LEGISLATIVE COUNCIL

Wednesday 5 November 1986

The PRESIDENT (Hon. Anne Levy) took the Chair at 2.15 p.m.

The Clerk (Mr C.H. Mertin) read prayers.

BOTANIC GARDENS CONSERVATORY

The PRESIDENT laid on the table the following interim report by the Parliamentary Standing Committee on Public Works:

Botanic Gardens bicentennial conservatory.

PAPER TABLED

The following paper was laid on the table:

By the Minister of Health (Hon. J.R. Cornwall):

Pursuant to Statute—

Department of Fisheries—Report, 1985-86.

QUESTIONS

RANDOM BREATH TESTING

The Hon. M.B. CAMERON: I seek leave to make a brief explanation before asking the Attorney-General a question about random breath testing.

Leave granted.

The Hon. M.B. CAMERON: An announcement was made yesterday by the Victorian Government that the number of Victorian motorists given a random breath test would double during next year. The Victorian Minister of Transport, in making the announcement, said that 230 000 motorists were tested each year and the figure would increase to 500 000 in the next 12 months. He further said:

> The increase in testing would have the greatest single impact on the road toll in the immediate future.

He released a study that showed that the program would save the community 14 times more money than the cost. I understand that in Tasmania a test has either been developed or is in the process of development to establish whether drivers have been smoking marijuana. By comparison, in this State the Government has failed to implement more than a third of the recommendations from a 1983 select committee report on random breath testing, two of which state quite clearly that the number of South Australian drivers tested annually should be at least doubled.

Senior police have said publicly that random breath testing units do not seem to have a deterrent effect on motorists, and South Australia lags behind the Eastern States in the number of people tested. There has also been concern about whether a test is available for drivers who have been under the effect of marijuana, particularly in view of the on-the-spot fines for simple possession which are soon to be introduced.

I have said publicly for some time that more resources must be allocated towards random breath testing if drivers are to take it seriously. The deterrent effect at present is minimal, as shown quite clearly by the escalating number of deaths and injuries due to road accidents. With Christmas fast approaching—a traditionally dangerous time on the roads—every possible deterrent should be implemented to prevent the unnecessary consequences of vehicle accidents.

My questions are as follows:

1. What tests are available to detect drivers who are affected by marijuana?

2. Do the police currently test for marijuana if they suspect a driver is under the influence of the affect of the drug?

3. If not, what steps will the Government take to upgrade facilities to detect marijuana-driving, and will people be tested at random breath testing sites?

4. Will the Government double the number of people tested at random breath testing stations immediately, even if it means tapping resources from other areas?

The Hon. C.J. SUMNER: I answered a question on this topic only last week or the week before. The honourable member seems to have recycled the question. I gave some comments to the Parliament at the time on the general issue of random breath testing and said that I would refer the bulk of his question to the Minister of Transport for a reply. The same applies to the current recycled question.

MINISTERIAL STATEMENT: LEGIONNAIRES DISEASE

The Hon. J.R. CORNWALL (Minister of Health): I seek leave to make a statement.

Leave granted.

The Hon. J.R. CORNWALL: This matter arises from a question directed to the Minister of Transport yesterday. STA buses are fitted with evaporative cooling systems. A reservoir tank beneath the bus holds water that is recirculated through the roof-top cooler. Evaporative coolers are known to be suitable sites for the growth of algae, fungi and bacteria. Recently concern was expressed about the potential of these units to be the source of legionnaires disease. Though legionella bacteria can be found in some evaporative coolers, including those in STA buses, no cases of disease have ever been attributed to an evaporative cooler. In particular, the operating temperature of these units is quite cool and does not allow the growth of legionella, which favours warm water.

After finding legionella in water samples from some buses in March 1986, the STA requested assistance from the Public Health Service in advising on methods of elimination of these organisms from the cooling systems and to assist in disinfection studies. The first meeting between STA engineers and Public Health Service officers and union representatives was held on 1 April 1986 to consider an agreed approach to minimising the risks to the drivers and passengers. A number of meetings since then addressed the need to devise maintenance schedules that could reduce any risk of infection from exposure to these evaporative coolers by this summer. Mid-November was viewed as a target by which time the units could be put back into service.

On advice by a chemical company to STA trials with a biocide were commenced with SAHC assistance. SAHC helped with design of experiments and with the sampling. IMVS supplied innocula of a common environmental strain of legionella, for the experiments and did the assay work. The experiments were conducted by STA engineers and SAHC health surveyors in buses held at the Elizabeth STA workshops.

Towards the end of September the experiments showed that the biocide was relatively ineffective and new data from the company suggested that exposure to the product may result in skin sensitisation. Use of that biocide was stopped forthwith and a new series of experiments using chlorine was commenced. These were designed to result in

rapid disinfection of the cooling units during programmed mechanical servicing of the buses.

The experiments with chlorine are still in progress and final results should be available by the mid-November deadline. Because the cooler units have been dry all winter and were previously dosed with biocide—that is, the cooler units in other buses—it is now considered safe to use the units to provide a forced draught, in other words, use the fans. The SAHC is confident that the present work should lead to the development of a simple, effective, maintenance schedule that will pose no occupational risk to bus operators, and achieve a greater degree of air hygiene for passengers than has been previously available. The STA in consultation with the Australian Tramways and Motor Omnibus Employees Association is taking an approach which will ensure that with a very high degree of certainty no legionella can survive in the coolers. Once the units are operating further tests are planned which may lead to reducing the stringency of the disinfection protocol.

GUARDIANSHIP BOARD

The Hon. K.T. GRIFFIN: I seek leave to make a brief explanation prior to asking the Minister of Health a question about applications to the Guardianship Board.

Leave granted.

The Hon. K.T. GRIFFIN: I have had a number of criticisms drawn to my attention of the attitude of social workers and other professionals at Julia Farr Centre and Morris Ward in relation to applications to the Guardianship Board. The concerns which have been expressed to me relate to the procedures for appointing a guardian for or a manager of the affairs of a resident. The complaints relate particularly to a lack of consultation with the resident or patient who is the subject of an application for appointment of a guardian or a manager of the affairs of the resident and a lack of consultation with close relatives. In the cases which have been drawn to my attention, social workers or other professionals have made applications without any consultation at all with relatives, and the first they have known about it is when they have received notice of an order having been made or a request to attend before the Guardianship Board. Then, when appeals have been made to the relevant appeal tribunal, they feel that the appeal has been a mere formality and no real attention has been given to the substance of the appeal. Then, when the appointment of a manager or guardian is made, and that is usually Public Trustee, there is a reluctance to consult with relatives about the needs and welfare of the person subject to an order, and that is a reluctance apparently on the part of Public Trustee—which, of course, does not come within the jurisdiction of the Minister and I am not relating my question specifically to that.

In one case which has been drawn to my attention, an elderly man gave up work to care for his wife who had multiple sclerosis and he did so for some 13 years. Subsequently, she was admitted to Julia Farr Centre. The first he heard of an application for a guardianship order was when the board requested him to attend a hearing initiated by the social worker at the Julia Farr Centre. In that instance, the man's wife made it clear that she wanted her husband to look after her affairs, but the board in fact appointed Public Trustee. The couple have a jointly owned home but the small superannuation which was in the wife's name, although contributed to by the husband, now is not permitted by Public Trustee to be available for maintenance and repairs of that jointly owned house.

In another case involving a patient at the Morris Ward—and he was there because he sustained injuries in a motor vehicle accident—an application was made to the Guardianship Board, apparently without the patient's knowledge and without the parents' knowledge, and when they appeared before the board, they believed they were treated in a cavalier fashion. There are other complaints which have been drawn to my attention along the same lines. These problems have to be addressed at the earliest point before any application is made and there has to be a recognition that there is a right for the person who is to be the subject of an application and for close relatives to be involved in consultation about the person's future, where it involves the State becoming involved in controlling a person's affairs. My questions to the Minister are:

1. Will the Minister investigate the procedures and practices currently followed by social workers and other professionals in making applications for orders appointing managers and guardians?

2. Will the Minister ensure that consultation with the patient and close relatives is required before any action is initiated before the Guardianship Board?

The Hon. J.R. CORNWALL: There are a number of unsubstantiated allegations which the Hon. Mr Griffin has made. If he would be kind enough to provide me with the names and details, subject, of course, to the permission of the individuals concerned, then obviously I would be very pleased to investigate the matters that he has raised. However, by direct implication, he has criticised social workers and others and he has also criticised the proceedings and, presumably, the members of the Guardianship Board. I want to say at once that all of the evidence that I have indicates that the Guardianship Board in this State works very well indeed. It handles a very large workload and by the very nature of the people who appear before it, for a very wide range of reasons, it has an enormously difficult job.

It is fair to say that two previous part-time Chairmen (both of whom I am sure would be known to the Hon. Mr Griffin because they are both members of his profession) found that their health was so adversely affected by the stresses of chairing the Guardianship Board that they were forced, reluctantly, to resign. It is a very difficult and vexed area. Because of the increasing workload the Government, on my recommendation, took a decision some 12 months ago or a little longer to appoint a permanent full-time Chairman of the Guardianship Board, a magistrate, because of the onerous nature and difficulties of the work.

The workload continues to expand. I would be surprised, based on my knowledge of the way in which the board operates and my knowledge of most of the members, if they had acted in a cavalier fashion on these or any other matters. Regarding a review, of course it is not the Guardianship Board's role to review. For that reason we have specifically established under Statute, and have had established under Statute now for almost a decade, the Mental Health Review Tribunal, and there are procedures which guarantee that decisions of the Guardianship Board, where appropriate, are reviewed, and reviewed on a regular basis.

In summary, I make it clear that all the evidence is that the Guardianship Board in this State functions very well. It is certainly used and has been used as a model for other States in developing similar legislation and procedures. Its decisions are reviewed by the Mental Health Review Tribunal and in this very vexed area it does a splendid job. However, as I said, if there are particular cases of people being less than fully satisfied with the proceedings, which is inevitable in this particular jurisdiction, and if the mem-

ber with the consent and prior knowledge of the individuals concerned brings their names and details to my attention, I will certainly have the individual cases investigated as he requests.

SHOP ASSISTANTS

The Hon. DIANA LAIDLAW: I seek leave to make a short explanation before asking the Attorney-General, representing the Minister of Labour, a question about hours for shop assistants.

Leave granted.

The Hon. DIANA LAIDLAW: Earlier this week South Australia's 60 000 shop assistants were granted a 38-hour week by the South Australian Industrial Commission. The new hours are to come into effect from 1 December and will bring South Australian workers into line with shop assistants in New South Wales, Victoria and Western Australia. The decision has been described by Mr John Boag, the State Secretary of the Shop Distributive and Allied Employees Association, as a breakthrough for retail employees. I am not aware whether the decision will have any impact on what I understand is the union's principal concern (that is, the massive shift over the past decade from full-time to casual employment) or any impact on consumer demand for extended shop trading hours in this State.

Members may recall that, when retail employees in New South Wales were granted a shorter working week in 1984 following a royal commission report by Mr Justice Maken, the reduced hours were an integral part of a comprehensive package that promoted permanent employment of both a full-time and part-time nature and extended shop trading hours to meet consumer demands. In relation to the application for a 38-hour week for shop assistants in South Australia, did the South Australian Government make a submission to the commission recommending that a 38-hour week be accompanied by, first, initiatives to encourage the promotion of permanent employment of both a full-time and part-time nature and, secondly, an extension of shop trading hours on Saturday from 12 noon to 4 p.m. or beyond? If not, will the Minister explain why these benefits, which are enjoyed by employees and consumers in New South Wales, should not be extended to South Australian employees and consumers?

