work must be completed—a warranty that the building work will be performed with reasonable diligence;
- if the building work consists of the construction of a house—a warranty that the house will be reasonably fit for human habitation;
- if the building owner has expressly made known to the contractor, or an employee or agent of the contractor, the particular purpose for which the building work is required, or the result that the building owner desires the building work to achieve, so as to show that the building owner relies on the contractor's skill and judgment—a warranty that the building work and any materials used in performing the building work will be reasonably fit for that purpose or of such a nature and quality that they might reasonably be expected to achieve that result.

Proceedings for breach of statutory warranty must be commenced within 5 years after completion of the work to which the proceedings relate and this period may not be extended. (This is the same as under section 27(5) and (6) of the current Act.)

DIVISION 3—BUILDING INDEMNITY INSURANCE

Clause 33: Application of Division

This proposed Division applies to domestic building work commenced on or after 1 May 1987 (the date of commencement of the corresponding Division of the current Act) performed, or to be performed, by a building work contractor under a domestic building work contract or on the contractor's own behalf.

This proposed Division does not apply to—

- domestic building work for which approval under the Development Act 1993 or the current Act is not required; or
- minor domestic building work.

This clause is equivalent to section 28 of the current Act.

Clause 34: Requirements of insurance

This clause is substantially the same as section 29 of the current Act except that the penalty for failure to have the required insurance in place in relation to building work has been doubled to a maximum fine of $20 000.

Clause 35: Nature of the policy

This clause is the equivalent of section 30 of the current Act.

DIVISION 4—RIGHT TO TERMINATE CERTAIN DOMESTIC BUILDING WORK CONTRACTS

Clause 36: Right to terminate certain domestic building work contracts

This Division (comprising clause 36) is substantially the same as Division IV of Part V of the current Act (section 31).

DIVISION 5—POWERS OF COURT IN RELATION TO DOMESTIC BUILDING WORK

Clause 37: Powers of court in relation to domestic building work

This clause is substantially the same as section 32 of the current Act except that the court that has the powers in relation to domestic building work is the Civil (Consumer and Business) Division of the Magistrates Court instead of the Commercial Tribunal. The penalties have, again, been doubled to $10 000.

DIVISION 6—HARSH AND UNCONSCIONABLE TERMS

Clause 38: Harsh and unconscionable terms

This clause applies to a contract entered into or after 22 January 1987 (the date of commencement of the corresponding section 33 of the current Act). This clause is the equivalent of that section.

DIVISION 7—PARTICIPATION OF ASSESSORS IN PROCEEDINGS

Clause 39: Participation of assessors in proceedings

In any proceedings under this proposed Part, the Magistrates Court will, if the judicial officer who is to preside at the proceedings so determines, sit with assessors selected in accordance with schedule 2.

DIVISION 8—MAGISTRATES COURT AND SUBSTANTIAL MONETARY CLAIMS

Clause 40: Magistrates Court and substantial monetary claims

This clause does not have an equivalent in the current Act but has been included because of the jurisdictional limits imposed on the Magistrates Court and the amounts that may well be claimed in a proceeding for damages or relief under this proposed Part. This clause provides that if proceedings before the Magistrates Court involve—

- a monetary claim for an amount exceeding $30 000; or
- a claim for relief in the nature of an order to carry out work where the value of the work exceeds $30 000,

the Court must on the application of a party to the proceedings refer the proceedings into the Civil Division of the District Court.

If proceedings are referred to the Civil Division of the District Court, the whole of this proposed Part applies in relation to the proceedings and parties to the proceedings as if a reference to the Magistrates Court were a reference to the Civil Division of the District Court.

PART 6—ADVISORY PANEL

Clause 41: Advisory panel

This clause proposes a new idea in relation to building work contractors licensing and provides that the Minister must establish an advisory panel with the following functions:

- to advise the Commissioner in respect of licensing and registration of building work contractors and building work supervisors;
- to advise and assist the Commissioner with respect to competency within the building industry and the assessment of building work;
- to inquire into and report to the Minister or the Commissioner on any other matter referred to it by the Minister or Commissioner relating to building work or the administration of this proposed Act;
- any function that the panel is requested or required to perform by an authority responsible for regulation of technical or safety aspects of the building industry;
- any other functions prescribed by regulation or prescribed by or under any other Act.

Advisory panels have been established in respect of occupational groups such as gas fitters, plumbers and electricians and it was thought equally appropriate in respect of building work contractors.

PART 7—MISCELLANEOUS

Clause 42: No exclusion, etc., of rights, conditions or warranties

This clause is equivalent to section 34 of the current Act and provides that a purported exclusion, limitation, modification or waiver of a right conferred, or contractual condition or warranty implied, by this proposed Act is void.

Clause 43: Delegations

This clause provides for delegations by the Commissioner or the Minister.

Clause 44: Agreement with professional organisation

This clause allows the Commissioner, with the approval of the Minister, to enter into an agreement under which a professional organisation takes a role in the administration or enforcement of this proposed Act. The agreement cannot contain a delegation relating to discipline or prosecution or investigation by the police.

The agreements are required to be laid before Parliament as a matter of information.

Clause 45: Exemptions

The clause provides the Minister with power to grant exemptions.

Clause 46: Registers

The Commissioner is required to keep the register and to include in it a note of disciplinary action taken against a person (the latter requirement is similar to section 21 of the current Act). The requirement in section 21A of the current Act to advertise disciplinary action is not retained.

Clause 47: Commissioner and proceedings before District Court

This clause sets out the entitlement of the Commissioner to be joined as a party and represented at proceedings.

Clause 48: False or misleading information

It is an offence to provide false or misleading information under the proposed Act. This is similar to section 47 of the current Act although the penalties are higher—$10 000 if the person made the statement knowing that it was false or misleading or, in any other case, $2 500.

Clause 49: Name in which building work contractor may carry on business

This clause is equivalent to section 36 of the current Act but the penalty has been raised from $1 000 to $2 500.

Clause 50: Publication of advertisements

This clause is equivalent to section 37 of the current Act with a higher penalty of $2 500.

Clause 51: Statutory declaration

The Commissioner is authorised to require information provided under the proposed Act to be verified by statutory declaration.

Clause 52: Licensed building work contractor to have sign showing name, etc., on each building site

This clause is the equivalent of section 38 of the current Act with a higher penalty (in line with other penalties) of $2 500.

Clause 53: Investigations

The Commissioner of Police is required, at the request of the Commissioner for Consumer Affairs, to investigate matters relating to applications for licences or discipline.

Clause 54: General defence

The usual provision is included allowing a defence that the act was unintentional and did not result from failure to take reasonable care.

Clause 55: Liability for act or default of officer, employee

Acts within the scope of an employee's etc. authority are to be taken to be acts of the employer etc. This clause is similar to section 41 of the current Act.

Clause 56: Offences by bodies corporate

The usual provision placing responsibility on directors for offences of the body corporate is included. This is equivalent to section 49 of the current Act.

Clause 57: Continuing offence

A continuing offence provision is included as in section 50 of the current Act.

Clause 58: Prosecutions

The time within which prosecutions may be taken is extended from 12 months (see section 51 of the current Act) to 2 years or 5 years with the Minister's consent.

Clause 59: Evidence

An evidentiary aid relating to licences or registration under the proposed Act is included.

Clause 60: Service of documents

This clause provides for the method of service and is similar to section 46 of the current Act except that provision for facsimile transmission is included.

Clause 61: Annual report

As in section 45 of the current Act the Commissioner is to provide an annual report which is to be tabled in Parliament.

Clause 62: Regulations

The clause is similar to section 52 of the current Act and, so far as the ability of the regulations to provide for exemptions, section 5 of the current Act.

SCHEDULES

Schedule 1: Appointment and Selection of Assessors for District Court

The provisions for selection of assessors for disciplinary hearings are similar to those recently enacted in relation to other occupational groups.

Schedule 2: Appointment and Selection of Assessors for Magistrates Court

The provisions for selection of assessors for hearings relating to domestic building work are similar to those provided in schedule 1 except that there is provision for only one panel comprised of persons who have expertise in building work.

Schedule 3: Repeal and Transitional Provisions

The Builders Licensing Act 1986 is repealed. Transitional provisions are included in relation to equivalent licences, registration and orders of the Commercial Tribunal.

Schedule 4: Consequential Amendments

Consequential amendments are made to the District Court Act 1991 and the Magistrates Court Act 1991.

The Hon. CAROLYN PICKLES secured the adjournment of the debate.

STATUTES AMENDMENT (SUNDAY AUCTIONS AND INDEMNITY FUND) BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Land Agents Act 1994, the Conveyancers Act 1994 and the Land and Business (Sale and Conveyancing) Act 1994. Read a first time.

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

That this Bill be now read a second time.

The Statutes Amendment (Sunday Auctions and Indemnity Fund) Bill 1995 is introduced to make amendments to the Land Agents Act 1994, the Conveyancers Act 1994 and the Land and Business (Sale and Conveyancing) Act 1994.

As part of the legislative review process, work was carried out by the Commissioner for Consumer Affairs and his staff to clarify whether the new provisions of the Land Agents Act and the Conveyancers Act permitted the monies from the Agents Indemnity Fund to be used for the purposes of auditing trust accounts as well as to recover the costs of conducting disciplinary actions against agents and conveyancers as they had been for a number of years.

Accordingly, advice was sought from the Crown Solicitor and in an opinion of 14 September 1995, it was indicated that neither Act specified that the Commissioner could recover the costs of auditors who audited the trust accounts for land agents and conveyancers from the fund or that he could recover the costs of conducting disciplinary actions against agents and conveyancers from the fund. Accordingly, it was established that under the current Acts the Commissioner is not able to recover either costs from the Fund.

As the provisions of the two new Acts substantially mirrored those of the repealed Land Agents, Brokers and Valuers Act 1973 and given that since the late 1980's a significant amount of money had been drawn from the Fund, particularly for auditing purposes and for the administration of the old Act, further clarification from the Crown Solicitor was sought, which essentially confirmed the earlier advice.

As a result of the advice of the Crown Solicitor, and following consultation with the Auditor General's Department, amendments have been drafted to enable the Commissioner to lawfully use monies standing to the credit of the Indemnity Fund for purposes associated with the administration of the Land Agents Act 1994 and the Conveyancers Act 1994, in order to provide a high level of consumer protection through the monitoring of trust accounts of agents and conveyancers and, where necessary, conducting disciplinary actions to maintain the highest standards of practice within the real estate industry.

The amending legislation also validates the authority of the Commissioner to make such payments for the same lawful purposes under the repealed Land Agents, Brokers and Valuers Act 1973. A further amendment is included to remove the prohibition on Sunday auctions contained in section 37 of the Land and Business (Sale and Conveyancing) Act 1994. Presently, only public inspections of properties and negotiated sales can take place. The existing blanket prohibition on Sunday auctions is a very old one, and probably has its origins in Sunday observance laws.

This amendment will align real estate business practices in South Australia with those in all other States and Territories. The Northern Territory alone places a ban on auctions on Christmas Day and Good Friday, but makes no general restriction for Sunday auctions. In view of the fact that so much commercial and recreational activity can now occur on a Sunday there seems no logical reason why the prohibition in relation to real estate auctions should remain. I commend the Bill to honourable members and I seek leave to have the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of clauses

Clause 1: Short title

Clause 2: Commencement

The alterations to the indemnity fund provisions commence on assent. The introduction of Sunday auctions will commence on a day to be proclaimed.

Clause 3: Interpretation

Clause 4: Amendment of s. 29 Land Agents Act 1994—Indemnity Fund

This amendment expands the purposes for which the indemnity fund may be applied to purposes related to the enforcement of the Act, namely, the costs of prosecutions, disciplinary proceedings, investigation of complaints, examination of trust accounts of agents

and administration or management of trust accounts or businesses of agents.

Clause 5: Amendment of s. 31 Conveyancers Act 1994—Indemnity Fund

This clause makes a corresponding amendment to the Conveyancers Act.

Clause 6: Repeal s. 37 Land and Business (Sale and Conveyancing) Act 1994

This amendment allows real estate auctions to take place on Sundays.

SCHEDULE Validation of Past Payments out of Fund

The schedule validates any past payments out of the Fund for the purposes allowed under the amendments made by this Bill.

The Hon. CAROLYN PICKLES secured the adjournment of the debate.

OPAL MINING BILL

Second reading.

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 purpose of this Bill is to introduce new legislation relating to opal mining which is currently contained within the Mining Act 1971. It has been prepared as a stand alone Bill partly because of the specialist nature and requirements of opal mining and partly because the opal miners have requested separate legislation.

The Government has determined that the Bill should encourage further opal prospecting and mining development within South Australia in order to reverse the trend over recent years of declining opal production. The South Australian opal fields comprising Coober Pedy, Andamooka, Mintabie and Stuart Creek were collectively the world's major source of opal for many years but have now fallen behind the New South Wales fields in terms of the value of opal produced annually. Production in South Australia is estimated to have declined by 40% since 1988 to a mine output of less than $40 million per year. No new fields of major significance have been found in South Australia since the discovery of Andamooka in 1930.

The major deposits of opal in Australia are located around the south and south-western margins of the Great Artesian Basin in South Australia, New South Wales and Queensland. The potential for undiscovered large fields within this region is considered to be high. A new discovery of the size of Coober Pedy would have an in ground value in excess of $1 billion.

The legislation is therefore designed to encourage opal miners to prospect and explore in new areas away from the established workings in order to discover new deposits leading to increased production and the processing of opal for the benefit of both miners and the wider community. The Bill proposes to achieve this by introducing the concept of multiple claims per person and opal development leases which provide larger areas for prospecting and may lead to larger claims for mining.

The Bill will allow the participation of corporations in the search and development of opal by permitting their presence on the proclaimed precious stones fields generally under the same terms and conditions as for individual miners.

Associated amendments to the Mining Act will provide, for the first time, the introduction of Exploration Licences for opal. This will allow corporate large scale exploration, including over special 'opal development areas' designated by the Minister for Mines and Energy, within the proclaimed precious stones fields.

The Government believes that the collective provisions associated with this Bill will introduce flexibility to the legislation by allowing the involvement of corporations and create a climate for increasing investment in the opal industry while at the same time protecting the interests of individual miners and their smaller mining operations.

The major provisions of the Bill are as follows:

- Multiple Claims

  Under present legislation a person can hold only one precious stones claim. Under the new legislation it will be possible for a person to hold two precious stones claims in his or her name. This amendment reflects the needs and requirements of the opal mining industry.

  It will also be possible for a person to hold, in addition to the above, one lease for the purpose of prospecting called an opal development lease.

  An opal development lease will be granted for a short term (3 months) to encourage prospecting over new ground within a slightly larger area (200m x 200m), thereby reducing the possibility of being 'pegged-in' by others.

  This was introduced specifically at the request of miners from Coober Pedy.

  After the expiry of 3 months the opal development lease is either relinquished or a precious stones claim is pegged within the area of the lease. Obviously if a new claim is taken up, one of the two previously held claims must be relinquished as only two precious stones claims can be held by one person at the same time.

- Opal Development Leases/Larger Claims

  A larger precious stones claim (200m x 100m) may result from an opal development lease, but only if the lease is pegged in a 'designated area'. Designated areas will be areas specified by the Minister for Mines and Energy in consultation with appropriate mining Associations and will be located away from the established workings in order to encourage prospecting over new ground.

  If not in a designated area an opal development lease may not be pegged within 500m of another registered tenement or over ground previously disturbed by mining operations.

- Involvement of Corporations

  The present legislation discriminates against the involvement of corporations in the search for opal by not allowing them to obtain a precious stones prospecting permit which prevents their access to the proclaimed precious stones fields.

  The Government believes that such discrimination should be removed as part of its overall policy in promoting the mining and development of the State's mineral resources and that opal should not be excluded from this program.

  The new legislation therefore allows a corporation to obtain a precious stones prospecting permit and to peg a precious stones claim under the same terms and conditions as an individual miner.

  The one exception to this is in the case of a corporation the permit does not allow the pegging of a precious stones claim on land within 500 metres of another registered tenement, unless the land is within a designated area.

  However, in general, corporations will now be able to involve themselves in small opal mining operations under the same conditions as an individual miner if they so wish.

- Exploration Licences

  Present legislation prevents the granting of Exploration Licences for opal.

  This Bill will amend the Mining Act 1971 such that Exploration Licences will be available for opal under the Mining Act and under certain conditions.

  For example, an Exploration Licence applied for within a precious stones field must be confined to an 'opal development area' and cannot exceed 20 square kilometres in area, (unless otherwise specifically determined by the Minister).

  Opal development areas will be carefully defined and located away from established workings and will be declared by the Minister, in consultation with appropriate mining Associations, and be notified in the *Gazette*.

  The Coober Pedy proclaimed precious stones field in particular lends itself to such exploratory activities being 5 000 square kilometres in area, with less than 10% effectively prospected or worked.

  Exploration Licences applied for outside of precious stones fields will not be allowed on land that is within an 'exclusion zone' under the Opal Mining Act 1995. Such exclusion zones will include areas such as those at Lambina, where miners are currently active.

In the event that a corporation is successful in its exploration program and wishes to proceed to mining development, such development will be conducted under the Mining Act as currently applied to all other minerals. This will involve the granting of a Mining Lease together with all the other responsibilities under the Mining Act including the submission of six-monthly production returns and the payment of royalties on the opal recovered.

The Government believes that the measures contained in this Bill will provide a much needed stimulus and incentive for further investment in the industry to once again establish South Australia as

the major opal producing centre in the world. I commend this Bill to honourable members.

Explanation of clauses

PART 1

PRELIMINARY

The provisions of the Bill are as follows:

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

The measure will come into operation on a day (or days) to be fixed by proclamation.

Clause 3: Interpretation

This provision sets out the definitions to be used for the purposes of the measure. Many of the definitions are the same as comparable definitions in the Mining Act 1971. 'Precious stones' will mean opal, and any other minerals declared by regulation to be precious stones for the purposes of the Act. A precious stones tenement will be either a precious stones claim, or an opal development lease (see especially Part 3 for provisions about these forms of tenement).

Clause 4: Declaration of precious stones field or reserved land

The Governor will be able to declare land to be a precious stones field. The Governor will also be able to reserve land from the operation of the Act.

Clause 5: Declaration of designated area or exclusion zone

This provision will enable the Minister to declare land within a precious stones field to be a 'designated area', and to declare land to be an 'exclusion zone' for the purposes of the Act. The relevant provisions on these matters are contained in clause 11.

Clause 6: Exempt land

This clause relates to 'exempt land' and is similar in many respects to the exempt land provisions of the Mining Act. While land is exempt land, a person is not authorised to prospect for precious stones on the land without specific authority under clause 6.

PART 2

PRECIOUS STONES PROSPECTING PERMITS

Clause 7: Application for permit

The concept of a precious stones prospecting permit is retained by this clause. However, it will now be possible for a corporation to hold a permit. A person under the age of 16 cannot hold a permit. A person may be disqualified from holding a permit under the regulations.

Clause 8: Nature of permit

A person may only hold one precious stones prospecting permit. A permit cannot be held jointly and is not transferable.

Clause 9: Terms and renewal of permit

A precious stones prospecting permit will remain in force for a period of one year (as is the case with the current Act). A permit will be renewable from time to time for a further period of one year.

Clause 10: Rights of holder of permit

A precious stones prospecting permit authorises the holder of the permit to prospect for precious stones and to peg out an area for a tenement under the Act. Any pegging will be required to comply with the regulations.

Clause 11: Qualifications to permits

This clause sets out various rules that qualify the operation of a precious stones prospecting permit. (Note, there are other qualifications as well; for example, there may be a requirement to give notice of entry to land before prospecting can occur—see clause 31). A person will not, under a permit, be able to use declared equipment or explosives (other than for the purposes of sinking a prospecting shaft). If land has been granted in fee simple, or is subject to native title that confers an exclusive right to possession of land, a person will not be able to peg out an area under a permit without the written consent of the owner of the land. Special rules will apply with respect to the operations of corporations, and the pegging out of an area for an opal development lease. A person will not be able to have pegged out at the same time (a) more than one area for an opal development lease; (b) more than one area for a precious stones claim in a precious stones field if outside a designated area (unless the pegging arises from an opal development lease); or (c) in any event, more than two areas for precious stones claims. A person will also be unable to peg out an area if to do so would be contrary to the regulations.

Clause 12: Area to be pegged out, etc.

As with the current legislation, there will be rules as to the shape, dimensions and size of areas pegged out under a permit.

Clause 13: Major working areas—Coober Pedy

The regulations will identify various areas of Coober Pedy as major working areas. As to these areas, a person will only be able to claim a precious stones claim (not an opal development lease) and the maximum size of the claim will be 5 000 square metres. A person with a claim in a major working area will not be able to hold another claim in the same field.

Clause 14: Notice of pegging

Notice of pegging within a precious stones field will need to be given under the regulations.

Clause 15: Effect of pegging an area

The lawful pegging out of an area for a precious stones claim within a precious stones field will entitle the person to conduct certain mining operations on the land, and to apply for registration of a tenement within 14 days. In any other case, the lawful pegging out of an area will entitle the person to apply for registration of the appropriate tenement within 14 days.

Clause 16: Ballot may be conducted in certain cases

This clause entitles the Minister to conduct a ballot for the allocation of areas in certain cases. It is based on (and substantively the same as) current section 51B of the Mining Act.

Clause 17: Pegging may lapse

A pegging will cease to have effect if an appropriate application for registration of a tenement is not made under the Act within 14 days after the day on which the area is pegged out, or if an application for registration is refused.

Clause 18: Offence to contravene this Part

It will be an offence for a person to peg out an area for a tenement if the person is not the holder of a valid tenement, to peg out an area in contravention of these provisions, or to carry out unauthorised mining operations within an area.

PART 3

PRECIOUS STONES TENEMENTS

Clause 19: Application for registration of tenement

This clause sets out the procedures and requirements for making application for the registration of a tenement under the Act.

Clause 20: Registration of tenement

This clause sets out the registration procedures. Special mention is made of an application to register an opal development lease as, in such a case, the Mining Registrar must refer the application to the Director for an inspection of the area and the preparation of a report. The Mining Registrar will be entitled to refuse registration of a tenement if the relevant area is the subject of an application for an exploration licence under the Mining Act.

Clause 21: Maximum number of tenements

This limits the number of tenements that a person may hold, in a way that is consistent with clause 11(10).

Clause 22: Term and renewal of tenement

The initial period of registration of a precious stones tenement will be three months. A person will be able to apply from time to time for the renewal of registration of a precious stones claim (for an additional period of 12 months). The registration of an opal development lease is not renewable.

Clause 23: Rights conferred by a tenement

The holder of a registered precious stones claim has an exclusive right to conduct mining operations for the recovery of precious stones during the term of registration, and to sell those stones. The holder of a registered opal development lease also has an exclusive right to recover and sell precious stones (for three months), and to peg out one area for a precious stones claim.