The Hon. C.J. SUMNER: It may be that what the honourable member perceives to be in the interests of consumers is not in the interests of employees. As I understand it, employees are not happy to have trading hours extended to Saturday afternoons, so the question asked by the honourable member seems to have an inherent inconsistency in it. She indicates that, if certain proposals were put forward, they would provide benefits for consumers and employees. As I said, as far as I am aware, employees are opposed to—

The Hon. Diana Laidlaw interjecting:

The Hon. C.J. SUMNER: They are not. The honourable member raised the question purportedly on their behalf and I am telling her that the employees have not hitherto been in favour of extended shopping hours so, as far as I am aware, no submission to that effect was put to the Industrial Commission. Also, I think it is worth bearing in mind that the circumstances in New South Wales may not necessarily be the same as those in South Australia.

The question of shopping hours is a difficult one. The concept is opposed not only by employees but also, as the honourable member would probably know, by small business groups. It is not just a simple matter of a stroke of the pen to increase the trading hours of shops. The strong support for increased shopping hours comes from the major retail chains, but even the larger retailers as opposed to the small business people are not necessarily unanimous on this topic. Of course, from the consumer point of view, one must examine what negatives may arise as a result of increased shopping hours. It may affect the price—I do not know—and I cannot express an opinion on that at the present time but, if one extends the hours and sells the same amount of product in that extended time, presumably one's costs are increased. It may be that that would have an adverse effect on price, so that may not necessarily be to the benefit of consumers.

It is certainly superficially an attractive proposition, but I think that it needs more work before I am prepared to indicate that the Government has made a decision on this matter. As far as I am aware, nothing in the decision on the 38 hour week for shop assistants related to the two other matters which the honourable member mentioned, but I will refer the question to the Minister of Labour and, if the position is any different from that which I have outlined in the Council this afternoon, I will bring back a reply.

CHEMICAL SPILLS AND LEAKS

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister of Health, representing the Minister for Environment and Planning, a question about chemical spills and leaks.

Leave granted.

The Hon. M.J. ELLIOTT: Following the chemical spill at Gillman, a great deal of concern was expressed that the emergency procedures that we had to cope with such incidents were inadequate. It was that sort of concern that led me to ask the question three months ago concerning the warships' visits and what sort of contingency plans we had. Over three months later the Minister still has not answered that question.

Members may recall the problems that were experienced in relation to the recent chlorine spill and the chlorine gas itself which escaped from the plant at Port Adelaide. There was a great deal of concern that people who live in the immediate area had been given inadequate warning and were in fact put at risk. I ask the following questions:

1. Will the Minister release a report explaining the incident, how it came about and what moves the Government intends in the light of that experience?
2. Were any offences committed?
3. Will there be any legal action and, if so, what penalties could apply?
4. Who will bear the cost of the clean-up?
5. Is it the case that there was a considerable delay before nearby residents were warned about the chlorine leak?

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

SPEECH PATHOLOGY

The Hon. R.J. RITSON: I seek leave to make a brief explanation before asking the Minister of Health a question about speech pathology services.

Leave granted.

The Hon. R.J. RITSON: The profession of speech pathology involves a good deal more than elocution: it involves dealing with patients who have undergone neurosurgical

procedures that have affected their speech, dealing with people who have had their larynx removed and who must learn alternative methods of speech and dealing with people who have had a stroke and need to learn to speak again. The people who do this work must understand the psychology of the patient in that situation as well as the pathology and physiology involved in the condition from which they suffer. Thus, those people are a very important part of hospital services.

In recent months I have received copies of internal correspondence from the Royal Adelaide Hospital describing the need for rationing of these services. Essentially, the services were to be confined to neurosurgery and cancer cases, and in particular there was to be a limitation of services to stroke victims because of the shortage of speech pathologists. I am aware that the Minister has received advice that there are too many speech pathologists, as some of them cannot get jobs in South Australia. The reason is that, first, there are not many positions in South Australia and, secondly, the positions are advertised out of kilter and out of sequence with the graduation of students from the colleges so that, when the positions are advertised there is no supply of graduates to fill them but, when the graduates leave the colleges, those positions have been advertised and filled, in some cases by people from interstate, so South Australian graduates then go interstate.

I am also aware that the Minister, to his credit, has created new positions outside the metropolitan area. I was pleased about that, but I believe that he has been wrongly advised about the inadequate supply of speech pathologists at the Royal Adelaide Hospital. I have outlined the reasons why that appears to be so. I checked by telephone with concerned individuals about 2½ weeks ago to confirm that the rationing at the Royal Adelaide Hospital was still in force, and it was at that stage. Will the Minister personally address the matter and report to this Council on the state of speech pathology services in that hospital, and, if he considers there is a need to create more positions, will he do so?

The Hon. J.R. CORNWALL: A number of interesting points were raised in that question which I will attempt to cover without taking too much time. First, Dr Ritson pointed out very clearly the sort of thing that has been concerning me for some time when individual hospitals have, or believe they have, autonomy. The way in which their global budget is allocated ultimately depends to some extent on just how strong heads of individual departments are. There is a great deal of politicking within the hospital village, as Dr Ritson would know. In this case at the Royal Adelaide Hospital a decision was taken that, within the available cake, speech pathology services could be reduced. That position should not have arisen: it is not a situation that we can tolerate.

For that reason, of course, we are currently examining the relationship of individual hospitals to the planning of health services generally. It is imperative that we achieve a system in which there is coordination and integration between hospitals and where the allocation of resources is such that we achieve a balance of health professionals to provide services at an adequate level. In a sense, that highlights the reason why we are looking at some modification (and I stress 'modification') of the current relationship within hospitals and between hospitals and in turn the relationship of the hospitals to the commission and to the office of the Minister of Health.

With regard to the alleged shortage of speech pathologists, that information was given to me over quite a period. Indeed, I am sure that Dr Ritson will recall that at one stage following the matter being raised in this place I spoke to the then Director of the South Australian College of Advanced Education to ensure that there was no reduction of the annual intake of students to the primary course for speech pathology. In the event, that information was not accurate. The supply and demand had not been matched and the honourable member is quite right that we have tended in the past to advertise the positions at the wrong time of the year. In fact, this year the graduates graduated mid-year (as they normally do) and I had to have people scurry around the health system and create five positions (all of which were needed, I might say) with a sense of urgency to take up newly graduated speech pathologists who would otherwise have been unemployed or would have had to move interstate. That is a situation which I cannot tolerate and which must not be allowed to persist.

Therefore, I have expanded and upgraded our inquiry or survey of the allied health professions. We recently appointed a Director of Human Resources at executive officer level, and one of the charters of that officer will be to review all the allied health professions and try as accurately as possible to make forward projections, allowing us to match supply with demand. Of course, that is happening nationally with the medical profession at this moment. A national inquiry into manpower, resources and future training of members of the medical profession is being undertaken. At our State level, the Director of Human Resources is surveying the projected needs for supply and demand of not only speech pathologists but also physiotherapists, occupational therapists and all the other allied health professionals.

ISOLATED PERSONS TRANSPORT

The Hon. PETER DUNN: I seek leave to make a brief explanation before asking the Minister of Health a question about the Isolated Patients Travel Assistance Scheme.

Leave granted.

The Hon. PETER DUNN: We know that the Federal Government is delegating its responsibility for this scheme to the State—that has been well documented. However, questions have been asked by people who may be users of this scheme. Has there been any change in the criteria for persons using the isolated persons travel assistance scheme? Who will administer the scheme? Given the budget cuts which are obvious under the present Minister, are any cuts to this scheme likely? How much has been set aside for that scheme State-wide in the 1986-87 budget?

The Hon. J.R. CORNWALL: I feel quite hurt by that latter remark. It is a known fact that in the 1986-87 budget all 13 Ministers of this Government have been forced to ask their departments and statutory authorities to effect some responsible savings. Having said that, I turn to the specific question of the Isolated Patients Travel Assistance Scheme (IPTAS). The legislation to transfer the responsibility of IPTAS from the Federal Government to the State Governments has now passed the Federal Parliament. Only late last week I received correspondence from the Federal Minister, Neal Blewett, confirming this. He also confirmed that the administration of the IPTAS scheme would pass to the States from 31 December 1986 and from 1 January 1987 it will be our responsibility. It will be administered by the South Australian Health Commission. There will be no cuts—not even responsible savings.

The amount that has been allocated in 1985-86 and the half year amount for 1986-87 allocated by the Federal Government will be transferred and indexed, so there will be ongoing funding without any reductions under the agreement from the beginning of the calendar year 1987. With regard to the criteria, there have certainly been anomalies

under the IPTAS scheme which are currently being reviewed. There may well be some modification and changes in the criteria. I am unable to give any details at the moment because I have not had specific proposals put before me. However, I can assure the honourable member that at least some of the anomalies will be addressed. In recent years there has never really been enough funding available under the IPTAS scheme to meet the demands on it at a level that ideally we would like to have been able to have. However, we are reviewing the guidelines and the anomalies that have been drawn to our attention. The amount of funding will at least be constant.

SBS TELEVISION

The Hon. C.M. HILL: Will the Minister of Ethnic Affairs say whether the Bannon Government has emphatically stated its opposition to the Federal Government's plan to amalgamate the Special Broadcasting Service with the ABC? If so, has it formally advised Mr Hawke and the Federal Government accordingly?

The Hon. C.J. SUMNER: I thank the honourable member for his question. The answer is 'Yes'. A letter was sent by the Premier to the Prime Minister some time ago expressing the State Government's concern about the decisions taken in the context of the Federal budget not just with respect to the ABC and SBS but also with respect to all other matters dealt with in that budget, including reductions in funding for English as a second language, multicultural education and the like. Those matters have been taken up by the State Government in a letter to the Prime Minister. The State Government has made its position clear, reaffirming its commitment to the sorts of policies which it has been responsible for implementing over the past four years and requesting reconsideration by the Federal Government of the decisions which we believe ran contrary to those general policies, those decisions having been taken by the Federal Government in the context of the budget. The simple answer is that an objection has been lodged not just on that topic but on the other matters where the Federal Government has made budget adjustments in the ethnic affairs area.

EDUCATION FUNDING

The Hon. M.S. FELEPPA: Has the Attorney-General a reply to my question of 26 August on education funding?

The Hon. C.J. SUMNER: Following the Federal budget changes in the areas of English as a second language, multicultural education, special education, ethnic schools and education centres it has been necessary to review the State's role in these programs. The South Australian Government already provides approximately $1 million towards the English as second language program. The State Government will inject an extra $1.6 million into State schools next year to support the ESL program for the benefit of thousands of schoolchildren. Had this action not been taken, 63 of the 134 ESL teacher positions would have been lost. The State Government now has major responsibility for the ESL program and will review it to ensure that maximum support is directed to the classroom. This is in accordance with the State Government's 'back to school' thrust.

In addition to the $1.6 million to be injected into the program by the State Government, South Australia's share of extra Commonwealth funds provided for minority ethnic education should provide about $300 000 towards support for students of non-English speaking backgrounds. With resepect to the Multicultural Education Coordinating Committee, the State Government already provides $40 000 and has agreed to contribute a further $100 000 to allow MECC to continue to function. The State Government is continuing to review the impact of Commonwealth reductions in professional development, special education and other areas, to assess what action it could take to support those programs.

UHRIG REPORT

The Hon. R.J. RITSON: I seek leave to make a brief explanation before asking the Minister of Health a question about the Uhrig report.

Leave granted.

The Hon. R.J. RITSON: There has been much discussion about the Uhrig report which highlighted some failings of the Health Commission and suggested certain reorganisations.

The Hon. J.R. Cornwall interjecting:

The Hon. R.J. RITSON: In my view it highlighted the failings of the Health Commission to fix the failings of the hospitals.

The Hon. J.R. Cornwall interjecting:

The Hon. R.J. RITSON: Madam President, I seek your protection.

The PRESIDENT: Order! The Hon. Dr Ritson has the floor.

The Hon. R.J. RITSON: The subject of my question is specifically the reference made to the relationship between the universities and the teaching hospitals. The Minister will remember in this Chamber telling us how proud he was of the expertise which has been attracted to Flinders Medical Centre in particular. This attraction was because of the gown element—the academic element—rather than anything specifically spectacular about Australian pay and conditions. One has only to recall the recent walk-out of the conductor of the Sydney Symphony Orchestra who came here on a four-year contract, looked at the value of our dollar and renegotiated—

The PRESIDENT: Order! The Sydney Symphony Orchestra has nothing to do with the Uhrig report.