Clause 24: Tenement non-transferable

A precious stones tenement is not transferable.

Clause 25: Unlawful entry on tenement

This clause restricts the ability of persons (other than authorised persons) to enter land comprised in a registered tenement.

Clause 26: Caveats

This clause sets out a scheme for the lodgment and consideration of caveats against the registration of a tenement, or an instrument affecting a tenement or an interest in a tenement.

Clause 27: Power of Mining Registrar to cancel tenement

This clause sets out a scheme for the cancellation of the registration of a tenement if it should not have been registered. The Mining Registrar will need to give to the holder of the tenement appropriate notice of his or her proposed course of action. The holder of the tenement will be able to apply to the Warden's Court for a review of the Mining Registrar's actions.

Clause 28: Surrender of tenement, removal of posts, etc.

The Mining Registrar will be able, on receipt of an application from the holder, to cancel the registration of a tenement. However, for land outside a precious stones field, the cancellation will not occur until the land has been rehabilitated in accordance with the requirements of the Act.

Clause 29: Removal of machinery

When a registration lapses or is cancelled, the owner of any machinery or goods that have been brought onto the relevant land must ensure that they are removed within 14 days.

Clause 30: Maintenance of posts

The holder of a tenement must ensure that all posts, boundary indicators and markers are maintained in accordance with requirements prescribed by the regulations.

PART 4

ENTRY ON LAND AND DECLARED EQUIPMENT

Clause 31: Entry on land

This clause sets out the powers (and limitations) of a person to enter land to conduct prospecting or other mining operations.

Clause 32: Notice of entry

A mining operator will (generally speaking) be required to give to the owner of land at least 21 days notice before first entering land to carry out mining operations. A notice will need to be validated by an authorised person before it is given. The owner of the land will be able to object (to the appropriate court) to entry onto the land, or to the use of the land for mining operations. Notice will not be required if the land is in a precious stones field, if entry is authorised under an agreement or a native title mining determination, or if the entry is to continue mining operations lawfully commenced on the land before the commencement of this Act.

Clause 33: Duration of notice of entry

A notice of entry will remain in force for six months from validation and, if a tenement is pegged out on the relevant land during that time, for the duration of the tenement.

Clause 34: Use of declared equipment

A person will not be able to use declared equipment (as defined) in the course of mining operations except on land comprised in a registered tenement within a precious stones field, or with the written authorisation of the Director. A mining operator will be required to give notice of the proposed use of declared equipment, other than where the land is within a precious stones field or where the Warden's Court, or the ERD Court, has determined conditions under which the equipment may be used. Where notice is given, the owner of the land may lodge a notice of objection with the Warden's Court and the Court will be able to review the matter.

PART 5

REHABILITATION AND COMPENSATION

Clause 35: Rehabilitation of land

An authorised officer will be able to require the holder of a tenement to rehabilitate land within the tenement that has been disturbed by mining operations. A requirement will be able to be directed to mining operations carried out before the particular tenement was pegged out or registered, and may extend to operations carried out by another person on the land. The Minister may order that a person not peg out another area until the person has complied with the terms of a notice under this provision. In a case of default, an authorised officer may cause the necessary work to be carried out, and the costs and expenses incurred in doing so will be recoverable from the person in default.

Clause 36: Bonds

The Minister will be able to require that an applicant for, or the holder of, a tenement enter into a bond, unless the relevant land is within a precious stones field. The bond will need to be lodged with the Mining Registrar, and the Mining Registrar may delay the registration of a tenement until the bond is lodged.

Clause 37: Application of bonds

The Minister will be able to forfeit an amount under a bond if a person fails to fulfil an obligation under a tenement, fails to rehabilitate land within a tenement, or acts (or omits to act) so as to breach a term of a bond. The amount will be forfeited to the Crown and may be applied by the Minister towards the rehabilitation of land or in respect of liabilities incurred on account of mining operations on the land.

Clause 38: Compensation

The owner of land on which mining operations are carried out will be entitled to receive compensation for economic loss, hardship or inconvenience suffered on account of the mining operations.

PART 6

OPAL MINING CO-OPERATION AGREEMENTS

Clause 39: Interpretation

This clause defines two particular terms to be used under Part 6 of the Act. In particular, a 'mining operator' will include a person who is seeking to carry out mining operations on land.

Clause 40: Nature of agreement

This clause explains the concept of an opal mining co-operation agreement, being an agreement about how mining operations are to be carried out on land, other than native title land, outside a precious stones field.

Clause 41: Parties to an agreement

An opal mining co-operation agreement may be made between the owner of land, and a mining operator or an approved association (see clause 96).

Clause 42: Content of an agreement

An agreement may provide for a variety of matters, including access to land (including exempt land), notice of entry, the use of declared equipment and the rehabilitation of land. An agreement may provide for the payment of compensation to the owner of the land. An agreement must comply with any requirements prescribed by the regulations.

Clause 43: Registration of agreement

An opal mining co-operation agreement must be lodged for registration with the Mining Registrar. The Mining Registrar will be able to refuse registration if the land is within a precious stones field or native title land, or if the Mining Registrar believes that the agreement has not been negotiated in good faith, that the agreement is inconsistent with the objects of the Act or the best interests of opal mining in the State, or that there is some other good reason why the agreement should not be registered. An agreement will have no force or effect until registered.

Clause 44: Agreement may be varied or revoked

The parties may agree to vary or revoke an agreement. A party may also withdraw from an agreement, although the approval of the Mining Registrar will be necessary.

Clause 45: Appeal to Warden's Court

A party to an agreement will be able to appeal to the Warden's Court against a decision of the Mining Registrar relating to agreements.

Clause 46: Persons bound by agreement

An agreement is binding on the original parties to the agreement, and on successors in title to the land, a person who carries out operations on behalf of a party to the agreement, the members of any relevant association, and the holders of tenements covered by the agreement.

Clause 47: Enforcement of agreement

An agreement will be enforceable by application to the appropriate court.

Clause 48: Restriction on mining operations by third parties

This clause relates to various restrictions that may apply to mining operations conducted by persons who are not members of an approved association where the approved association is a party to an agreement.

PART 7

NATIVE TITLE LAND

This Part makes comparable provision in relation to opal mining and native title land to Part 9B of the Mining Act, as it applies to mining operations on native title land under that Act. Some minor, consequential drafting changes have occurred due to differences in terminology under this Act. However, the effect of these provisions is the same as the relevant provisions under the Mining Act. The effect of the relevant clauses is briefly summarised below.

Clause 49: Qualification of rights conferred by permit

A precious stones prospecting permit does not authorise mining operations on native title land unless the operations do not affect native title (in any respect), or a declaration has been obtained that the land is not subject to native title.

Clause 50: Limits on grant of tenement

A tenement may not be registered over native title land unless the relevant operations are authorised by an agreement or determination under this Part, or a declaration has been made that the land is not subject to native title.

Clause 51: Applications for tenements

It may be agreed that the registration of a tenement is contingent upon the registration of an agreement or determination under this Part.

Clause 52: Application for declaration

A person may apply to the ERD Court for a declaration that land is not subject to native title.

Clause 53: Types of agreement authorising mining operations on native title land

This clause describes the agreements that may be entered into under this Part.

Clause 54: Negotiation of agreements

This clause says who may seek an agreement with native title parties.

Clause 55: Notification of parties affected

This clause describes how negotiations are initiated.

Clause 56: What happens when there are no registered native title parties with whom to negotiate
A proponent may apply to the ERD Court for a summary determination if there are no relevant native title parties.

Clause 57: Expedited procedure where impact of operations is minimal
A proponent may apply to the ERD Court for a summary determination in certain (limited) cases where the impact of the operations will be minimal.

Clause 58: Negotiating procedure
Parties will be required to negotiate in good faith.

Clause 59: Agreement
This clause regulates the content of an agreement.

Clause 60: Effect of registered agreement
This clause describes who will be bound by a registered agreement.

Clause 61: Application for determination
Application may be made to the ERD Court if agreement cannot be reached within a specified time.

Clause 62: Criteria for making determination
This clause specifies the criteria that the ERD Court must take into account when requested to make a determination.

Clause 63: Limitation on powers of Court
This clause restricts the powers of the ERD Court in certain cases.

Clause 64: Effect of determination
A determination of the ERD Court must be lodged with the Mining Registrar for registration.

Clause 65: Ministerial power to overrule determinations
Subject to this clause, the Minister will be able to override a determination of the ERD Court if the Minister considers it to be in the best interests of the State to do so.

Clause 66: No re-opening of issues
A determination of the ERD Court cannot be overruled by an agreement without the authority of the ERD Court.

Clause 67: Non-application of this Part to Pitjantjatjara and Maralinga lands
This Part does not affect the operation of specific land rights legislation.

Clause 68: Compensation to be held on trust in certain cases
Any compensation payable under a determination of the ERD Court must be paid into the Court and applied under the provisions of this clause.

Clause 69: Non-monetary compensation
Compensation may take the form of non-monetary compensation in certain cases.

Clause 70: Review of compensation
It will be possible to apply for a review of the compensation that is payable under a determination.

Clause 71: Expiry of this Part
The new Part will expire two years after the commencement of the Act.

PART 8
SPECIAL POWERS OF WARDEN'S COURT

Clause 72: Disputes relating to tenements
The Warden's Court has a general dispute-resolution jurisdiction under the measure, including jurisdiction to make a declaration about the validity of a permit, claim or tenement.

Clause 73: Cancellation of permit
The Warden's Court will be able to cancel a precious stones prospecting permit, and prohibit a person from holding or obtaining a permit.

Clause 74: Cancellation of pegging
The Warden's Court will be able to cancel a pegging in specified situations.

Clause 75: Forfeiture of tenement
The Warden's Court will be able to make an order for the forfeiture of a registered tenement in specified situations.

PART 9
MISCELLANEOUS

Clause 76: The Mining Register
The Mining Registrar will be required to establish a distinct part of the Mining Register for the purposes of this legislation.

Clause 77: Appointment of authorised persons
This clause provides for the appointment of authorised persons, and sets out specific powers that can be exercised in connection with the administration, operation or enforcement of the Act.

Clause 78: Delegations
This clause gives the Director a specific power of delegation for the purposes of the Act.

Clause 79: Exemptions
The Minister will be able to exempt a person from an obligation under the Act, other than Part 7 (Native Title Land). An exemption may be granted on conditions determined by the Minister.

Clause 80: Passing of property
Property in precious stones is vested in the Crown. However, property passes if the precious stones are lawfully mined.

Clause 81: Acts of officers, employees and agents
This clause ensures that an employer or principal is, in an appropriate case, responsible for the act or default of an employee or agent.

Clause 82: Offences
This clause sets out various specific offences for the purposes of the Act.

Clause 83: Proceedings for offences
It will be possible to prosecute offences against the Act in the Warden's Court.

Clause 84: Prohibition orders
The Warden's Court will be able, on the application of the Director, to order that a person not enter, or remain on, a precious stones field if the Court is satisfied that it is necessary to do so in order to keep, or to restore, good order.

Clause 85: Power of Mining Registrar to require pegs to be removed
The Mining Registrar will be empowered to require the removal of unauthorised pegs.

Clause 86: Compliance orders
The ERD Court will be able to make compliance orders against persons who act without proper authority under the Act.

Clause 87: Evidentiary provision
This clause is intended to facilitate the proof of certain matters.