The Hon. R.J. RITSON: It is an analogy relevant to our ability to attract people from overseas. Very few people of excellence would come from overseas to work for our Public Service with the salaries and our marginal tax rates and the dollar the value that it is, but people will do so for academic recognition and status. It is absolutely vital that the position of our universities and their presence within the teaching hospital system is not eroded.

The remarks made by Mr Uhrig in his report indicated a lack of understanding of the nature of the relationship between universities and the teaching hospitals because he seemed to think that training in high technology medicine and postgraduate training was somehow directed by the universities, when in fact it is part of the hospital service.

The Hon. J.R. Cornwall interjecting:

The Hon. R.J. RITSON: The Minister's form of interjection makes me more and more concerned. My question is: what interpretation does the Minister place on Mr Uhrig's remarks in relation to the universities and what changes does the Minister envisage might be made as a result of Mr Uhrig's remarks?

The Hon. J.R. CORNWALL: Ms President, may I say at once that I believe that, in many respects, the Uhrig report is a good report indeed. Far from John Uhrig not under-

standing the system, as Dr Ritson alleges, I believe he came to grips with it remarkably well and very quickly. It is sometimes those inside the forest who cannot quite see about them. Mr Uhrig brought the perspective of a very successful industrialist to bear on the way that health services are organised. He looked at it as somebody who has had very great experience in the private corporate sector. I would have thought that his ability to review the organisation of health services or hospital services from that perspective would be beyond question. He is, among other things, Chairman elect of CRA, Australia's second biggest company.

The scenario which he drew and one of the ways in which we might organise trans hospital services, and the way in which we might organise individual clinical services and their budgeting across hospitals, was very refreshing indeed. In other times, and may be at a later stage of our evolutionary development, Adelaide may be ready for the concept of a single professional board of directors—an Adelaide Hospitals Board. There is great merit—I repeat, great merit—in that recommendation. However, there have already been widespread consultations with a lot of stakeholders—interested parties, including representatives of boards, administrators, administrations generally, some of the senior consultants, and senior specialists who either work as full-time salaried specialists in the hospital system or as visiting specialists.

On balance, the commission is preparing for me an options paper. I will be discussing the preliminary set of options with the Premier early next week. There will then be further consultation within the system and, ultimately, I would hope that we may well issue an options paper for even further discussion, so that by the time decisions are made to make our very good metropolitan public hospital system even better we will have widespread agreement within the system as to what are the best ways to achieve that.

One of the things that both John Uhrig and Ken Taeuber and their committees have recommended is a modification in the relationship between individual hospitals and the Health Commission and the office of the Minister. There is widespread agreement—and this has been further supported by Mr Ian Bidmead, our senior legal consultant, who has just completed a review of the Health Commission Act based on nine year's experience of its operation—that there needs to be a changed relationship, both in legal accountability and administration, between individual hospitals, the central health authority, whatever that might ultimately be, and the office of the Minister of Health. I have talked about accountability and responsibility in this place ever since I have been Minister of Health. I am very pleased to have not one but three independent opinions of experts, covering the public sector, the private sector and the legal aspect, all of which confirm that I was right in my views in general terms as long ago as when I first canvassed the matter in February 1983.

With regard to the relationship with the universities and the very vital and important teaching role of our metropolitan public hospitals, that is clearly a matter for negotiation. At the moment I think the idea of both universities having access to all the metropolitan public hospitals is probably of a magnitude that would cause them to have tremendous indigestion. In fact, one imagines that, at this point in our history, it might cause them to have severe colic. In the event, those matters will be the subject of discussions as this round of consultation proceeds, but I would not envisage during my time as Minister of Health that those particular recommendations would be likely to be implemented.

TOURISM

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Minister of Tourism a question about the tourism industry in South Australia.

Leave granted.

The Hon. L.H. DAVIS: There has been an understandable increase in the number of domestic, interstate and overseas visitors to South Australia during the Jubilee year. The Minister has quite rightly mentioned that fact in this place quite recently. However, there is a general agreement in the tourism industry that this could well be a one-off boost. An outline draft of the tourism development plan was presented at the South Australian Tourism Conference in September, and papers prepared by the Department of Tourism were frank about South Australia's performance in the highly competitive tourist market. The facts reveal that South Australia's percentage of national visitor nights has fallen in recent years. For international, interstate and intrastate visitor nights—all three sectors—South Australia's share of the national aggregate is down.

In international nights, we were receiving 8.3 per cent of national all purpose travel nights in 1982-83. The latest figures show that it has fallen to 6.1 per cent. Similarly, South Australia's share of interstate travel nights had fallen from 8.8 per cent in 1982-83 to 8.3 per cent. Also, with intrastate travel nights, South Australia's share of the national figures had fallen from 7.5 per cent in 1981-82 (which was a peak) to 7 per cent in the most recently published figures of 1984-85. In all these three categories South Australia's position has deteriorated since 1982-83. In sharp contrast, New South Wales, Queensland, Western Australia and the Northern Territory have all enjoyed strong growth in that same period. Equally disturbing is the fact that the Department of Tourism in these papers tabled within the past few weeks admitted:

> South Australia has been experiencing a no growth situation.

That was referring to the past few years. The paper continued:

> Based on its recent performance South Australia will have to work hard to maintain and improve its market share.

The Minister herself admitted to the Estimates Committee that there had been little or no growth in domestic visitor nights in South Australia over the past four years. Notwithstanding the fact that our share of tourism dollars in Australia is slipping, the Minister has refused to set specific goals for the tourism industry, for example, that there should be perhaps a minimum 10 per cent growth in international visitor nights per annum for the next few years. Indeed, she has criticised the shadow Minister of Tourism in another place for suggesting this, saying that it is a superficial approach to the problem.

The Minister of Tourism would know full well that the Australian Tourism Commission sets goals such as this; the private sector invariably sets specific targets for achieving market share and a certain percentage improvement in profits. My questions are:

1. Does the Minister accept the accuracy of the department's recent written confirmation of the fact that South Australia has had a no growth situation after allowing for the one-off impact of the 1986 Jubilee year, and that this sobering evidence is in sharp contrast to her claim that these are boom time conditions for the tourism industry in South Australia?

2. Why does the Minister refuse to set specific goals for the tourism industry in South Australia when the Australian Tourism Commission and other tourist authorities make that a high priority when it comes to setting future targets?

The Hon. BARBARA WIESE: If the Hon. Mr Davis spent more time in this Chamber he would probably have some appreciation of my replies to those questions. If he consults *Hansard* of last week—

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: —he will find the answers to the questions that he asks, and he would be aware that during this year there has been a growth in visitor nights in South Australia, and that is a very encouraging sign for the tourism industry here. He would also be aware, if he bothered to read the *Hansard* and to take—

The Hon. L.H. Davis: I was here. I listened to the answer.

The Hon. BARBARA WIESE: You did not. You moved out of the Chamber during the time I was answering that question.

The Hon. L.H. Davis: That is not so—

The PRESIDENT: Order!

The Hon. BARBARA WIESE: It is true. The Hon. Mr Davis left the Chamber when I was answering that question. If he had stayed he would have heard the reply and he would realise that there have been a number of developments in this State during the past 12 months or so which are not just one-off events at all in terms of our ability to attract visitors to South Australia but which, hopefully, will have a more lasting effect.

The Hon. L.H. Davis: Why is an interjection of mine appearing in the answer to the question?

The Hon. BARBARA WIESE: Because you were here for the first part of the reply, but you were not here for the majority of the reply.

The Hon. L.H. Davis: But I can read—

The PRESIDENT: Order!

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order, Mr Davis!

The Hon. L.H. Davis: I have been misrepresented, that is all, Madam President.

The PRESIDENT: Order! I have called the Hon. Mr Davis to order. If he wishes to make a personal explanation there is a time and place for doing so. The Minister has the floor.

The Hon. BARBARA WIESE: Thank you, Ms President. As I was saying, a number of developments have taken place in South Australia during the past 18 months or so which, hopefully, will help us to boost our tourism numbers beyond the special circumstances that have existed during 1986 with respect to events such as the Jubilee 150 functions. The casino and new convention centre are both very substantial developments in this State which will have an impact that will last way beyond 1986. As I have already said in this place previously, during the Estimates Committee and in other public venues, we will possibly experience a dip of some kind during 1987. That is to be expected when one takes into consideration that a large number of the visitors who have come to South Australia during 1986 have been people who have come in association with particular conventions and conferences that have been held here during the year to coincide with our Jubilee 150 celebrations.

A number of conferences and conventions were brought either forward or backwards to coincide with this year. That means that a number of those conferences which would normally have been held in 1987 will not be held then. We can expect to see a difference in conference numbers and, therefore, visitation with respect to that form of visitor numbers during 1987. The Hon. Mr Davis has talked about growth that has occurred in other States, but he fails to tell members that those growth figures are not consistent around Australia. In fact, States such as Victoria and Tasmania, for example, have experienced a stable growth situation in much the same way as South Australia has up until this past 12 months.

I am sick and tired of hearing members of the Opposition in this place and publicly downgrading the efforts that are being made in South Australia both by the South Australian Government and the private sector in tourism to lift our game and image, and to improve our performance. The Opposition is never satisfied to say, 'You have done a good job. Good things are happening in South Australia. Let's get on with it; let's support it; let's boost it.' The Opposition never does those things. It sits in this place and whinges, whines and groans. It complains and criticises the efforts of South Australians who are actually trying to get off their backsides and do something for this State, and it is a pity that the Hon. Mr Davis and the rest of the whingeing team do not do the same.

PERSONAL EXPLANATION: MINISTER'S REMARKS

The Hon. L.H. DAVIS: I seek leave to make a personal explanation.

Leave granted.

The Hon. L.H. DAVIS: During the answer to my question a few minutes ago the Minister of Tourism suggested that I was not in this Council during a response she made to a question by the Hon. Terry Roberts on 29 October.

The Hon. J.R. Cornwall interjecting:

The Hon. L.H. DAVIS: Exactly, and the Hon. John Cornwall has picked up the very point I want to make. It is pleasing to see a Minister of the Government remembering that I was here and, in fact—

Members interjecting:

The PRESIDENT: Order!

The Hon. L.H. DAVIS: That is right. It is good to see the Hon. John Cornwall, in a rare display of bipartisan support, agree with the point I am making, that is, that *Hansard* records my presence with a very telling interjection on page 1564. I remind the Minister that that is a pretty cheap shot to make, because all members, whether Ministers, backbenchers, frontbenchers of the Government or the Opposition, are called out of the Chamber from time to time during Question Time and also during general debate. The fact is that, although I was not present, the Hon. Ms Wiese should be reminded of the fact that I can read and read quite well, and I have read that answer. I hope that in future the Hon. Ms Wiese will resist making such cheap and irrelevant shots.

LAND AGENTS, BROKERS AND VALUERS REGULATIONS

The Hon. J.C. BURDETT: I move:

That the general regulations under the Land Agents, Brokers and Valuers Act 1973 made on 25 September 1986 and laid on the table of this Council on 21 October 1986 be disallowed.

The only parts of the regulations to which I object are portions of the sixth schedule which relate to a code of conduct to be observed and obeyed by all operators of rental accommodation referral businesses. I believe that our powers of dealing with subordinate legislation are defective in that the only action that I can take is to move disallowance of a whole set of regulations (most of which are good),

because I object to one small part of them. This situation was discussed in Pearce on 'Delegated Legislation' at page 146 where he says:

> On another occasion in the period mentioned, a motion for disallowance of a zoning scheme was also defeated. This case pointed up a difficulty in the disallowance procedure. Objection was taken to one aspect only of the whole scheme. However, the view was taken that it was not possible to disallow part only of a scheme (similarly, part only of a set of regulations cannot be disallowed). Accordingly, it would have been necessary to disallow the whole scheme to get rid of the objectionable portions. A motion to that effect was moved following on an adverse report from the committee but, before it was dealt with, the committee in a second report apparently recommended that there be no disallowance of the scheme. The motion to disallow was defeated in both the Legislative Assembly and the Legislative Council (S.A. Parl. Deb. 1972, Vol. 2 at 2190 and Vol. 3 at 3310, respectively). In the Legislative Council the motion resulted in cross Party voting.