Clause 88: Avoidance of double compensation
This clause establishes a principle to prevent double compensation.

Clause 89: Disposal of waste
This clause will make it an offence to allow overburden and other material to extend beyond the boundaries of a relevant claim or tenement without the written authority of an authorised person.

Clause 90: Persons under 18
This clause is included because a permit may be granted to a person who is 16 years of age (or older).

Clause 91: Safety net
Except in a case involving an opal development lease, land must not be simultaneously subject to more than one tenement.

Clause 92: Land subject to more than one tenement
The Minister may grant a person a preferential right to a new tenement in case an existing tenement is declared invalid due to circumstances beyond the person's control.

Clause 93: Interaction with Mining Act
As a general principle, this measure will not regulate any mining operations carried out under the Mining Act. It will be possible in certain cases for land to be subject to tenements under both Acts (being where the original tenement holder agrees to the registration of the tenement, or where the Warden's Court gives it authority).

Clause 94: Interaction with other Acts
This Act is not intended to derogate from the operation of certain other Acts.

Clause 95: Public roads and access routes
This clause protects the interests of road authorities.

Clause 96: Approval of associations
This clause provides that the Director may, for the purposes of the Act, approve associations that represent the interests of mining operators. A decision of the Director under the clause is, on application by the association, subject to review by the Minister.

Clause 97: Immunity from liability
This clause protects officers and employees of the Crown, and other authorised persons, from personal liability for any act or omission in the administration or enforcement of the Act.

Clause 98: Powers of attorney
This clause prevents a person acting through a power of attorney in various circumstances.

Clause 99: Regulations
The Governor will be empowered to make various regulations for the purposes of the Act.

Schedule 1: Transitional Provisions
This schedule sets out various transitional provisions for the purposes of the measure. In particular, existing permits, claims and procedures relating to precious stones under the Mining Act will have effect under this Act.

Schedule 2: Amendments to the Mining Act
This schedule makes various consequential amendments to the Mining Act. New section 7(3) will provide that, except in an opal

development area, this Act will not regulate mining operations for the recovery of precious stones if the operations are carried out under the Opal Mining Act 1995. An opal development area will be an area within a precious stones field, declared by the Minister, in which a person carrying out mining operations will need an authority under the Mining Act. Accordingly, except for an opal development area, a person will be able to choose whether he or she mines for precious stones under the Opal Mining Act 1995 or the Mining Act. If the person proceeds under the Mining Act, royalty will be paid on any stones that are recovered. In the case of exploration licences, it will now be possible to obtain such a licence for exploratory operations for precious stones, but the holder of a licence will not be able to explore for opal in certain areas of precious stones field or within an exclusion zone. Furthermore, a licence for operations within an opal development area will be limited to an area of 20 square kilometres. The Minister will be unable to grant a licence if to do so would be inconsistent with a public undertaking given by the Minister to the mining industry.

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

CRIMINAL LAW CONSOLIDATION (MENTAL IMPAIRMENT) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 24 October. Page 291.)

The Hon. R.D. LAWSON: I support the second reading of this Bill, which comes in as substantial amendment to a Bill introduced in the last session but not debated on that occasion. This Bill is, in my view, a substantial improvement on that which was previously introduced and I do commend the Attorney for consulting widely with the legal profession and the community generally on this matter. I do know that there were reservations about some of the procedural aspects of the original Bill and it seems to me that the current Bill is a great improvement on that which was previously introduced. As has been noted in the contributions of others, this Bill has been a long time in gestation.

As early as the late 1970s, the Mitchell Committee made a number of recommendations concerning the mentally ill and the criminal justice system. Those recommendations were not wholly taken up. In 1990, Mr Matthew Goode of the Attorney-General's Department circulated a discussion paper on mental impairment and the criminal process. At that time he strongly advocated reform saying that it was time at that stage that something was done in this area. He noted that there were a number of reasons which in his view necessitated action. He said:

> The current law is in many respects a farce. It is notorious that mentally ill offenders will not employ the defence unless the penalty involved is likely to outweigh the effect of indeterminate detention. The legislation [as it then stood] is archaically and defensively worded; and those detained as mentally ill offenders have few effective rights. The effect of the system now is that the role of mental illness and intellectual disability in the criminal process is massively understated.

Mr Goode noted in his paper that the Commonwealth had then recently passed complex and far reaching reforms in all of these areas in the Crimes Legislation Amendment Act (No. 2) of 1989. The result would have been, as he noted, a drastically different treatment for State and Federal offenders. Unfortunately, as it seems to me, the difference between State and Federal treatment of these measures has been perpetuated, because the amendments in the Bill are quite different from the procedures laid down in division 6(1B) of the Commonwealth Crimes Act, division 6 of which deals with unfitness to be tried. Division 7 deals with acquittal because of mental illness; division 8 deals with summary disposition of persons suffering from mental illness or intellectual disability; and division 9 deals with sentencing alternatives for persons suffering from mental illness or intellectual disability. Those provisions will continue to apply in relation to Federal offences, most of which are, of course, under our system tried before State courts.

The statutory procedure laid down in the Bill is, as I have said, not entirely the same. However, it seems to me that in some respects our method of dealing with these difficult problems is better than that which the Commonwealth arrived at in its 1989 amendments.

In Mr Goode's 1990 paper he said that in his view it was highly likely that the then current law and practice ran contrary to the international covenant on civil and political rights. He noted that that conclusion was reached by the committee review of Commonwealth criminal law in its discussion paper No. 15 which dealt with human rights in relation to Commonwealth criminal law. It was also the view of Mr Goode that the law as it then stood did not comply with United Nations draft guidelines and principles for the protection of the mentally ill.

There have been a number of recommendations by various committees over the years for reform in this area. I have already mentioned the Mitchell committee, which made a number of reports between 1973 and 1977. There was also the Commonwealth legislation, to which I have referred. In Victoria the Law Reform Commission recommended quite radical changes to the definition of insanity, and also other amendments. The English Law Reform Commission in 1975 recommended the implementation, in part, of the report of the Butler committee. As was noted in Mr Goode's paper, a wide range of options presented itself to those who were then charged with the responsibility of preparing an appropriate response.

The legislation of which the Bill is the latest emanation has been the subject of wide consultation with the legal profession. There has been, as the Attorney would know, a certain degree of resistance from some elements of the legal profession to amendments of this kind: not necessarily in principle but, rather, with the detail and the mechanics of the legislation.

This Bill is divided into a number of parts. It will repeal sections 292, 293 and 293A of the Criminal Law Consolidation Act and also will repeal the Mental Health (Supplementary Provisions) Act of 1935. It is the case that the statutory law relating to insanity is embodied in only three sections of the Criminal Law Consolidation Act, those which I have just mentioned and which are to be repealed. Section 292 deals with a verdict of not guilty on the ground of insanity. This section was amended by the amending legislation that was introduced by the Hon. Dr Bob Ritson in this place and passed. Section 292(2) as amended now provides that the court must order that a person found not guilty on the ground of insanity be detained in a secure psychiatric institution until further order of the court.

The procedure for determining insanity and fitness to plead is not laid down in the existing statutory law; rather, procedures have been developed by the courts for the determination of those matters. It is desirable that the issue of insanity be raised on any indictable offence before a jury and not summarily. That has been well established since the 1970s in South Australia. It was established in the case of *Reg v Jeffrey* in Victoria that it is not for the Crown to lead evidence of the insanity of the defendant. However, the

question of insanity is left to the jury even though the defendant does not seek to raise the issue. Section 293 of the existing Act provides some mechanism for determining insanity that affects capacity to plead. This, of course, is not want of capacity to commit the offence with which the person is charged but, rather, whether or not, at the time when the person comes to the court, he has the appropriate capacity to plead to the charge.

The mechanism laid down in section 293 is that the jury is empanelled either for the purpose of determining capacity to plea or to try the information itself. Section 293A was introduced as a result of the amendments in 1992 and came into operation as recently as 6 July 1992. That section contains a special provision relating to the detention of insane offenders and, as the Attorney mentioned, was largely the result of the efforts and interest of the Hon. Dr Bob Ritson.

I would invite the Attorney to comment in due course on a couple of the matters that I will raise at this stage. Section 269B, which appears in the preliminary provisions of the Bill, deals with the distribution of judicial functions between judge and jury. It provides:

> An investigation under this part by either the Supreme or District Court into the defendant's mental competence to commit an offence or his or her mental fitness to stand trial, or the question of whether the elements of the offence have been established is to be conducted before a jury unless the defendant has elected to have the matter dealt with by a judge sitting alone.

Subsection (2) provides that the same jury may deal with issues arising under this part about a defendant's mental competence to commit an offence or fitness to stand trial and the issues on which the defendant is to be tried, unless the trial judge thinks there are special reasons to have separate juries. So, in the ordinary course the same jury will deal with these issues. However, the issues are not to be dealt with ordinarily or necessarily in the same process. The Bill provides for issues to be separately dealt with. For example, if a judge decides to proceed first with the trial of the defendant's mental competence to commit an offence, section 269F lays down what will happen. On that occasion the court will proceed with the trial of the defendant's mental competence initially and, if the court records a finding that the defendant was mentally incompetent to commit the offence, the court must hear evidence and representations relevant to the question of whether the court should find the objective elements of the offence established.

There is then a trial of the objective elements of the offence. This mechanism of dividing up the various issues is now dealt with in the Act. Ordinarily, it will be heard by the same jury. However, it seems to me that the Act does not specifically provide that the evidence heard by the jury in relation to one issue will necessarily be available to be relied upon by the jury for the purpose of the second stage of the process. It seems to me that there will be a great deal of time wasting and expense if the same jury is required to hear evidence on a number of issues over and over again. I hope it is not envisaged that the evidence will be, as it were, compartmentalised into various issues. It seems to me that that would be a necessarily artificial process, time consuming and productive of error.

The second matter upon which I would seek an answer—it may be in the Bill, but I have not been able to find it—deals with what is to happen after the effluxion of what is called the limiting term. In other words, what is to happen to the person who is detained subject to a supervision order after the time expires? It seems to me that it is important to ensure that the mental health legislation comes into operation at that time so that the person who might be released from the strictures of the criminal law is still subject to some surveillance by the mental health authorities, in particular the Minister for Health. I have not been able to discern precisely what is envisaged will happen in those circumstances.

This legislation, seems to me, to be moving along the inexorable process of codifying in statute the provisions of our criminal law, and it is to be commended. I support the second reading.

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

CLASSIFICATIONS (PUBLICATIONS, FILMS AND COMPUTER GAMES) BILL

In Committee.

Clause 1—'Short title.'

The Hon. K.T. GRIFFIN: When I responded at the second reading stage to matters raised by the Hon. Michael Elliott and the Hon. Bernice Pfitzner, and on the issue of demeaning images, I indicated that if there were any matters that needed to be added to those comments I would do it at this stage. The advice I have received is that the responses which I gave accurately reflected the position under the Bill in relation to demeaning images and blinder racks.

The point raised by the Hon. Michael Elliott in relation to the depiction of violence and coerced sex and the response I gave thereto that again was correct. The only additional point is that in the current 'refused classification' guidelines for films and videotapes there is a provision that unduly detailed and/or relished acts of extreme violence or cruelty and explicit or unjustified depictions of sexual violence against non-consenting persons will be sufficient to justify a film or video being put into that 'refused classification' category.

That now completes the answers to honourable members, particularly in relation to the issue of the mixing of sex and violence, which has always been considered by censorship authorities as quite unacceptable, and also in relation to the issue of demeaning images. If members wish to take any matter further I am happy to endeavour to answer the questions.

Clause passed.

Remaining clauses (2 to 91), schedules and title passed.

Bill read a third time and passed.

CRIMINAL LAW CONSOLIDATION (APPEALS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 24 October. Page 295.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): The Opposition supports the second reading of the Bill and acknowledges that many of the provisions in it will improve the criminal appeals system. The Opposition has no difficulty with the clauses of the Bill up to and including clause 5. The amendments created by clauses 4 and 5 will greatly improve the drafting of both sections of the Criminal Law Consolidation Act which deal with reservations of questions of law by a single judge to the Full Court. As the Opposition understands it, the major change in respect of sections 350 and 351 of the principal Act is to allow reserva-

tion of questions of law in relation to antecedent matters—issues which arise before the trial itself. This facility may well be useful in pre-empting an appeal following the trial.

Clause 6 contains the most controversial aspect of the entire measure. That relates to the prospect of prosecution appeals against the acquittal of defendants. The Opposition will not countenance that provision. The only possible justification for Crown appeals against acquittal is a one-eyed zealous desire to see every possible criminal punished, but this zealous drive, carried to its logical conclusion, inevitably increases the risk of innocent people being convicted.

The notion of an acquitted person being subject to further danger of conviction is repugnant to the common law. In other words, it has been judged by members of the judiciary and the legal profession to be offensive to decent and reasonable members of the community. I refer not only to our community because the same applies to the people of England, going back many centuries. In Committee, I will expand upon the reasons why the Opposition cannot accept appeals by the Director of Public Prosecutions against acquittals.

However, this may be a suitable time to make a brief historical note. The fact is that this is not the first time that the prospect of Crown appeals against acquittals has been seriously considered by the South Australian Parliament. The Bill before us seeks to amend the Criminal Law Consolidation Act 1935. In 1935, our Parliament consolidated a number of pieces of legislation dealing with aspects of the criminal law, including the Criminal Appeals Act. That Act was based almost to the letter on English legislation, and it was introduced by the Hon. William Denny, Attorney-General in the Gunn Labor Government of 1924. Part 11 of the Criminal Law Consolidation Act is essentially the Criminal Appeals Act.

When the provisions of the Bill were being debated in October 1924, the Leader of the Opposition (Sir Henry Barwell) totally supported the Bill which had been brought in by the Labor Government. Among the conservative ranks at the time was Mr Reidy, the member for Victoria, who perhaps was the equivalent of Mr Joe Rossi, who is a member of another place today. Mr Reidy was a self-confessed layman as opposed to being a lawyer. His argument was simple, perhaps simplistic: why should guilty people go free? That rhetorical question certainly has a superficial attraction. No-one is attracted to the idea of people who commit serious crimes going completely without punishment. The fallacy in Mr Reidy's argument is best exposed by the question: who on earth is to say that a person is ultimately guilty?

If a jury or, more relevant to the Bill before us, a judge says that a person is not guilty beyond reasonable doubt of a crime, who is in a better position to say that the person was guilty? It may be that, in perfect objectivity, the accused and perhaps a witness against the accused know in certain terms that the accused person was guilty, but when all the evidence is sifted through by someone else it is not at all clear that the person was guilty. Our society acknowledges in the long-standing requirement of proof beyond reasonable doubt that it is more unjust for an innocent person to be punished than it is for a guilty person to go free.

The community has an interest in punishing guilty people; there is no doubt about that. However, our society also recognises the importance of the individual in society and the great value of personal liberty. In setting up a criminal appeals system, we are balancing the interests of the community against those of the individual. Mr Reidy said this in the 1924 Criminal Appeals Bill debate:

> It is the interests of the community which are paramount.

Unfortunately, that is also the reasoning of fascism and Stalinism, which have since become rather discredited philosophies. Just to round off that piece of history, let me point out that it appears that Mr Reidy was dissuaded from moving an amendment such as this Council now faces, and the Criminal Appeals Bill went through without amendment and with bipartisan support. I will have more to say about the prospect of Crown appeals when I deal with the Opposition amendments in respect of clause 6.

There is another aspect of clause 6 with which the Opposition would like the Attorney-General to deal in Committee. Looking at new section 352(1)(d), it is proposed that the defendant will have much more limited rights of appeal against an adverse decision pretrial than the DPP, which will get the right to appeal against a pretrial decision in the criminal process 'as of right' pursuant to subsection (1)(c). Perhaps the Attorney-General will answer why there is a disparity between the rights of the defendant and the rights of the DPP with respect to pretrial questions. The Opposition notes the concern of the Hon. Mr Lawson in relation to this point, and it may be that an amendment from him will be treated sympathetically by the Opposition.

The second amendment put forward by the Opposition relates to clause 7, and it is consequential to its amendment with respect to clause 6. We have a further amendment which results from consideration of the petition for mercy process. The Opposition has some reservations about the effectiveness of this mechanism following representations from two different constituents. I am not saying that the stories of two constituents necessarily make a pressing case for changing the law, except that very few petitions for mercy are made. Still, they are of vital importance for the individuals involved, and the individual hardships of which we have been informed have led us to reconsider the law in this area.

Our amendment seeks to make the process more honest in a way. The process begins with a petition for mercy, usually after an unsuccessful appeal to the Court of Criminal Appeal. Section 369 of the Criminal Law Consolidation Act allows the Attorney-General to refer the whole case to the Supreme Court to be heard as an appeal. In our view, it is important that this be done only when there is a question of new evidence or when there is serious doubt about the interpretation of the law given not only by the trial judge but also by the Court of Criminal Appeal where, for example, there might be a two to one decision on a fine point of interpretation. It is in such cases that the judges of the Supreme Court can perform a useful and legitimate function in helping the Attorney-General and the Governor to come to a decision about the petition for mercy.

There will be other cases, however, where there might be an extraordinary change in the personal circumstances of the accused, or perhaps a situation might arise where Parliament changes the law to the point where a convicted person would not have been convicted had the legislation been passed a few months earlier. There might be a situation such as that where the response that is required on the petition for mercy is not a legal response in any sense; it becomes purely a question whether mercy is to be exercised or not, and it is then up to the good grace of the Governor and the political responsibility of the Attorney-General in advising the Governor. I believe

that we can go further into those issues in the Committee stage.

Before we go into Committee, I should like the Attorney-General to supply the following information: how many petitions for mercy have been received in the past 10 years; how many have been successful; and how many have been referred to the Supreme Court before an answer to the petition is given? Having set out the Opposition's position fairly clearly in relation to the amendments, we support second reading of the Bill.

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

STATUTES REPEAL AND AMENDMENT (COMMERCIAL TRIBUNAL) BILL

Adjourned debate on second reading.

(Continued from 24 October. Page 296.)

The Hon. SANDRA KANCK: In the past 18 months a succession of Bills have been introduced which have attempted in one way or another to downgrade the capacity of the Commercial Tribunal. At the beginning I think I said, 'If it's not broke, don't fix it.' However, that fixing has continued during the ensuing months and really I suppose I am giving a valedictory speech for the Commercial Tribunal. The Hon. Ms Levy said much that needed to be said about it. We have seen the tribunal progressively emasculated. I do not understand why the Government has been doing it. I do not think we will be better off for it and I suspect that in the long run we might be worse off for it because it might pave the way to go into more legalistic proceedings. As the Government has taken away so many of the tasks and powers of the Commercial Tribunal, it hardly seems worthwhile for it to continue in existence. It is not with any great enthusiasm that I support the second reading of the Bill, but I do so with the knowledge that the Government has basically made the tribunal obsolete.

The Hon. K.T. GRIFFIN (Minister for Consumer Affairs): I thank members for their contribution to the second reading of this Bill. I need to comment upon some matters in view of the issues raised by the Hons Sandra Kanck and Anne Levy. It is important to go back in history, as the Hon. Anne Levy did, to recognise that the Commercial Tribunal was established to bring together a number of other tribunals of sundry membership, with a variety of jurisdictions and following a variety of procedures. They were brought together in the Commercial Tribunal when the Hon. John Burdett was Minister for Consumer Affairs. That was a very important step.

Over time the Commercial Tribunal has been important and those who have been members of it have played an important role in dealing with a variety of issues which generally fall within the fair trading or consumer affairs areas. The stage we have now reached is the next step in the rationalisation process. The previous Government had in mind and had work being undertaken to bring within what was then the administrative division of the District Court a number of other tribunals but work had not been concluded. I have had that work continued and in due course there will be a Bill that will seek to abolish other tribunals and bring the jurisdiction to what is now the administrative and disciplinary division of the District Court.

Whilst some people express apprehension about the jurisdiction being exercised in the various Bills that I have brought through dealing with consumer affairs matters, the fact is that the District Court, in its administrative and disciplinary division, and the Magistrates Court in its consumer and business division, are essentially structured in the same way as the Commercial Tribunal. They are not bound by the rules of evidence. They are, however, to consider all matters which might be relevant, act in accordance with equity and good conscience and may be assisted by assessors. There is no obligation to have legal representation, but that may be the way in which parties before either of those two jurisdictions may wish to proceed.

So, for most practical purposes there is no difference in moving towards the administrative and disciplinary division of the District Court or the Magistrates Court consumer and business division. What does happen, though, is that we bring the administration of the system very much under the responsibility of the Courts Administration Authority and that is a distinct advantage, because that authority has expertise in the management of lists in dealing with matters that need to be considered by courts, tribunals and divisions of the courts and has the capacity to properly administer the functions of the administrative and disciplinary division of the District Court or the Magistrates Court's consumer and business division.

It is also important to recognise that, by bringing jurisdictions from the Commercial Tribunal across to these other two divisions of the two courts, the presiding members and other members who will be participating in exercising the relevant jurisdiction will be part of the mainstream of decision making processes. That is a very important issue that has to be recognised, because decisions will not be made in the narrow confines of a piece of legislation or a group of legislative measures but within the whole framework of the experience which comes from a range of disputes coming before magistrates or District Court judges across the spectrum, and not limited just to matters which previously might have been dealt with by the Commercial Tribunal.

When I became Attorney-General, the Chairman of the Commercial Tribunal (Judge Noblet) indicated that he wished to move back to the District Court. In fact, he said on occasions, 'I haven't got enough work to do; I can offer a couple of weeks here and a couple of weeks there to the District Court in its various lists.' So, he was very much wanting to be back into the mainstream of the courts but also indicating that he wanted to have better use made of his time. Since he moved back to the District Court, we have had a full-time presiding member of the Commercial Tribunal. We are appointing a magistrate as the deputy to that person to begin to look at different ways of managing the remaining issues to be dealt with by the Commercial Tribunal as it is wound down, and the activity there will be very much managed by the court system.

It is also important to identify that there will be a number of substantial cost savings. Quite obviously, some resources will have to be transferred from what is the Office of Consumer and Business Affairs to the Magistrates Court and the Commercial Tribunal, but I do not expect at this stage that any additional judges or magistrates will need to be appointed. That will mean that we will have savings in the presiding member's salary, which is equivalent to a magistrates salary (I think about $109 000 a year) plus a car and a car park.

There is a substantial amount—about $51 000 a year—from the budget of the Office of Consumer and Business

Affairs paid to members of the tribunal, in addition to the presiding member's salary; there is a secretary to the tribunal; there is the lease of the office at the GRE building of something like $78 000 a year; and associated services: a law library, $8 000 a year; and court reporting, about $80 000 a year. Quite obviously, that is something which probably will be maintained, although it has to be recognised that the jurisdiction of the Administrative and Disciplinary Division of the District Court and the Consumer and Business Division of the Magistrates Court is very much more limited than the jurisdiction of the Commercial Tribunal. There has been no formal cost benefit analysis of the abolition and the transfer to the Magistrates and District Courts but, as I have indicated, substantial savings are expected as a result of the transfer of the jurisdiction.