It is not appropriate to debate this issue at this stage. I was somewhat amused by the title of the code (namely, 'a code of conduct to be observed and obeyed' by all operators of rental accommodation referral businesses). I think it would have been sufficient to refer to it as 'a code to be observed': the addition of 'and obeyed' is superfluous, oppressive and heavy handed. Even in marriage, one does not have to obey any more.

The evidence, which has been tabled in Parliament, of Mr Harold Steele of Centalet, a referral agency, to the Joint Committee on Subordinate Legislation makes it clear that some of the members of the committee were not familiar with the operation of these agencies. I assume that it is common for members of Parliament not to be aware of the operation of these agencies, so I will begin by outlining briefly the nature of these operations. The operations of rental accommodation referral businesses do not involve those of letting agencies and they do not negotiate or finalise leases to residential tenants. These activities are undertaken by the owners, or by licensed land agents.

The services offered by the referral agencies involve providing to clients, in return for a fee, a listing of residential tenancies which are available. The lists are given by location in suburbs and considerable details are given as to the number of rooms, the kinds of facilities and amenities, whether the premises are suitable for children, whether pets are allowed, and so on. The standard fee charged to clients was $25, but it has now risen to $40. The payment of that fee entitles clients to the services of the agency for three months. Addresses of agents, owners or the premises are not given. The accuracy of the details relating to the availability of the premises is verified. Contact telephone numbers of the agent or owner are, of course, given so that the contact can be made. Quite often clients need the premises urgently (say, as of 12 hours) and the agencies often can provide information which enables the client to find premises within that time. Some years ago, when I lived in the country, I needed quickly a flat in the metropolitan area. I went to one of these agencies where the fee was then $25 (as opposed to the current $40) and within 24 hours I got what I wanted. I regarded the money well spent.

While I was Minister of Consumer Affairs some questions were raised in Parliament about the ethics of the services provided by these agencies. The questions were raised largely by the then member for Brighton, Mr Glazbrook. It was suggested that sometimes the premises listed had ceased to be available for letting, and so forth. The department received a very low level of complaints and initially I responded accordingly. The parliamentary questions implying complaints and dissatisfaction continued and I commissioned private consultants to carry out a survey. I think that this involved about 500 people. This showed that clients of letting referral agencies did indeed have complaints along the lines that they paid their money because they were desperate for premises and that many of the premises listed were not in fact available. Many of the clients were desperate and disadvantaged people who would not make complaints to a Government agency, such as the Department of Public and Consumer Affairs; hence the lack of official complaints.

I decided to move towards a negative licensing system in regard to rental referral agencies and I set up a working party comprising the then industry and officers of the department. The agencies have changed completely since that time. I think that there was only one common major agency; the other two major agencies have since changed. I do recall that a bone of contention was whether or not a record of the addresses of the premises listed should be kept.

Before the matter could be resolved we lost Government and it took the Labor Government some time to introduce an amending Bill enabling a negative licensing system to be put into effect and it is only now with these regulations that the Government has actually moved to provide a negative licensing system in the form of the sixth schedule to these regulations.

The Hon. C.J. Sumner: Now you want to disallow them.

The Hon. J.C. BURDETT: Yes, for the reasons that I will outline. Most of the short code is good. In particular, paragraph 2 (1) of the three paragraphs provides that an operator must not publish or cause to be published any advertisement or represent that the operator can or will supply information relating to the availability of premises for occupation pursuant to residential tenancy agreements unless—

(a) the operator has obtained the prior consent of the landlord to the advertisement of that information; or

(b) the landlord has verified within the previous 24 hours that the premises are so available.

This is an excellent provision and I think it goes most of the way towards ensuring that clients of these agencies do receive what they pay for, namely, genuine lists of premises which are genuinely available. The most dubious provision in the code is the one I previously referred to, namely, that the operator must keep and maintain proper records of the name and address of the landlord of each premises and the address of all premises in relation to which the agency provides information.

A Mr Harold Steele, one of the proprietors of Centalet, one of the three major agencies (and they are all quite small), gave evidence to the Joint Committee on Subordinate Legislation which evidence has been tabled in Parliament, to the effect that if this requirement remains he would lose a very substantial part of his business. Many owners or agents are not prepared to disclose their addresses or the addresses of the premises. Telephone contacts are of course given, otherwise clients would not pay for the lists. But why the addresses? A lot of people are loath to give their private addresses without good reason and the evidence was that a large part of the listings would be lost if the addresses had to be recorded. If the addresses of the premises were in fact supplied to clients, dozens of potential tenants might be swarming around the premises and possibly interfering with existing tenants; in that case, the owners would of course not supply the listings. The code requires only the addresses to be recorded. It does not require that information to be supplied to clients.

However, owners and agents would be fearful that the information would be supplied to clients and would not

give the listings. I have had that confirmed in speaking to agents and owners. As I have said, the only requirement is to record the information, not to supply it. What on earth is the point of recording information at great expense if it does not have to be disclosed? I should have thought that the provisions to which I referred in regard to the consent of the landlords and to verification were a sufficient guarantee of *bona fides*.

Mr Steele further said in his evidence that the cost of keeping this information would require the appointment of one additional staff member at a cost of $11 856 a year against a staff of three full-time equivalents at present—an incredible increase in cost. And to what effect and for what purpose? The other two significant agencies are Ashford Letting Service and Home Locators. Ashford Letting Service is a good, largely one-woman operation of many years standing and it provides addresses. The proprietor, when I spoke to her, thought that the code would make life more difficult, but she was not as adamant as the other two agencies. Home Locators agreed with Mr Steele that the need to record addresses would deprive them of a great deal of their business. They spontaneously provided the additional cost as being the salary of one more staff member.

Another disputed aspect of the code is the requirement for the operators who publish or cause to be published an advertisement offering information relating to the availability of premises for occupation pursuant to residential tenancy agreements to include a statement that a fee is charged for the provision of such information to clients. This seems to be particularly unfair in view of the fact that the similar service, Whereabouts, which is operated by the South Australian Housing Trust, advertises that it charges no fee. The referral agencies say that they must keep the telephone ringing to stay in business. Of course, they must disclose the fee and the fee must be paid before the service is provided. The requirement to disclose in each advertisement that a fee is charged would also greatly increase the cost of small advertisements, which are often used. I might add that Whereabouts is not bound by these regulations, because it is not an agency within the meaning of the Act and, therefore, because it does not charge a fee, it is not obliged to keep a list of the premises offered.

The two larger agencies—Centalet and Home Locators—both say that they may well be put out of business by the provisions in question. Their businesses are marginal enough in the first place, and I must say that one wonders whether the purpose of the code was to put the referral agencies out of business. I believe it would be a shame if these two examples of quite small businesses employing, with the proprietor, about four full-time equivalents in each case—

The Hon. C.J. Sumner: There are complaints about their operations.

The Hon. J.C. BURDETT: The Attorney interjects that they are lax about their operations.

The Hon. C.J. Sumner: I said that there are a lot of complaints about their operations.

The Hon. J.C. BURDETT: Actually, there is no evidence of that. Evidence was given today (and it was tabled) by officers of the Department of Public and Consumer Affairs who acknowledged that their inquiries had been made three years ago when in effect these two agencies were not operating. Mr Sargent specifically said on two occasions that he wanted to make clear that he had no objection to the operations and no evidence against the ethics of the operations of these two organisations.

The Hon. C.J. Sumner: Centalet is—

The Hon. J.C. BURDETT: That is not so, but I will come to that. There are three major agencies. One is Ashford Letting Service, and it is ethical. It keeps lists of tenants in any case. It is a small operation and no-one denies that it is ethical. The other two agencies are Centalet and Home Locators. Home Locators was not in existence three years ago when Mr Sargent inquired into this area, and he acknowledged that. He also acknowledged that Centalet has changed ownership in the meantime. It was operating three years ago—it has been going for about six years—but 18 months ago it was taken over by Mr Harold Steele, and its operations are quite different under that ownership, which is completely dissociated from its former ownership.

There has been no suggestion whatever that there has been any kind of impropriety by any of the three agencies now operating. Certainly, Mr Sargent's evidence indicates that there was some evidence of that previously and, as I indicated earlier, when I was Minister and when the survey that I instituted was undertaken, there was evidence that there was a lack of ethics. But at present there is nothing to the contrary: everything indicates that the three agencies in operation have put their house in order, and that is the way I think these things ought to be done. There is no reason to try to put them out of business or to impose conditions which will have that effect. It would be a shame if these two examples to which I refer—Centalet and Home Locators—these small businesses, were regulated out of business, and I ask honourable members to support the motion of disallowance of these regulations on that basis.

In the meantime, I hope that the Attorney will consider the relevant provisions of the code, which are only a small part of the total regulations. I hope that it will be possible to arrive at a compromise in terms of what the code ought to contain. Centalet, in particular, made submissions to the department before the code was drafted, some of which were acceded to, but the submission in relation to this matter was not. Certainly, both Centalet and Home Locators are willing to talk, and I would not like to see all these regulations disallowed, because most of them are suitable and appropriate and have the agreement of the relevant parts of the industry. I ask honourable members, if necessary, to vote against the regulations and, more particularly, I ask the Minister to consider the matters which I have raised and which are raised by Mr Steele's evidence and by the evidence of the Minister's own officers today. I commend this motion to the Council.

The Hon. G.L. BRUCE secured the adjournment of the debate.

PROSTITUTION BILL

Adjourned debate on second reading.

(Continued from 29 October. Page 1583.)

The Hon. M.B. CAMERON: I oppose this Bill. I guess one should make one's position clear right at the start. However, I do not in any way intend to denigrate the motivation of the honourable member who has brought the matter before this place. I believe that it started as a result of a question I asked and the matter I raised publicly concerning a prostitute who was AIDS antibody positive. As a result of that there was discussion about the need to attempt to control prostitution and to try to control the problem of sexually transmitted diseases. However, I believe that the motivation of the honourable member might well have been wider than that, and in bringing this matter before the Council she was expressing her concern about the problem of the woman in these transactions: prostitutes

were always blamed whereas in many circumstances the men were suffering no reflection whatsoever. I can well understand her attitude. At that stage there was some indication from people associated with the Sexually Transmitted Diseases Office of positive support for the move. I do not believe that they really understood that the Bill when brought in would not in any way cope with that problem. That is what has happened. I have carefully examined the Bill and do not find anywhere in it where the matter of sexually transmitted diseases is in any way addressed. That is an area of extremely grave concern in our community.

I will start with AIDS. AIDS is a problem in our community, which, without any shadow of doubt, will grow dramatically. In fact, it has been indicated that at the moment there are between 30 000 and 50 000 Australians who are AIDS antibody positive. With 315 diagnosed with end stage AIDS, of those 160 have now died. In South Australia we all know that it has not been a very serious problem as yet, but that does not mean that it will not become a problem. In fact, all indications are that there is a certain inevitability about it. I read that in London the saturation point for the AIDS toll will be reached, according to the latest information, in 10 years. Deaths from AIDS in Britain could reach 20 000 to 40 000 a year in 10 to 20 years time. The analysis that predicated this predicts that almost all promiscuous homosexual men and female prostitutes will become infected, as will many others. Eventually a balance will be reached where new cases will equal the numbers dying. Saturation point will be reached in approximately 10 years.

The question asked in London was whether once a number of women had been infected and a few males get it from the infected females, will it keep going through the heterosexual population or will it always have to be reintroduced by homosexuals. On the data they have it seems that once the virus is in the heterosexual population it will keep going of its own accord. In Africa where AIDS started there are indications that one million Africans have AIDS. They have no idea of the number of deaths because in third world countries they do not have the same reporting facilities, but it is certainly way out of control.