The Hon. Anne Levy suggested that the transfer of the jurisdiction to the Magistrates and District Courts could substantially increase costs to the average litigant who will be required to appear in one or other jurisdiction rather than in the Commercial Tribunal, but my advice is that for litigants appearing in the Magistrates Court the potential costs will be very much less. For those appearing in the District Court the costs may be about the same as they are now in the Commercial Tribunal. The Commercial Tribunal presently has three distinct functions: the licensing, dispute resolution and disciplinary functions. Licensing under all the legislation we have been enacting is being dealt with by the Commissioner for Consumer Affairs and only disputes go to the Commercial Tribunal, so licensing is very much more an administrative function. Dispute resolution for most commercial matters will be dealt with in the Magistrates Court. Disciplinary proceedings and appeals from decisions of the commissioner will be in the administrative and disciplinary division of the District Court.

It should be recognised that the Commercial Tribunal has always had the discretion to award costs against a litigant for counsel fees and witness fees, as there has never been a bar to parties being represented by counsel. I am told it was common practice for costs to be awarded in disciplinary matters. It should be recognised that in the Magistrates Court, in the minor civil claims jurisdiction, parties cannot be represented by legal practitioners and therefore the costs are very much limited to disbursements and witness fees. Of course, if the claim exceeds $5 000 it is likely that counsel will be involved if the parties wish.

Therefore, the judgment which the Government has made on the basis of all those matters to which I have referred is that there will be advantages for litigants. There will be advantages for Government and for the administration from the changes we are making by way of the various pieces of legislation which have been and will be considered by the Parliament. I would suggest that it is a natural progression from the early 1980s when a variety of tribunals were abolished in a further move to consolidate dispute resolution processes within the mainstream jurisdiction. One should not be concerned about that by virtue only of the fact that the matter is going to a court because, as I have said before and I reiterate, the jurisdiction is to be exercised in a manner which is almost identical to the way in which the jurisdiction has previously been exercised by the Commercial Tribunal. I thank all members for their contributions.

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

ADMINISTRATIVE DECISIONS (EFFECT OF INTERNATIONAL INSTRUMENTS) BILL

Adjourned debate on second reading.

(Continued from 24 October. Page 297.)

The Hon. K.T. GRIFFIN (Attorney-General): I thank members for their contributions to the second reading of this Bill and also for their indications of support of it. The Hon. Robert Lawson has raised several issues and it is appropriate that I provide some responses to those. He raised questions relating to a variety of matters, some of which are most difficult to answer, but which I will attempt to do. I am not aware of any administrative decisions made in this State apparently on the basis of the effect of some international treaty, which treaty is not reflected in the law of this State.

This is not to say that administrative decisions are not made in accordance with international instruments which are not reflected in the law of this State. For example, before Australia ratified the International Covenant on Civil and Political Rights, the International Covenant on the Elimination of All Forms of Discrimination Against Women and the International Convention on the Rights of the Child, South Australia's laws and practices were examined to see if they conformed with the conventions. When you look at the provisions of the conventions, it is clear that not all of them can be incorporated in legislation. Indeed, the conventions recognise this. For example, article 4 of the Convention on the Rights of the Child provides:

> States' parties shall undertake all appropriate legislative, administrative and other measures for the implementation of the rights recognised in the present convention. With regard to economic, social and cultural rights, States' parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international cooperation.

If one looks at article 6.2 of that convention, one will see that it provides:

> States' parties shall ensure to the maximum extent possible the survival and development of the child.

State criminal law protects the right to life of the child, but the rights enunciated in this article are recognised in many Government programs such as nutrition programs, vaccination programs, educational programs and child protection policies. These programs, and there are many more, are in accordance with the provisions of the covenant but not based on them in the sense that they would not exist if the covenant did not exist. Indeed, the programs may have preceded the covenant.

I am not aware of any case in which any citizen has claimed that he or she has a legitimate expectation that some administrative decision will conform with the terms of an international treaty which is not part of our law. The judgment in Teoh was delivered on 7 April 1985, the Commonwealth joint statement was made on 10 May and I made a ministerial statement on 8 June, thus the time in which any such legitimate expectations could be raised was very short. I am not aware of any reported decisions in South Australia in which any decision maker has taken account of an international instrument which is not part of the law of Australia. It would be a massive task to no good end to check through the report decisions. The only case in which, as far as I am aware, Teoh has been raised is *Carbone v. SA Police and others*. It is an unreported decision S5152 of 30 June 1995.

Counsel for the plaintiff argued that Article 17 of the International Covenant on Civil and Political Rights, which protects privacy, was part of the domestic law of Australia because the international covenant was incorporated in the Commonwealth Human Rights and Equal Opportunity Commission Act and the Privacy Act. The Supreme Court considered that Teoh only applied to Commonwealth decision makers and anyway a legitimate expectation can be excluded by indications to the contrary. In this case it would be an absurd result if prior to the execution of a search warrant a citizen had any legitimate expectation of being heard in relation to privacy issues.

Finally, the honourable member raises the question of the validity of the State and Commonwealth provisions. The Commonwealth regards its provisions as valid. The Minister for Justice in the second reading speech, introducing the Commonwealth Bill stated:

> Since ratification of a treaty as a Commonwealth executive action it is entirely appropriate for the Commonwealth to legislate to control the effect of that action in Australian domestic law generally. The Bill does not prevent any State which wishes to do so from passing a law or taking its own Executive actions in relation to treaties accepted by Australia which might themselves create a legitimate expectation. In that case, the legitimate expectation would flow from the State law and not the Commonwealth Executive act of the ratification.

Mr Henry Burmester of the Commonwealth Attorney-General's Department in a submission to the Senate Legal and Constitution Legislation Committee reflected this view when he pointed out, and I quote:

> . . . it is entirely appropriate for the Commonwealth to seek to reverse an unintended effect of this particular kind of Executive act both in relation to the Commonwealth and the States and Territories. In our view it is constitutionally valid to do so. This does not mean the Commonwealth could legislate generally about legitimate expectations in relation to State decisions. It is only legislating about the legal effects of its own act in the field of foreign affairs.

The Commonwealth is thus clearly of the opinion that State legislation would be valid and the Government's legal advice is that the Commonwealth legislation, assuming it is valid in so far as it purports to apply to State actions, is no obstacle to State legislation on the topic. The Government has made it clear both to the Commonwealth Attorney-General and the Senate Legal and Constitutional Committee that it is unacceptable for the Commonwealth legislation to purport to apply to South Australian administrative decisions and has requested that the Bill be amended so as not to apply to South Australian administrative decisions. These requests have fallen on deaf ears as the Commonwealth, as previously stated, believes that since ratification of a treaty is a Commonwealth Executive action in the field of foreign affairs it is entirely appropriate for the Commonwealth to legislate to control the effect of that action in Australian domestic law generally. I might add that that view of the Commonwealth does create grave concerns in this State as to what the Commonwealth at some stage may seek to do as a result of the reliance on the external affairs power and treaties which it enters into and which it subsequently ratifies. Again, I thank honourable members for their contribution.

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

SECURITY AND INVESTIGATION AGENTS BILL

Adjourned debate on second reading.

(Continued from 18 October. Page 253.)

The Hon. R.R. ROBERTS: The Opposition supports the second reading of this Bill. The Opposition fully appreciates the need for regulation and appropriate disciplinary process in this industry. The framework set out in this Bill follows a pattern of previous occupational regulation legislation which passed through this Parliament in the last year or so. The Opposition is of the view that this framework is appropriate for the security investigation agents' industry. I indicate that I will place on file an amendment which, I am sure, will be greatly appreciated by members of the public who come into contact with members of this industry. The Opposition would like to see agents wear an appropriate identification badge and a number whenever they are on duty or in contact with the public.

I have some personal involvement in this industry, and I do congratulate the Attorney-General for moving to regulate this industry. There has been a common complaint from police officers in particular, and from members of the public who have come into contact with certain members of the industry, commonly known as bouncers. There have been problems of identification not only by people who class themselves as victims of bouncer bashing but also by members of the police who, when altercations take place in public forums, often cannot pick the crowd controller from other combatants. I expect that the amendment will be ready by tomorrow when I will place it on file. My colleague in another place, the shadow Attorney-General, is liaising with parliamentary counsel to try to come up with a form of words which covers some type of uniform and which provides for some sort of identification. The reason for the amendment is obvious, but I will elaborate on that when we go into Committee. With those few brief remarks, I indicate that the Opposition supports the second reading of this Bill.

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

WORKERS REHABILITATION AND COMPENSATION (DISPUTE RESOLUTION) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 24 October. Page 307.)

The Hon. R.R. ROBERTS: The Opposition supports this Bill. At this stage I need to cover some of the history of the Bill. Tonight's consideration of this Bill brings to an end a fairly long and tortuous process in respect of the latest round of amendments to the Workers Rehabilitation and Compensation Act. Members in this Chamber will recall the tortuous process that led us to this consideration tonight. We must go back to the introduction of a Bill that was largely agreed to be draconian in the measures that it wished to institute. There was a process familiar to those involved with industrial relations in the past, where the ambit claim was put forward and we went into battle in a purely conflict situation to see what came out of it. I reinforce my claims by pointing out the unprecedented protests that were inspired by that Bill. The Opposition was approached by the Minister, and I congratulate him for trying to find a process. Members in this Chamber will recall that we moved to have the original offending Bill removed from the statutes so that a process of consultation could take place between the parties. History shows that that was not successful.

We went through a tortuous process in this place to try to reach some resolution until we reached the review and appeals processes. At that stage, at the end of the session, it was quite clear that we would not get a satisfactory conclusion. The angst and acrimony was going to go on, which would have led to inferior legislation. At that stage, my colleague Ralph Clarke and I, along with members of the trade union movement, took up the invitation extended by the Minister for Industrial Affairs (Hon. Graham Ingerson), and the Opposition put forward the proposition that there ought to be three or four way consultation in this process, bearing in mind that, if we talk about workers' compensation being about benefits for the most important commodity in industry, that is, the health and well-being of the work force, it was probably better to do it by consultation or conciliation between all the parties concerned.

It is well known that I am quick to lay the lash upon the Government when it breaches what I believe to be the bounds of decency and commonsense. However, I am also prepared to praise where praise is due. In the process some conditions were laid down from our side of the discussions, such that workers were not to receive fewer rights than they had prior to these negotiations being conducted and that we would enter those discussions on a no prejudice basis and see where we could go. That process was accepted by the Hon. Mike Elliott, by the trade union movement and by the Employers' Federation. That started an unprecedented process in my experience in this Parliament, where those people elected to represent those composite groups met regularly in a spirit of cooperation in an endeavour to get the best workers' compensation arrangements in this area of appeals and reviews, with the overall understanding that there had to be considerable savings out of the process so that we could continue to have in South Australia fair and equitable workers' compensation laws and proper access to consultation, arbitration and justice for injured workers.

The congratulations of this Council ought to go to those participants because, at the end of the day, we have a Bill that has consensus. We in the trade union movement and people in the Australian Labor Party did not get everything we wanted and, obviously, the Employers Federation did not get what it wanted entirely. However, we have achieved an outcome through the process of conciliation. Obviously, there are some areas where we will continue to have differences but, having started the process of consultation and trying to get the best result for workers in South Australia at the best possible price, I hope this process will be ongoing and will not stop when the Bill passes the Council tonight.