There is a further problem in our community and the indications are that it is an extremely serious disease, namely, pelvic inflammatory disease. In a recent article by Philip McIntosh in the Melbourne *Age* it was stated:

> Infection with chlamydia,—

that is, the virus that causes this disease—

> one of the micro organisms that causes pelvic inflammatory disease is epidemic in Australia and has been described by international authorities as the major agent of disease affecting humans.

Pelvic inflammatory disease is the major cause of infertility in women. It can also cause chronic pelvic pain and increases the risk of ectopic pregnancy, and younger women between 15 to 25 years are most likely to get PID. That is the term used for infection of a woman's internal reproductive organs beginning in the cervix and spreading up into the internal organs—the uterus, the fallopian tubes and the ovaries. If it affects her fallopian tubes she may become infertile. In fact, the indications are that the risk of becoming infertile is 12 per cent after one attack of this disease and that rises to 75 per cent after three attacks. After having one attack of PID there is increased risk of another.

It is a very serious problem and I have no doubt that members will understand that. It is a very serious problem in our community because it is clearly indicated that PID or chlamydia is responsible for 50 per cent of reported cases of sexually transmitted disease in men, and in women it is one of the silent infections. Women are at risk of developing pelvic inflammatory disease resulting in ectopic pregnancy and involuntary sterility. One in 10 Australian couples of child-bearing age are infertile. PID is the major cause of the problem. The end result is that we have to have a very expensive IVF program. I do not believe that we are putting enough of our resources into the question of sexually transmitted diseases, particularly PID. Viruses such as AIDS, papilloma wart herpes and PID in the long term are incurable, so prevention is absolutely essential.

I have been informed by someone who approached the Sexually Transmitted Diseases Office that there was insufficient staff in that clinic and therefore they were not offering lectures or people to assist with lectures in the future. That in itself is very serious. These diseases are sexually transmitted; they are not passed on by kissing, heavy petting or toilet seats, as people often claim. PID affects younger women, especially those under 25 years. Members might ask, what has this got to do with the Prostitution Bill? The problem is that once we introduce a situation where prostitution is not illegal but rather is legal in that we can have brothels on street corners, in shopping centres, and so on, there will inevitably be a rise in this sort of activity. Nothing can be argued against that proposition.

It will become a greater problem in our community as it will in fact be legal. We will reach a situation where people will think it is all right because they are there for all to see. Brothels will advertise, erect signs and people will think it must be okay. People will go in but there will be no way of tracing sexual partners who go in there and no way we can supervise what goes on in brothels. We cannot force people under this Bill to carry out their sexual activities in a certain way. We cannot force them to use condoms because it is a transaction between a man and a woman and takes place in private.

So, that situation will inevitably cause a rise in sexually transmitted diseases and, more particularly, the very serious sexually transmitted diseases of AIDS and PID. The honourable member can say nothing to convince me otherwise. If there is an increase in sexual activity that will be the end result, particularly when we have no way of checking on the health of either person involved in the transaction. That is very serious, indeed.

There is no way that wives or husbands at home will know whether their partner has been to one of these places which are unsupervised in health terms. There is nothing in the Bill to indicate in any way that the health of people involved will be supervised. Even if it were, from the time of the first transaction if a person does have a sexually transmitted disease the next person who engages that prostitute could well end up with that problem. We could not test people after every transaction. This would be an act of stupidity to launch upon the community while we have serious problems. I do not believe that it would be sensible to introduce into this community an increase in this sort of activity until such time as we have clear controls. Even if those controls are brought in I would still have severe reservations about the whole matter as I believe it would lead to an increase in the serious problem we have in our community of sexually transmitted diseases.

The Hon. G. WEATHERILL secured the adjournment of the debate.

RADIATION PROTECTION AND CONTROL ACT AMENDMENT BILL

The Hon. J.R. CORNWALL (Minister of Health) obtained leave and introduced a Bill for an Act to amend

the Radiation Protection and Control Act 1982. Read a first time.

The Hon. J.R. CORNWALL: I move:

That this Bill be now read a second time.

It seeks to amend the Radiation Protection and Control Act in several important areas. As members would be aware, the Radiation Protection and Control Act was passed by Parliament in 1982. It was intended to be the vehicle by which comprehensive controls over exposure to ionising radiation would be introduced. The general objective of the Act, and of the Minister and the Health Commission in administering it, was to ensure that exposure of persons to ionising radiation was kept as low as reasonably achievable, social and economic factors being taken into account.

The Act purports to provide radiation protection controls over the mining of radioactive ores. However, the interaction of the Roxby Downs (Indenture Ratification) Act 1982 and the Radiation Protection and Control Act is such that the Radiation Act's effectiveness is severely limited in relation to that project. The two Acts were developed concurrently but, unfortunately, not in close collaboration, the end result being that they do not sit well together.

The Radiation Act provides for the Minister of Health, in consultation with the Minister of Mines, to attach conditions (and thereby a means of enforcement) to a 'prescribed mining tenement' (that is, various forms of licence or lease under the Mining Act pursuant to which operations are carried on, or proposed to be carried on, in relation to radioactive ores). However, upon the granting of a special mining lease to the joint venturers under the indenture and ratifying Act, this avenue of enforcement is not available since the lease is not a 'prescribed mining tenement'.

As members will be aware, the Indenture Ratification Act and the indenture contain certain provisions related to radiation protection. Clause 10 of the indenture requires the joint venturers to observe and comply with specified international and Australian codes, standards and recommendations. The State, for its part, must not seek to impose any standards which are more stringent than the most stringent standards contained in any of the specified codes, standards or recommendations.

The appearance is therefore that controls are in place or can be imposed. However, the simple fact is that there is not an avenue of enforcement available for breaches of the codes or standards other than the drastic step of termination of the indenture. Clearly, this is not acceptable. The Government has honoured the Roxby Downs legislation as passed by the Parliament and the project is underway. The Government is also firmly committed to ensuring that the health of the workers at Roxby Downs is protected. Extensive consideration and consultation has taken place to determine the most appropriate manner in which this matter might be addressed, recognising at the same time the rights and obligations conferred by the indenture.

A committee of mines, health and environment and planning officers, chaired by the former, distinguished Deputy Crown Solicitor, considered that the situation may be best met by introducing a licence to mine and mill radioactive ores and requiring the joint venturers to hold such a licence. There would be the ability to put conditions on the licence.

This course of action is entirely consistent with the indenture and the ratifying Act. I draw members' attention to section 8 of the indenture Act, as follows:

> If at any time legislation of the Parliament of the State requires any person dealing with radioactive substances to hold a licence, authorisation or permit to do so, the Minister, person or body responsible for the issue of the licence, authorisation to permit shall, upon application by the joint venturers, grant to them any such licence, authorisation or permits required for the purpose of enabling them to undertake the initial project or any subsequent project.

Obviously, Parliament at the time of enacting the indenture contemplated that there may be a licensing requirement as a radiation protection measure, and the Bill seeks to invoke that requirement.

The Bill introduces a licence to mine and mill radioactive ores. This will replace the 'prescribed mining tenement' concept and the licence to mill provided in existing sections 24 and 25 of the Radiation Act. The Health Commission may grant a licence and impose conditions on licences. The general requirements relating to variation and revocation of conditions will apply. Contravention of the section constitutes a minor indictable offence, for which the penalty is up to $50 000 or imprisonment for up to five years, or both.

The new requirements will apply to the Roxby Downs joint venture in the manner set out in the schedule to the Bill. Necessarily, regard must be had to the provisions of the indenture and ratifying Act, to ensure that they and this Bill are not inconsistent, and that the rights conferred by the indenture are not materially modified. (If they were materially modified, the joint venturers could seek to terminate the indenture.) Advice from the former Solicitor-General, the former Deputy Crown Solicitor and the Crown Solicitor, all indicates that the proposals in this Bill do not adversely affect the rights of the joint venturers given by the Roxby Downs (Indenture Ratification) Act 1982. The main features of the Bill as it applies to the Roxby Downs project are as follows:

- The licence will be granted by the Minister of Health, to whom an application must be made.
- The Minister is obliged to grant a licence within two months and can impose conditions, so long as those conditions are no more stringent than the most stringent requirements or standards in any of the codes, standards, and so forth, referred to in clause 10 of the indenture. (Again, I draw members' attention to the interaction with section 8 of the indenture Act which guarantees the grant of a licence and limits the stringency of any conditions of licence to the most stringent requirements contemplated under clause 10 of the indenture. The requirements of section 8 of the indenture Act are thus reflected in this Bill.)
- In considering any application the Minister of Health shall:
  - — consult with the Minister of Mines and Energy;
  - — consult with the joint venturers;
  - — consult with the South Australian Health Commission;
  - — the South Australian Health Commission, in preparing its response, will refer the application to the Radiation Protection Committee for advice and will give due consideration to its advice. (This is the present procedure contained in section 35 of the Radiation Act and applies to all licences.)
- If the joint venturers object to the conditions proposed at the time of grant, or to any new condition or change of condition, they can take the matter to arbitration as provided for under clause 49 of the indenture. If arbitration takes place, the operation of the condition/s will be suspended until the arbitrator makes a decision. In any event, further or varied conditions do not take effect until one month after the Minister gives notice of them, or such greater period as the Minister may determine.
- A licence issued to the joint venturers must not be suspended or cancelled while the indenture remains in force.

- Any breach of conditions will be a minor indictable offence and not subject to arbitration. (Penalty: maximum $50 000 or imprisonment for five years, or both.)

Members will no doubt be aware of the Codes of Practice formulated under the Commonwealth's Environment Protection (Nuclear Codes) Act 1978, to which reference is made in clause 10 of the indenture, in this Bill and in the principal Act. The Code of Practice on Radiation Protection in the Mining and Milling of Radioactive Ores, for instance, specifies standards, practices and procedures, and measures, to prevent or limit radiation risk to employees and the public in uranium mining and milling operations.

The Waste Management Code provides for prior development and approval (and subsequent updating) of a waste management program for mining and milling operations. The codes set up a system of 'appropriate authorities' for approval of proposals or requirements under the codes. The Health Commission and the Department of Mines and Energy have an agreement on the interpretation of 'appropriate authority' for each clause of the codes. In a number of clauses the Department of Mines and Energy is the appropriate authority, but approvals cannot be issued without consulting with and, in most cases, the agreement of the South Australian Health Commission. In some clauses, the Department of Mines and Energy or the South Australian Health Commission is the sole appropriate authority. For example, on radiation protection matters, such as approval of monitoring programs and instruction of employees, the South Australian Health Commission is the appropriate authority, but will consult with the Department of Mines and Energy before granting approval.

The South Australian Health Commission is the sole authority in relation to various health requirements, for example, for ensuring that appropriate dose records are kept, and requiring medical examination of employees. The Department of Mines and Energy is the sole authority for mining engineering matters. Where the matter is directly one of operations, but may result in exposure to radiation, the Department of Mines and Energy grants approval, but only with the agreement of the South Australian Health Commission.

This system of assignment of authority has worked well and will continue to operate. A joint consultative committee between the South Australian Health Commission and the Department of Mines and Energy which meets weekly will continue to operate, to ensure that there is an exchange of information.

In summary, the important radiation protection measure which this Bill seeks to enshrine is the provision of an avenue of enforcement, apart from the contractual right to terminate the indenture, whereby direct action can be taken should the joint venturers fail to meet their various obligations, thus placing the health of workers at risk. The Bill also contains procedural changes aimed at rectifying anomalies which have become apparent in the operation of several provisions of the Act.

Clause 13 inserts a new section 36 which provides a comprehensive statement on conditions of licences or registration under the principal Act. The new section provides for the attachment of conditions after grant of the licence or registration and for the variation or revocation of conditions (whether imposed at the time of grant or attached subsequently). A decision to attach a condition or to vary or revoke a condition will take effect after one month's notice, but if an application for review is made, the operation of decision may be suspended by the Supreme Court. Contravention of, or failure to comply with, a condition of a licence under the new section 24 will be a minor indictable offence (as is presently the case under the existing sections 24 and 25).