I was encouraged by a paragraph in a letter I received today from the United Trades and Labor Council where it talked about conciliation. These words are worth putting into *Hansard* for those of us who are charged with looking after the rights of injured workers and their access to justice and conciliation. The paragraph, written by the United Trades and Labor Council, states:

> Conciliation must provide for interaction between adversaries, the consideration of realistic demands and allow parties to be flexible and open within an environment encouraging the sharing of information and committed to a resolution. Within this framework parties have cause to consider the needs of the other. These things are far more easily achieved where the participants are directly involved and have an interest in maintaining, in many cases, a relationship beyond the proceedings.

Those words are profound. There have been numerous meetings in this process—and this was mentioned by the Hon. Mr Elliott yesterday—and those meetings were ongoing as late as yesterday. Clearly, even with the best intentions in the world, this package is not ideal, and as late as yesterday people were being lobbied on all sides of the discussion. The Australian Labor Party has been quite firm with lobbyists that this forms part of a package deal and we are committed to that package deal and the process.

Yesterday, four areas were canvassed with the Minister and his advisers, and I indicate there was concern about section 92C(5) in respect of consent orders. We have asked that the Minister provide advice from Crown law.There should be a slip rule of some sort within the tribunal itself to overcome any problems. For example, if an agreement is entered into by representatives in cases of duress, fraud, and so on, it ought to be brought back so that it can be put on the record. We will be asking for a commitment from the Attorney-General that an amendment will be forthcoming if there is a problem. I understand that the Attorney-General has looked at that. There was also concern in respect of section 93A and the recommendations by a conciliator. An arbitrator should be able to take into account the recommendations of a conciliator. The recommendations must not contain details of the without prejudice position of any party, otherwise there will be reluctance to be open and frank in the conciliation proceedings. I understand that the Attorney-General has taken that on board.

We also had concern in respect of section 94C(1) as to agreed facts presented to the tribunal and whether they would need to be rearbitrated. We have asked the Attorney-General to provide a clear definition of what is intended there. There is also the question of the employee advocate. A clear preference has been put to the Australian Labor Party that the employee advocate service of the WorkCover system ought to maintain its independence. The view expressed to me is that it conducts a sort of pseudo Ombudsman's role in respect of those people not covered by unions.

I have a well-known prejudice for people to be in unions, but I do recognise the good work that is being performed by the employee advocate service. It has been alleged recently that files have been utilised from the employee advocate service by some officers of WorkCover to the prejudice of the people being represented. There is also a concern in respect of that matter and appointments by a panel consisting of representatives from the Employers Chamber and the UTLC and with direct line of control from the CEO of WorkCover.

It is the clear preference of the Australian Labor Party that this ought to be in the legislation. However, after full and frank discussions we are happy to receive a commitment that that independence will be maintained, that the panel will come under the direction of the CEO and that the panel will consist of representatives from the Employers Chamber and the UTLC, and likewise in respect of the appointment of the manager of the unit.

There is one other section where a great deal of lobbying has been carried out in respect of the amounts awarded for services. I understand that that arises under clause 88G, which deals with regulations for the apportionment of maximum fees. During those discussions we were given assurances that, in relation to any regulation in respect of those matters, the ongoing consultation that we have experienced through this process will be forthcoming once again, and before any regulations are promulgated there will be widespread consultation by all parties interested in the process of workers' compensation, especially in the review and conciliation process.

In relation to access to higher courts, that has also been agreed and we do not intend to pursue that matter. I indicate that we are seeking some clarification from the Attorney-General in those four areas and, if that is forthcoming, it is not the intention of the Opposition to go into long discussion or to question many of the clauses in the Bill. I point out that most of the questions in respect of matters in this area have been raised in another place by my colleague Ralph Clarke, and therefore it would be repetitious and not in the best interests of the passage of this Bill for me to raise them again.

I congratulate the people who have put in the time and effort to come up with the Bill, especially Ralph Clarke and the Hon. Michael Elliott, and I congratulate the Minister on his good wisdom in engaging in this process. I hope that this can serve as an example of what can be done when all the parties engage in discussion before we start the legislative process. It is an indication of goodwill to the work force of South Australia that the Government is prepared to look at its circumstances with a view to providing fair and equitable access to workers' compensation and rehabilitation services in South Australia.

The Hon. A.J. REDFORD: I rise to support the legislation. The Hon. Ron Roberts says that this is part of a fair and equitable compensation system. I have some misgivings about that. I cannot see how we can have a fair and equitable compensation system where the employer is charged an extraordinarily large sum of money to obtain some payments for a period of two years and an extraordinarily large sum of money finishes up in the pockets of the bureaucracy. But, given what occurred during the 1980s when the previous Government decided to have a monopoly situation in respect of the conduct of workers' compensation disputes and the like, we are stuck with this rather alarming bureaucracy that seems to deliver nothing to the workers and costs the employers an absolute fortune.

It is pleasing to see, however, that some commonsense has prevailed so far as the dispute resolution system is concerned. Perhaps that might be a precursor to some commonsense applying, in the overall sense, in considering workers' compensation issues. As I have said in the past, I am a great believer in the occupational health and safety changes that have occurred over the past 10 years, resulting in the reduction of work-place accidents, in terms of the number of accidents as well as their effect on workers. I am a great sceptic about what effect the rehabilitation mechanisms within this legislation will have—and I am not talking about the Bill that is before this place, but the legislation in general—particularly in relation to those workers who have been in the system for longer than 12 months.

I have a great deal of sympathy for those workers who are currently within the system and have been in it for longer than 12 months. They are subjected to extraordinary supervision by bureaucrats and receive minimal amounts of compensation. One would hope that we can look at how we can minimise the extent of the bureaucratic supervision in this whole area to ensure that the real people involved in the system—and by that I mean the employers and employees—can be best served.

The Hon. T.G. Roberts interjecting:

The Hon. A.J. REDFORD: Mr Roberts interjects, 'rehabilitation and retraining'. I repeat: I have not seen any evidence that rehabilitation or retraining has made that much difference. Quite frankly, the sooner we get workers, with the ability and competence to deal with lump sum payments, out of this bureaucratic system and back into the work force, the better. I would suggest to members that most workers have the wit and the ability to rehabilitate and retrain themselves to find alternative forms of work. From a philosophical viewpoint, the Hon. Terry Roberts and I will disagree on this issue until the cows come home. I do not know that we will ever come to any common ground on that issue.

I await with some interest the results of the WorkCover annual report, which are due to be published some time in January or February next year. One would hope that the last round of amendments will have improved the financial situation of the WorkCover Corporation and the overall unfunded liability. As I said in my second reading contribution during the last round of WorkCover amendments, I am exceedingly sceptical that it will have an overall impact—for the reasons I set out on that occasion—on the underlying unfunded liability of the WorkCover Corporation.

I also draw members' attention to some concerns that have been expressed to me over the past six months by various members of the legal profession. One concern relates to issues arising from asbestos. I know that at the moment a number of cases are before the courts which are yet to be decided. If those cases are decided against WorkCover, the unfunded liability could be extended by a very significant sum of money. I have no basis other than what I have been told in private conversations, but some people have estimated it could be in the tens of millions of dollars. I sincerely hope that that is not the case.

I also note that in this legislation there is some restriction in relation to appeals to the Supreme Court. I have some misgivings about that, but if all the parties involved in the negotiations agreed with that point then who am I, as a humble Government backbencher, to interfere with that process? I have some degree of confidence in members of my profession, and indeed I have some confidence in the Supreme Court, that where they see a manifest injustice they will find a way to deal with the injustice that might be inflicted upon the employer, the employee or some other stakeholder in this system. I am surprised about the agreement in relation to legal costs, which some years ago was a subject that was very dear to my heart.

The Hon. M.J. Elliott: Some years ago?

The Hon. A.J. REDFORD: The Hon. Michael Elliott interjects and asks 'Some years ago?' I must say that nearly all my income now comes from the public purse, so I bring to this debate some degree of objectivity. I am somewhat bemused by this, but again I will not interfere with it. I understand that it is prescribed in the legislation that there must be consultation with the Crown Solicitor. In fact, I have a great deal of respect for the Crown Solicitor, to whom I mean no disrespect at all. However, in legal circles he is hardly described as the great costing expert, and I am bemused and perplexed as to why, of all the people who could be chosen to be consulted with, this group has picked the Crown Solicitor. Anyway, we will wait and see what comes out of that. I wish the Crown Solicitor all the best in that undertaking.

In closing, I note that in the other place the Deputy Leader of the Opposition asked the Minister whether or not he would consult with the Law Society. I am pleased to note that the Minister said that he would consult with the Law Society and with employer and employee representatives to ensure that there was a reasonable amount of consultation and, although it was not said, one would hope a reasonable result.

Again, I am somewhat perplexed, but I will not interfere with this little group who came up with this legislation as to why the legislation did not say that there would be consultation with the Law Society and with employee and employer representatives as opposed to the Crown Solicitor. I am sure that the discussions that took place within this group will remain confidential and perhaps even a mystery to all of us.

On balance, apart from those minor criticisms, I will go on record as congratulating all the parties involved. This legislation is a great advance on that which we had before, and I might say that it is looking very similar to the old workers' compensation legislation that was repealed in 1986. I am starting to feel old, but we are almost getting to the point at which the worm has turned so far as the dispute resolution process is concerned. One may even suspect that not too far behind it will be the turn of the clock where the Opposition and the Democrats will come to realise that a centrally run monopoly in terms of workers' compensation in this State is not the way to go and that we can apply more sensible and economic ways to these very difficult issues.

The Hon. K.T. GRIFFIN (Attorney-General): I thank members for their contributions to the second reading of this Bill and their indications of support. As members have noted, the Bill arises out of a consultation process involving members of all Parties in this Parliament as well as representatives of unions and employers. I expect that, as part of the consultation process, there were some matters about which not everyone was happy, but it was an attempt to get what those who were consulting believed would be a workable solution to the dispute resolution system and the problems that it currently faces. A number of issues have been raised in the consultation process and during the debate, and it is appropriate that I refer to several of them. Indeed, some issues have been raised in the submission made by the Australian Plaintiff Lawyers Association since the Bill was passed by the House of Assembly last week.

The Hon. Ron Roberts mentioned four key issues which have been the subject of some discussion and I will make some observations about those. The first relates to consent orders. The Government considers it to be fundamental to the focus on conciliation embraced in the Bill for parties to recognise the binding nature of consent orders made by the tribunal following resolution of a claim at the conciliation hearing. This principle is embodied in clause 92C(5). Some recent submissions made to the Government have argued that the Bill should be amended to specify that consent agreements made by or on behalf of workers or employers under genuine mistake or coercion should be set aside by the tribunal.

The Government has taken legal advice from the Crown Solicitor on this issue. The Government's advice is that, although the tribunal has an inherent jurisdiction to recall its orders, recent legal authorities have interpreted that power in a narrow fashion. The Crown Solicitor has recommended that, if the policy intention is to provide this mechanism, it would be preferable to prescribe a specific jurisdiction in the Bill. There is an amendment on file which will deal with this matter. In order to ensure that this special jurisdiction is exercised without compromising the legislative scheme, the Government's amendment proposes that it be exercised in the same manner as extensions of time, that is, by presidential members or conciliation or arbitration officers designated by the President.