A further amendment regarding licensing and registrations is the proposal to amend section 40 of the Act which relates to the Health Commission's powers to suspend or cancel a licence or registration. In such cases, the holder of the licence or registration will be in possession of equipment for which a licence holder or registration is required and would be technically in breach of the Act. The proposed amendment will overcome this problem by allowing orders made under section 40 to take effect after a specific period of time and also by empowering the Health Commission to make any directions it considers necessary regarding the disposal by the person of radiation apparatus, radioactive sources, and so forth. This provision will also be used in respect of apparatus which is unsafe or dangerous and for which the simple cancellation of a registration is not considered sufficient for the commission's discharge of its responsibilities in this area.

The Bill also proposes several amendments to the penalty sections of the Act. In particular, there is at present only one penalty for breach of regulations. This is a maximum fine of $10 000. In response to concerns expressed by users of radiation apparatus, the Health Commission has examined the various circumstances that can amount to a breach of regulations. These range from very trivial offences, such as failure to notify a change of address, to quite serious offences. Accordingly, this amendment allows the regulations to impose categories of penalties lower than $10 000 if it considered that particular offences are not so serious as to warrant the existing penalty.

In respect of prosecutions, the Bill also contains a proposal to increase the limitations period from six to 12 months. As a general principle, the prosecution has six months from the date of the commission of an offence to commence proceedings for any summary matter unless otherwise provided for. Whilst this requirement may be adequate for a range of minor breaches of the law where offences are detected at the time of their commission and proceeded with routinely, it is not appropriate for prosecutions under this Act. Some offences, for example, may not become known to the South Australian Health Commission until some time after their commission, leading to difficulties in initiating proceedings within the present six month period. The extension of the limitations period to 12 months is both reasonable and necessary if the Act is to be policed effectively. I commend the Bill to the House. The explanation of the provisions of the various clauses of the Bill follow, and I seek the indulgence of the Council to have them inserted in *Hansard* without my reading them.

Leave granted.

Explanation of Clauses

Clause 1 is formal.

Clause 2 provides for commencement.

Clause 3 amends section 5 of the principal Act which is the interpretation section. The amendments made are consequential to the insertion of the new section 24 and the new schedule.

Clause 4 amends section 12 of the principal Act in relation to the functions of the Radiation Protection Committee. This amendment is consequential to the insertion of the new section 24 and the repeal of the definition of 'prescribed mining tenement'.

Clause 5 amends section 17 of the principal Act: first, with respect to the powers of authorised officers (this amendment is consequential to the repeal of the definition

of 'prescribed mining tenement' but the opportunity has been taken to redraft subsections (2) and (3)); and, secondly, to correct a reference to the period within which proceedings for an offence are instituted (this amendment is consequential to the amendment of section 46).

Clause 6 inserts a new section 24. This section provides for the issue of a licence to explore for, mine and mill radioactive ores and replaces the existing sections 24 and 25 which provided, respectively, for the determination of conditions to attach to licences and leases under the Mining Act 1971, and for a licence to mill radioactive ores. The Health Commission may grant a licence if it is satisfied that the proposed operations will comply with the regulations and may impose conditions on licences.

Clause 7 amends section 28 of the principal Act. The amendments are consequential to the insertion of the new sections 24 and 36 and the repeal of the definition of 'prescribed mining tenement'.

Clause 8 amends section 29 of the principal Act. The amendments are consequential to the insertion of the new sections 24 and 36 and the repeal of the definition of 'prescribed mining tenement'.

Clause 9 amends section 30 of the principal Act. This amendment is consequential to the insertion of the new section 36.

Clause 10 amends section 31 of the principal Act. This amendment is consequential to the insertion of the new section 36.

Clause 11 amends section 32 of the principal Act. This amendment is consequential to the insertion of the new section 36.

Clause 12 amends section 35 of the principal Act with respect to the referral of matters to the Radiation Protection Committee by the Health Commission. The amendment is consequential to the insertion of the new section 24.

Clause 13 inserts a new section 36 which provides a comprehensive statement on conditions of licences or registration under the principal Act. The new section provides for the attachment of conditions after grant of the licence or registration and for the variation or revocation of conditions (whether imposed at the time of grant or attached subsequently). A decision to attach a condition or to vary or revoke a condition will take effect after one month's notice but if an application for review is made the operation of decision may be suspended by the Supreme Court. Contravention of, or failure to comply with, a condition of a licence under the new section 24 will be a minor indictable offence (as is presently the case under the existing sections 24 and 25).

Clause 14 repeals section 39 of the principal Act which related to the suspension or cancellation of leases or licences under the Mining Act 1971. This repeal is consequential to the insertion of the new section 24.

Clause 15 amends section 40 of the principal Act in relation to the surrender, suspension and cancellation of licences and registration. First, the Health Commission is required to set the time at which suspension or cancellation will take effect. Secondly, the commission is empowered to give directions upon suspension or cancellation of registration. The amendments are intended to overcome difficulties under the existing provisions where a registered person was guilty of an offence as soon as the registration was suspended or cancelled even though the registered person had not had an opportunity to dispose of the registered premises or thing.

Clause 16 amends section 41 of the principal Act in relation to review of decisions made by the commission. The amendment is consequential to the insertion of the new sections 24 and 36, but the new subsection (1) also spells out the types of decisions which may be reviewed.

Clause 17 amends section 43 of the principal Act. The first amendment is consequential to the insertion of the new definition of 'mining' and the second amendment relates to offences against the regulations and the fixing of penalties for such offences.

Clause 18 amends section 46 of the principal Act to provide, first, that proceedings in respect of offences may be instituted within 12 months as opposed to the usual period of six months under section 52 of the Justices Act 1921 and, secondly, to provide that the general penalties for minor indictable offences or summary offences apply subject to express provisions in the Act or regulations.

Clause 19 inserts a new schedule into the principal Act. The schedule relates to the Roxby Downs joint venture and provides for the application of the principal Act to that project. The principal Act will apply in a modified way. In particular, the licence to be granted to the joint venturers under the new section 24 will be granted by the Minister rather than the Health Commission. At the same time, the Minister must consult with the Health Commission, the Minister of Mines and Energy and the joint venturers themselves, not only in respect of the grant of the licence but also in relation to the conditions of the licence. Those conditions must not be more stringent than those referred to in the indenture attached to the Roxby Downs (Indenture Ratification) Act 1982. The schedule also provides for arbitration under the indenture of disputes concerning the conditions of the licence. The licence cannot be revoked or cancelled while that indenture remains in force. Clauses 11, 12 and 13 of the schedule go on to provide for consequential modifications to the application of the principal Act.

The Hon. M.B. CAMERON secured the adjournment of the debate.

SECOND-HAND MOTOR VEHICLES ACT AMENDMENT BILL

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Second-hand Motor Vehicles Act 1983. Read a first time.

The Hon. C.J. SUMNER: I move:

That this Bill be now read a second time.

This Bill proposes amendments to the Second-hand Motor Vehicles Act 1983, to refine and clarify several machinery provisions and to make a range of textual amendments as part of the continuing process of Statute law revision. The Second-hand Motor Vehicles Act was passed in 1983, replacing a 1971 Act of the same name. The 1983 Act was the first of a series of Acts which have extensively recast and updated occupational licensing procedures in the course of bringing a wide range of occupational licensing under the jurisdiction of the Commercial Tribunal. The 1983 Act came into force on 1 January 1986. The main amendments now proposed reflect both the past several months' operational experience, as well as developments that have taken place in the approach to occupational licensing legislation since the Act was passed.

The 1983 Act, in section 9, creates an exemption from the obligation to be licensed for 'a licensed credit provider whose principal business is not the selling of second-hand vehicles.' This exemption was intended to preserve, in simplified form, a similar exemption in section 22 of the 1971 Act, so that credit providers would be able to sell vehicles which had been seized by them, or returned to them, pur-

suant to contract, but would not require a licence to do so. However, it has become apparent that this wording is wide enough to permit licensed credit providers, whose financial business may be unconnected with the motor vehicles sales industry, to deal in second-hand vehicles as a significant sideline without having to be licensed.

The present form of the exemption has also been associated with some uncertainty about the obligations of credit providers and auctioneers who auction vehicles on their behalf. It is therefore proposed to remove the exception in its present form, and to make regulations under section 6 of the Act to narrow the exemption so that credit providers cannot operate as unlicensed dealers, but will be able to sell vehicles which come into their hands in the course of business without incurring a dealer's liability to do repairs. This will make clear that the position which has applied since 1971 will continue. The reason for using the regulation-making power for this exemption is that it enables conditions to be imposed. Consideration is being given to requiring credit providers who conduct their own auctions to give written notice making clear that they are not offering consumers the statutory warranties given by dealers under the Act. Auctioneers conducting sales on behalf of non-dealers already have to give this notice.

The Bill also revises the licensing provisions to give the tribunal more flexibility in the granting of licences. There is no provision in the 1983 Act for the grant of conditional licences. One result is that persons dealing in partnership must all satisfy the requirements of the Act for the grant of individual licences. Their only alternative is to form a corporation controlled by a licensee, or for the licensee to employ the other person or persons while they gain the experience that would enable them to acquire a licence. This fetters the way in which people can do business without providing significant consequential benefits to consumers. Several licence applications by inexperienced persons seeking to enter partnerships, often with their spouses, have been refused.

Some difficulties have also been experienced in relation to persons who wish to deal only as wholesalers. Premises which may be suitable for a wholesale business might, if used for retail dealings, undermine the policy of the Act to prevent what is known as 'backyard dealing', but there is no mechanism in the Act for distinguishing between classes of dealer. To meet these difficulties, provision is being made for the tribunal to impose conditions on licences in appropriate cases. Consequential amendments are made to the parts of the Act dealing with disciplinary proceedings.

To support the Second-hand Vehicles Compensation Fund, provision is being made to credit the fund with fines recovered as a result of disciplinary proceedings under the Act. The powers of the Commissioner of Consumer Affairs to deal appropriately with the moneys of the fund are clarified. A schedule to the Bill lists the routine textual amendments previously mentioned. I seek leave to have the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

The provisions of the Bill are as follows:

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that this Bill is to come into operation on a day to be fixed by proclamation and provides for the suspended operation of specified provisions of the proposed Act.

Clause 3 effects an amendment of section 5 of the Act, consequent on the insertion of proposed section 6, as effected by clause 4.

Clause 4 provides for the repeal of section 6 of the Act, dealing with the scope of application of the Act and the insertion of a new section 6. Proposed subsection (1) restates the position of a dealer who sells a second-hand vehicle to a credit-provider and the vehicle is then sold or let on hire to a third person. (The position of the dealer as it is under the existing section 5 (2) remains unchanged.) Proposed subsection (2) restates the existing power to make regulations exempting (conditionally or unconditionally) specified vehicles, persons or transactions from compliance with all or any of the provisions of this Act.

Clause 5 provides for the amendment of section 9 of the Act. The current exemption of licensed credit providers (whose principal business is not the selling of second-hand vehicles) from the requirement to be licensed dealers, is removed.

Clause 6 amends section 10 of the principal Act, dealing with applications for dealers' licences, by striking out subsection (9) and substituting four new subsections. Proposed subsection (9) restates the requirements for the issue by the Commercial Tribunal of a dealer's licence to an applicant, who may be a natural person or a body corporate. Proposed subsection (10) empowers the tribunal to grant conditional licences. Proposed subsection (11) provides that where the Commercial Tribunal is not satisfied that the applicant fulils the requirements for the grant of a licence, a licence may nevertheless be granted (in the case of an applicant who is a natural person) on the condition that the licensee carry on business in partnership with another approved licensed dealer. Proposed subsection (12) provides that where a licence is granted by the Commercial Tribunal it does not come into force until the licensee pays the prescribed fee.