I turn now to recommendations by conciliators. Clause 93A(2) provides that a recommendation made by a conciliator at a conciliation hearing may be taken into account by an arbitrator in the arbitration hearing. Recent submissions have suggested that this may not be a desirable provision on the ground that it may be used to bring before the arbitrator 'without prejudice' positions of the parties. That is certainly not the Government's intention with respect to this clause. The clause is necessary to assist the conciliation process and ensure that recommendations of a conciliator are given due weight and regard by the parties and in the dispute resolution process. It is not the Government's intention that recommendations should include information about the views or positions of the parties. It is the Government's intention that the rules of the tribunal to be promulgated by the President of the tribunal will specify that the conciliation conferences are to be conducted on a 'without prejudice' basis and that any recommendation of a conciliator would include only the conciliator's recommendation for resolving the dispute and not the position of the parties.

With respect to matters in dispute, clause 94C(1) outlines the basis for rehearings before the tribunal. Recent submissions have argued that the Bill should be amended to specify that agreed facts or concessions by the parties can be presented before the tribunal. The Government does not consider an amendment to be necessary to achieve this objective. A rehearing under clause 94(2) relates only to the 'matter in dispute'. There is no need for the tribunal to rehear evidence or make findings on agreed facts or agreed concessions. The Government intends that the rules of the tribunal will make this issue clear and consistent with the policy intention to which I have referred.

The remaining key issue relates to employee advocates. Some recent submissions to the Government have argued that legislative recognition should be given to WorkCover's employee advocates. The Government has given consideration to this issue. The Government agrees that the employee advocates employed by WorkCover must operate with appropriate independence from the corporation and its claim management agents and in a manner that protects confidentiality of dealings between the employee advocate and the worker. The Government does not, however, believe that legislation is necessary on this issue. Rather, the Government intends that the WorkCover Board will be asked formally by the Government to consider and develop a policy on the independence and appointment of WorkCover employee advocates.

The Government will propose to the board that the Chief Executive Officer of WorkCover be appointed under this policy as the responsible officer to ensure that the necessary independence and confidentiality protections for employee advocates are in place. The Government has already been supplied with a draft policy by the United Trades and Labor Council. This draft will be discussed in the coming weeks with the WorkCover Chief Executive Officer and key industry parties in order to establish these formal protections as soon as possible.

I have sought to clarify the Government's position on these four key issues in good faith, and certainly the Government looks forward to the Bill's being passed by the Parliament at the earliest opportunity to enable the new dispute resolution system to be implemented for the benefit of employers and workers.

There are two matters to which I wish to refer, their having been raised by the Hon. Angus Redford. He referred

to the proposal in relation to legal costs under clause 88G and specifically to the fact that, under subclause (2), before proposing a regulation relating to the fixing of a scale of fees, the Minister must consult with the Crown Solicitor. The Hon. Angus Redford asked why the Crown Solicitor. I was not privy to the discussions among the group on this issue, but I can say that the Crown Solicitor does have a special responsibility under the Public Finance and Audit Act under Treasurer's instructions to deal with issues relating to certification of costs being paid by Government. It may be as a result of that that the negotiating committee decided that it would be appropriate for the issue of costs to be developed in consultation with the Crown Solicitor. Like the Hon. Angus Redford, I hope there will be appropriate consultation with the Law Society, which represents the interests of lawyers and which has a great deal of experience also in determining costs and the level of costs which ought to be applied in particular circumstances.

The Hon. Angus Redford also refers to the issue of appeals. The appeals to the Supreme Court are limited. I, like the Hon. Angus Redford, believe that, whilst it may be at least on the surface more difficult to get to the Supreme Court on matters of law and on a case stated because leave has to be granted by the tribunal for that to occur, the Supreme Court has significant inherent jurisdiction and, being the superior court in this State, will undoubtedly address issues of injustice or matters of law which are brought before it perhaps by way of judicial review or other means. In those circumstances, whilst there appears on the face of the Bill to be a limitation on the power of the Supreme Court, I suggest that that will not be an inhibiting factor in the Supreme Court ultimately making decisions on important issues of law and on matters of justice. I suspect that the parties will find that the limitation on the access to the Supreme Court has been misplaced. That is a matter to be identified in the context of experience. Again, I thank members for their indications of support for the second reading of this Bill.

Bill read a second time.

In Committee.

Clauses 1 to 12 passed.

Clause 13—'Substitution of part 6.'

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

Page 14, after line 7—Insert new section as follows:

Power to set aside judgments or orders

88GA. (1) The tribunal may amend or set aside a judgment or order of the tribunal—

(a) by consent of the parties; or

(b) in order to correct an error; or

(c) if the interests of justice require that the judgment or order be amended or set aside.

(2) The power under subsection (1) may only be exercised by the President or a presidential member or conciliation and arbitration officer to whom the President has delegated the power.

As identified, this new section deals with the issue of amending or setting aside a judgment or order of the tribunal by consent of the parties, or an order to correct an error, or if the interests of justice require that the judgment or order be amended or set aside. It is a power which is to be exercised by the President or a presidential member or a conciliation and arbitration officer designated by the President. It really reflects what I referred to in my second reading speech and addresses the difficulty which some submissions have raised with the Government as a result of consideration of the Bill.

The Hon. M.J. ELLIOTT: When I spoke during the second reading stage, I said that I might raise some issues during Committee. This might be an appropriate point at which to comment. I have received submissions from the Plaintiff Lawyers Association, the Law Society and also from the UTLC on a wide range of matters. When I met with those groups I said to them, as I said during the second reading debate, that the Bill was a consensus Bill. I said that it is one where probably both employers and employees could find individual fault but, at the end of the day, it was aimed at producing a better result for all parties involved. I believe very strongly that this Bill has achieved that.

The general policy issues found within the Bill were there with intent. Aside from whether people agreed with all those policy issues individually, if there were drafting issues, I am sure that the committee would be prepared to look at them. With regard to this amendment, the committee felt that the final Bill did not put into effect precisely what we intended. This is a drafting rectification to reflect clearly the intent of the group.

Whilst this is the only amendment to the Bill, I put on the record that a number of undertakings that the Attorney-General gave on behalf of the Government were agreements reached among the three parties, and they address at least three other issues that were raised by the other group which we felt needed addressing and which were consistent with the agreement that we had reached on the broad policy issues.

Rather than my doing a clause by clause analysis, I state that the issues were individually identified by the Hon. Ron Roberts during his second reading contribution. There were responses from the Minister, so I will not go through those again. I indicate that there has been one legislative change, and we anticipate a number of changes happening at an administrative level, particularly under the rules, in relation to the function of the tribunal and changes in relation to the employee advocates who we all agreed had to be independent and whose functioning must be protected.

That was an agreement of all Parties in this place, and I would hope and expect that when the rules are being prepared it will be done with the understanding that it is the intention of all political Parties that those changes indicated by the Attorney-General would occur. If they do not—

The Hon. K.T. Griffin: We'll disallow them.

The Hon. M.J. ELLIOTT: That is right. We will disallow them and Parliament will buy back into the issue if we feel that our clear intent has not been carried out.

The Hon. R.R. ROBERTS: The Opposition supports the amendment.

Amendment carried; clause as amended passed.

Remaining clauses (14 to 17) and title passed.

Bill read a third time and passed.

STAMP DUTIES (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 19 October. Page 278.)

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I thank members for their contribution to the Bill. The Hon. Mr Elliott asked two specific questions of the Government, and I have referred those questions to the Treasurer. The Hon. Mr Elliott asked:

What if the cost of the valuation exceeds the duty that is to be paid? I am not sure who actually bears the cost of the valuation itself, but I suggest that there will be times when the cost of the valuation will exceed that of the duty to be paid. So, I ask what will happen in those circumstances.

The answer provided is that the proposed clause provides that the commissioner may, having regard to the merits of the case, charge the whole or part of the expenses of making the valuation to the person liable to pay the duty. In the example posed, the commissioner would be exercising this discretion and would, depending on the circumstances, make either no charge or only a portion of the charge. The Hon. Mr Elliott's second question was:

> Secondly, the term 'current market rent' is used in this Bill (proposed section 75(1)). There is also a definition of 'current market rent' in section 23(1)(a) of the Retail Shop Leases Act. There are some similarities between the two definitions, but there are also a few minor differences. One of the people who made a submission to me suggested that perhaps a definition for the purposes of this Bill to gain greater consistency between the two Bills could be:
>
> > 'Current market rent' for the property is that rent having regard to the terms and conditions of the lease and other relevant matters that would be reasonably expected if the property were unoccupied and offered for rent for the use to which the property is to be put under the lease.
>
> It is suggested that this would create consistency between the two Acts, even though the application of 'current market rent' was for different purposes.

The answer provided is as follows:

> For the purposes of the Retail Shop Leases Act, the concept of current market rent is used in the context of an option to renew and the determination of rent payable by the issue under an option to renew. The purpose of the amendment to the Stamp Duties Act is to allow the Commissioner to charge duty on what would be a reasonable current market rent for a property where the actual rent paid under the lease is either insufficient or unable to be determined. For stamp duty purposes, the actual terms of the lease and for what actual use the property is to be put, which are elements contained in the Retail Shop Leases Act definition, are not of particular concern.
>
> For stamp duty purposes, what is relevant is what is a reasonable rent for the property regardless of the use to which it will be put and the conditions which might be imposed on that use. Obviously, if the definition for current market rents suggested by the question was to be used in the stamp duty context for the sake of consistency, the Commissioner of Stamps would then be required to seek extra information about the property, the conditions contained in the lease and the use to which the property is to be put under the lease. This may make the process of obtaining a figure for current market rent more complicated than it needs to be for stamp duty purposes.
>
> In summary, as acknowledged in the question, the application of current market rent is for different purposes and, consequently, because differing information is being sought, it is not inappropriate to have different definitions.

Bill read a second time.

In Committee.

The Hon. T. CROTHERS: Speaking on my own behalf and not on behalf of the Opposition, no matter how good and clever our Crown Law people are, when we deal with money Bills such as this—and it happened to us when we were in Government, so this is no criticism of the present Government—it seems to me that it might be appropriate for monitoring committees to be set up in respect of these measures. It seems to me that when one door is shut, as this place frequently tends to do, where it relates to money, another door is opened.

With respect to some parts of the Bill, when a heavy vehicle is transferred back to the South Australian registry, that ties it up with respect to the stamp duty anomalies that exist currently. The same applies to motor cars and the electronic transfer of shares in the Stock Exchange where there is a beneficial interest in the shares that have been electronically transferred. I do not need an answer to this—it is just an observation, but it seems to me that perhaps the Government and the Opposition might look at the situation of having some form of monitoring committee on monetary Bills so that, if anomalies are created or clever loopholes are found, not very much revenue is lost to the Government of the day, because it may take us 12 months or two years to catch up.

Clauses 1 to 6 and title passed.

Bill read a third time and passed.

SUMMARY OFFENCES (INDECENT OR OFFENSIVE MATERIAL) AMENDMENT BILL

Returned from the House of Assembly without amendment.

WAR TERMS REGULATION ACT REPEAL BILL

Returned from the House of Assembly without amendment.

GAS (MISCELLANEOUS) AMENDMENT BILL

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

CONSTITUTION (SALARY OF THE GOVERNOR AND ELECTORAL REDISTRIBUTION) AMENDMENT BILL

Returned from the House of Assembly without amendment.

MOTOR VEHICLES (HEAVY VEHICLES REGISTRATION CHARGES) AMENDMENT BILL

Returned from the House of Assembly with amendments.

ADJOURNMENT

At 11.20 p.m. the Council adjourned until Thursday 26 October at 2.15 p.m.