Clause 7 inserts a new Division dealing with conditions of licences. Conditions may be attached to a licence on grant, or in disciplinary proceedings under the principal Act and such conditions may be varied or revoked by the Commercial Tribunal on the application of the licensee.

Clause 8 provides for the amendment of section 14 of the principal Act which deals with the exercise of disciplinary powers by the Commercial Tribunal. Paragraph *(a)* of clause 7 extends the powers of the tribunal by empowering the tribunal, after it has conducted an inquiry and is satisfied that proper cause for disciplinary action exists, to attach conditions to a licence. Paragraph *(b)* of clause 7 restates the causes for disciplinary action under section 14. Where the respondent is a licensee, the following additional causes for disciplinary action have been inserted:

(a) failing to comply with a condition of a licence;

(b) registered premises having ceased to be suitable for carrying on business as a dealer.

Where the respondent is a body corporate that holds a licence, insufficient knowledge or experience on the part of those responsible to direct and manage the business conducted pursuant to the licence has been inserted as a cause for disciplinary action.

Clause 9 amends section 28 of the principal Act, which deals with the Second-hand Vehicles Compensation Fund. Paragraph *(a)* of clause 8 provides for the payment into the fund of fines recovered in pursuance of orders made by the tribunal in disciplinary proceedings. Paragraph *(b)* of clause 8 expressly permits the moneys of the fund to be expended in purchasing 'back-up' insurance, to provide for the possibility that the fund is unable to meet claims against it. Paragraph *(c)* of clause 8 is a procedural amendment. Paragraph *(d)* of clause 8 permits the payment of an amount

from the fund where the Commissioner for Consumer Affairs certifies that the amount has been mistakenly paid into the fund.

Clause 10 deals with the schedule to the Bill. The schedule makes certain procedural amendments for the purpose of republication of the principal Act.

The Hon. K.T GRIFFIN secured the adjournment of the debate.

IRRIGATION ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 4 November. Page 1795.)

The Hon. PETER DUNN: I support this Bill. However, I have a few queries about it. Obviously, the Bill was introduced to remove some anomalies which have been created in the past and which deal with people who were supplied with water for domestic use but who were reluctant to sign an agreement to pay for that domestic water. The Bill deals with a number of other things, but fundamentally it is straightforward. However, I have some problems in that the Government again has not consulted with the industry and it appears to have gone ahead and drafted the Bill without much consultation with the irrigation committees which are set up in the areas to assist when changes are proposed to funding, rating or things of that type. When the Government announces a cut in water rates, or some other mechanical change, it uses those committees but, in this case, when it proposes that the whole system be changed, it has not used them.

The principle in this Bill is that people will be given two meters. Irrigation will be supplied from one meter and their domestic water supplies will be supplied from another meter. That domestic water will be supplied at a cheaper rate than applies to other domestic consumers in the State. I am not sure about those figures, but it has been indicated that it will be about 50 per cent of the normal consumer rate due to the fact that there is no requirement to chlorinate or to treat the water. I wonder whether the water that is supplied for domestic use is in line with world health standards. I do not know whether the Minister can answer that question, but I presume that he would have advice on it.

Originally, there were open channels, and water from those open channels was used for domestic purposes. But the supply was irregular, because irrigation did not take place all year round, so the officers of the E&WS Department decided to install rather large tanks from which people could draw water for their domestic supply. However, in some cases there was considerable cost, but people gained a 12-month supply by that method. The cost of installing the tanks was set against the ratepayers of the area, and the irrigation authorities had agreements with the users of water in that system. Some people decided not to use that method, which made it very difficult for those who were paying rates legitimately and who had signed voluntary agreements whereby they paid for their water. However, some people did not take water from the system.

Subsequently, the E&WS Department supplied all the areas for irrigation and domestic use through a pipe system. That was a natural progression and an improvement, with less evaporation and so on. Everyone must now pay a suitable amount for the use and supply of water. This Bill addresses that situation. It provides a method for setting the base rate, but the method is rather confusing. It provides that the rate is based on the number or area of the blocks or on the number of meters belonging to, and installed by, the Minister to measure the volume of water supplied to the land for domestic purposes—it can be based on both those criteria. That is very difficult to understand. It is not in clear and plain English. How can we base a water rate on that criteria?

The Bill provides that there will be different rates in respect to blocks for irrigation and for domestic purposes. I am not sure how much water a person on a domestic block will be allowed on the base rate before he has to pay for the amount of water he uses. If that is the case, will the department consider a slightly different system, which is implemented on Eyre Peninsula, whereby water rates are determined according to the amount of water one uses? The E&WS accounts do not indicate the previous meter reading so that one can gauge the amount of water used in, say, three months, six months or 12 months—depending on the time between meter readings. I suggest that that would be an advantage when people challenge their water rates, because they have no method whereby to dispute the readings other than to read the meter themselves. They do not know when the officer will arrive to read the meter.

I suggest, in the interests of cost cutting, that owners read their own meters, as they read their power meters in country areas. In the past we have read our electricity meters on a quarterly basis or once or twice a year. It is necessary to do that to keep it honest. I believe that the E&WS Department could adopt that system. It would cut a lot of the costs, because much time is taken up by two people driving around reading water meters. Quite often it is difficult for them to find water meters in country areas, whereas the owner knows where his meter is and can read it. Under the present digital system of meter reading, it is easy to read the meter, unlike in the past: analogued meters were very difficult to read and some expertise and experience was required before one determined how much water had been used. I believe that the average person can read the new type meters, and that would save considerable cost. I support the Bill.

The Hon. M.J. ELLIOTT: I have taken the opportunity to speak to people in the Riverland, and they are the people who will be most affected by this Bill. They have told me that on their rather quick examination of the material that I sent them they could not see any major problems. It is unfortunate that the Government is moving things through fairly quickly. The Bill was introduced in this Council only last night. It has been before the Lower House, but the Democrats, despite all their diligence, are flat out keeing up with the stuff before this Council, let alone the stuff before the House of Assembly.

The Hon. K.T. Griffin: You are not an orphan.

The Hon. M.J. ELLIOTT: If the Government was serious about the way in which this Council functions, it would supply sufficient staff for the Opposition, for its own backbenchers (who, I believe, do not have the staff to act as serious politicians) and, of course, for us.

The Hon. C.J. Sumner: Come on! You have a lot more than I had, I can tell you. I had one-eighth of a secretary, and I got to be Leader, No. 3 in the Government.

The Hon. M.J. ELLIOTT: Look at the internal Party opposition that the Attorney had to beat. Nevertheless, it was interesting that the Hon. Mr Dunn said that he felt there had been poor consultation. Certainly, I have found that to be the case with a large number of Bills. In relation to almost every Bill that I discussed with people in the real world outside this Council, they make this same allegation, although in this case the people to whom I spoke seemed to know that this matter was coming up and had been

involved with advisory boards. They felt they were being consulted. It may mean there are some people who are interested and have not been consulted and there are other people who are interested and have been consulted. Thus, the consultation is very narrow. Nevertheless, people seem to think there is not much wrong with the Bill.

One aspect of this Bill is certainly a step forward, and that is the amendment to section 78 under clause 8 whereby the Minister may, on such terms and conditions as he determines, supply water by measure to land that is not ratable whether that land is situated in an irrigation area or not. I imagine that this means that a person who has a property and perhaps has put in drip irrigation or under-tree sprinkler irrigation (which is far more efficient and helps to solve salinity problems) will be able to transfer his water entitlement to another block. That would make our irrigation system a lot more efficient in that, with irrigation, we would bring more land under horticulture and we would attack the salt problem at the same time. That is just reward for a person who has taken that action.

My one concern is that this provision might be used a little more widely and we might find that water outside the entitlement is being used on non-ratable land. That would concern me, because it has happened in the past where a Government under special conditions has provided water outside an entitlement. In effect, it has brought more produce on to an already glutted market.

Some of the arrangements that were made, I believe with hindsight, were distinctly dodgy. That is what happened in the past and I hope that it is not repeated. As to the comment on second meters, having lived in the Renmark Irrigation Trust area, a concern run by the irrigators themselves, I know they have had a two meter system for some time. It works quite well, so I do not see any problems with it now being introduced into the E&WS areas, particularly as we are seeing an increasing number of private housing developments there—people who are not irrigators but want to live out in the blocks. Sometimes they are hobby farmers on small blocks with some horticulture. They should have two meters; that is fair and just.

Where do we draw the line? Who has domestic water and who does not? In this case they have followed the example that existed in the Renmark Irrigation Trust for some time—a decision reached by the growers themselves that they would have a two meter system. With the protest once again that this moved rather quickly (too quickly for my liking), I support the second reading of the Bill.

Bill read a second time.

In Committee.

Clause 1—'Short title.'

The Hon. C.J. SUMNER: The Hons. Mr Dunn and Mr Elliott raised certain questions. This Bill is being handled by my colleague the Minister of Health. He will arrange tomorrow for answers to those questions during the Committee stage.

Clause passed.

Progress reported; Committee to sit again.

STATUTES AMENDMENT (PAROLE) BILL

In Committee.

(Continued from 29 October. Page 1604.)

Clause 21 passed.

Title passed.

Bill recommitted.

Clause 7—'Court shall fix or extend non-parole periods.'—reconsidered.

The Hon. C.J. SUMNER: I move:

Page 2, lines 32 and 33—leave out ', on and from the day on which the court is determining the question.'.

Paragraph *(a)* of new subsection (4) prohibits the court from fixing a non-parole period where the person is, in total, liable to serve less than one year of imprisonment. The court should (and does) look at the whole period of imprisonment, including existing sentences, new sentences and 'revived' sentences (that is where a parolee is returned to prison to serve the balance of a sentence), when the court is determining the duration and the date of commencement of a non-parole period. The words proposed to be deleted arguably imply that the court must only look forward in determining those matters, which would be undesirable as it would introduce a degree of inflexibility into the sentencing process. The court must be free to choose any date for the commencement of a non-parole period, whether past or present, in working out what is a proper release date for a particular prisoner. The words to be deleted were only introduced to emphasise that the court must look at all the sentences that the person before the court is subject to at that time.

A further reason for making this amendment is that, by the provision directing the court to look only at the balance of a term still to be served, a defendant who has spent a significant time in custody pending trial and sentence would, if he were to be sentenced to only a year of imprisonment back-dated to the time that he was taken into custody, miss out on having a non-parole period fixed (in that the balance to be served would be less that one year). The amendment clarifies the situation.

The Hon. K.T. GRIFFIN: I support the amendment. It seems to me to be reasonable that the date from which the prisoner is first incarcerated ought to be the date from which that one year runs, rather than taking it from the date on which the court determines the question. Accordingly, I am happy to support the amendment.

Amendment carried; clause as amended passed.

Clause 12—'Cancellation of parole by board for breach of conditions other than designated conditions'—reconsidered.

The Hon. C.J. SUMNER: I move:

Page 4, line 39—After 'prison' insert 'and a sentence of imprisonment is imposed for the offence'.

This results from a query raised by the Hon. Mr Gilfillan during the Committee stage when he raised the issue of the meaning of the word 'offence' for the purposes of new section 74 (4a). At the time I indicated that it was not intended that the provision would apply where a prisoner had breached regulations under the Correctional Services Act. In fact, the intention of the amendment as stated in the second reading explanation is to ensure that the effect of committing an offence in prison during a period of cancelled parole is the same as committing an offence during a period of release on parole.

I have now had discussions with Parliamentary Counsel and with the Minister of Correctional Services and we agree that some clarification and restriction on the operation of the clause is needed. Accordingly, I propose that an amendment be made to paragraph *(c)* so that a person who is sentenced to imprisonment for an offence committed during a period of cancelled parole is liable to serve the balance of the sentence in respect of which he was on parole.

The Hon. K.T. GRIFFIN: I can see what the amendment is getting at. I have had some discussions also with Parliamentary Counsel and it seems that the position really is

that, if a prisoner who is on parole is returned to prison and whilst in prison commits an offence, if that person is sentenced to a further period of imprisonment for the offence committed whilst in prison, the prisoner is liable to serve the balance of the sentence unexpired as at the date on which the offence was committed. I am informed that that really puts that prisoner in the same position as a person who is on parole and commits an offence whilst on parole and is sentenced to a period of imprisonment for that offence committed whilst on parole. So, the consequences for the two different sets of circumstances are identical.

I do not think that the amendment has anything to do with a prisoner who is in fact on parole when the subsequent offence is committed. I understand that it brings it into line with a situation where a person might be on parole and commits another offence. I acknowledge that, where a prisoner who has been on parole is returned to prison and commits a breach of regulations which are generally dealt with administratively by the Superintendent or Manager (as I think he or she is now called) or the visiting justices, that should not really be a basis upon which the balance of the unexpired term of imprisonment is triggered to have to be served. So, if the amendment excludes breaches of regulations dealt with in that administrative way, then I am happy with it.

The only question, I suppose, relates to the prisoner who is returned to prison as a result of a breach of parole and commits an offence in prison and comes before a court; the court may not want to impose a period of imprisonment for that offence but nevertheless may want to ensure that the prisoner serves the balance of the term. I suppose, in view of the way the amendment is proposed, it means that the magistrate may in fact order one day's imprisonment to trigger the provision which is in this new subsection (4a). I suppose also there is a situation where the commission of the subsequent offence whilst in prison may not be particularly serious but nevertheless may warrant some form of imprisonment less than the balance of the unexpired term. That is something which can be looked at in practice to see whether it effects any injustice in respect of that prisoner. Subject to those reservations, I can perceive what the Attorney-General's amendment seeks to do and, as I am assured that it brings this provision into line with the situation where persons on parole commit an offence and are sentenced to imprisonment and have to serve the balance of the unexpired initial prison sentence, I am prepared to support it.

The Hon. I. GILFILLAN: I appreciate the amendment. I think the Attorney-General has shown an understanding and sympathy for the dilemma that I raised and I think the amendment clarifies it. On that basis, I certainly intend to support the amendment.

Amendment carried; clause as amended passed.

Bill read a third time and passed.

TRAVEL AGENTS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 22 October. Page 1336.)

The Hon. K.T. GRIFFIN: The Opposition supports the Bill. However, there are several matters to which I want to address some observations and I shall move some amendments during the Committee stage. The principal Act was passed in the February 1986 session and, as I understand it, as a result of some further negotiations by the South Australian Government with the States of New South Wales, Victoria and Western Australia, certain amendments are proposed in order to ensure reasonable uniformity with the other States. It is interesting to note from the Attorney-General's second reading explanation that that uniformity related to certain core provisions of the scheme rather than total uniformity being required.

I hope that as I raise certain issues on this Bill it may be possible to identify the extent to which the amendments proposed by the Attorney-General are core provisions which need to be uniform, or whether it is sufficient to be reasonably near to what is in each of the other State Acts.

The Bill does a number of things: it provides that, where a person carries on business as an unlicensed travel agent and is convicted of an offence, the profit from the offence is to be forfeited to the Crown and paid into the Travel Agents Compensation Fund; it removes the requirement that an applicant for a licence should have sufficient financial resources to carry on business in a proper manner under the licence; it inserts a provision that the applicant is not disqualified under a corresponding law, which must be that of New South Wales, Victoria or Western Australia, from carrying on business as a travel agent; it requires supervision of a business by a person with qualifications approved by the Commercial Tribunal; it provides for a person who has been found guilty of an offence involving fraud or dishonesty punishable by imprisonment for a period of not less than three months to be subject to discipline by the Commercial Tribunal; and it makes certain other consequential amendments including the removal of certain appeal provisions where a decision is taken with respect to payments out of the Travel Agents Compensation Fund.

The first matter of concern to which I wish to draw attention is in clause 4. This clause deals with section 8 of the principal Act but curiously it is amended by striking out paragraph *(d)* of subsection (9). Clause 8 deals with applications for a licence and subsection (9) of the principal Act deals with the criteria on which it is determined whether or not an applicant is a suitable person to whom a licence should be granted on payment of the prescribed fee. Among the requirements is that the applicant has sufficient financial resources to carry on business in a proper manner under the licence.

That is similar to the requirements now in the Builders Licensing Act, which we again considered earlier this year. It seems to me to be a perfectly reasonable provision for the licensing authority to consider in determining whether or not an applicant is a fit and proper person to carry on business as a travel agent, remembering that travel agents handle a very large amount of money, are in a situation of trust with respect to their customers, and handle such large amounts of money on trust for their customers. It seems appropriate to determine whether they have sufficient financial resources to carry on business in a proper manner under the licence.

I think that becomes even more important when one considers the recent failures in the travel industry where members of the public have lost a considerable amount of money. I said at the time that the principal Act was being debated that the Liberal Party would have preferred a negative licensing concept. However, we now accept that this has passed the Parliament so we make no further comment on that, but suggest that the deletion of this particular paragraph is inconsistent with the principles that the Government espouses in relation to licensing requirements, such as builders licensing and, earlier this year, travel agents.

I propose that, unless there is some very persuasive reason why that should be deleted, it should remain in, and that

the paragraph that the Attorney-General seeks to insert in clause 4 should also be inserted.

The next area of concern is in relation to clause 5, which inserts new section 10a requiring that the business conducted in any place from which a licensee carries on business must be managed and personally supervised by a person with qualifications approved by the tribunal (whether or not that person is the licensee). With small businesses, which might have only one outlet, that is not unreasonable in the sense that the licensee, being the owner of that small business, is likely to be the person actually managing and personally supervising the conduct of the business.

It may be that that person is not able to be present on the premises for a variety of reasons. Perhaps they are overseas on a travel tour to explore opportunities for travel and itineraries that can be sold to customers, or on promotions. In those circumstances that person will not be personally supervising the business while absent from that business. It may be that that small business person has two outlets.

Let us suppose one is in the city and one at Glenelg, or one in the city and one at Port Adelaide, or in some other venue. That person, because of the nature of the business, might be commuting between the two business operations. That will mean that although the licensee (that small business operator) is in fact managing the business there is not the constant personal supervision that I would suggest this clause really requires.

In fact, it probably requires the same sort of supervision as the Pharmacy Act requires of pharmacies, that is, that there has to be a pharmacist on the premises at all times that the business is open. I would certainly not equate the conduct of a travel agency with the conduct of a pharmacy business. I recognise a large amount of responsibility is required of a travel agent dealing with large amounts of customers' money. However, it seems to me that it can be effectively managed and supervised by a person with appropriate qualifications who would perhaps commute between two outlets or be in the office for part of the time each day, maintaining some form of supervision from a distance while the licensee may be away on some travel promotion opportunity.

It seems to me to be too stringent in that context and I will be proposing to delete the word 'personally' so that the licensee must have a person, whether that licensee or some other person, who manages and supervises the operation of the travel business. I think the removal of the word 'personally' will accommodate the difficulties to which I have just referred to.

The other difficulty is that the management of a travel agency is not just the dispensation of travel tickets or itineraries. It involves a whole range of other responsibilities which are not necessarily directly related to the sale of a ticket but which nevertheless are in an integral part of the operation of the travel business, ultimately to provide a service to the customer. It seems to me that it is somewhat harsh to require a person who might be the owner of the business and who manages the business to have qualifications which might not necessarily be the same sort of qualifications as are required to write out tickets and to organise itineraries.

That is another reason why I think it is not necessary to require personal supervision of a travel operator's business but, rather, to only require supervision. This issue has been drawn to my attention by a number of small operators in the travel industry. With respect, I think that they have a legitimate criticism about the way in which this clause has been drafted.

The only other aspect of the Bill that causes me concern is clause 7, which seeks to repeal subsections (2), (3) and (4) of section 24 of the principal Act, which deals with claims against the Travel Agents Compensation Fund. Subsection (1) provides:

> A claim for compensation shall be determined by the trustees in accordance with the trust deed.

There is no difficulty with that and I accept that terms and conditions upon which claims may be determined can be appropriately determined in accordance with the provisions of the trust deed, but then subsection (2) provides:

> Subject to the trust deed, where the amount standing to the credit of the compensation fund is insufficient to meet all valid claims for compensation, the trustees shall apportion that amount between the claimants in such proportions as the trustees think just.

Subsection (3) provides:

> A claimant who is dissatisfied with a decision of the trustees on the claim may, within 28 days after receiving notice of the decision, appeal to the tribunal against the decision.

Subsection (4) provides:

> On an appeal the tribunal may confirm, vary or reverse a decision of the trustees.

It seems that it is appropriate to have a right of appeal against a decision of trustees and that it is in fact a protection for the trustees who are administering the fund if their decisions may be subject to review according to certain principles which might be established either in the Compensation Trust Fund deed, or by legislation.

A number of compensation funds are being developed, including one under the Land Agents, Valuers and Brokers Act and the Law Society Guarantee Fund. I think that, while there ought to be a discretion on the part of the trustees, there ought to be some safeguards against the trustees acting in a way which is inconsistent with the principles of the trust deed, whether deliberately or inadvertently, or whether by virtue of a different interpretation of the principles upon which payment can be made or declined. I think that it is important to have an appeal provision in the Act. For that reason, unless there is some persuasive reason to the contrary, I oppose clause 7 of the Bill. Subject to those matters, I support the second reading of the Bill.

The Hon. C.J. SUMNER (Attorney-General): I thank the honourable member for his support of the Bill. Obviously, he has some amendments which I will address in the Committee stage.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—'Commencement.'

The Hon. K.T. GRIFFIN: Could I obtain some up-to-date indication as to when the legislation is likely to be in place, and what is the current status of negotiation on the compensation fund and on the trust deed? Also, is it possible to have a copy of the trust deed if it is now in a form which is close to being finalised?

The Hon. C.J. SUMNER: I will give attention to that matter.

Progress reported; Committee to sit again.

EVIDENCE ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 22 October. Page 1340.)

The Hon. K.T. GRIFFIN: The Opposition supports the second reading of this Bill. I wish to address various matters

to which the Attorney-General may want to respond, and I am happy for him do that during the Committee stage. The Bill seeks to establish a statutory basis on which a person who is not reasonably fluent in English and whose native language is not English is entitled to give evidence in a court or tribunal through an interpreter.

The Bill provides also that, where an affadavit or other written deposition is in a language other than English, it may be received in evidence provided that it has annexed to it a translation of the content into English and an affadavit of the translator that the translation accurately reproduces in English the contents of the original. There is no quarrel with that principle: in fact, it is a principle which has been generally in place in the courts for many years. While I can understand that the Attorney-General may want to have something in the form of a statute all of the people with whom I have had discussion on the Bill (judges and members of the legal profession) indicate that they do not see the need for it to be written into the statutes and that the practice has worked quite satisfactorily in the courts without any prejudice to any witness, whether a litigant party or a witness giving evidence in support of one party or another.

The Hon. C.J. Sumner: It's to cover the situation where someone says people can give evidence in English when clearly it's not appropriate. Unfortunately, that happens in courts.

The Hon. K.T. GRIFFIN: If the Attorney-General has some evidence of that, perhaps he might be able to give some indication of where that might occur, because all my information indicates that there is no difficulty. Of course, if there is a difficulty in isolated cases, there is a right of appeal on the basis that the witness was not adequately understood and ought to have been allowed to give his or her evidence through an interpreter.

The major question with this Bill is: who makes that decision that the witness is not reasonably fluent in English? I presume that that really is a decision for the court but, again, after speaking to people on both sides of the bench, I think that there is some doubt whether or not this allows the witness to dictate the determination as to fluency and native language or whether that is a matter for the court.

I would like the Attorney to consider that on the basis that it ought to be the court which has the responsibility for making that determination. It ought to be the court's opinion, and that will then make it appealable if, in fact, the court's opinion is not correct on the evidence before it. While in drafting terms that might be the presumed position, for the sake of a few extra words it would be important to put the matter beyond doubt so that the question as to who makes the determination does not become a matter for appeal and ultimate determination by the courts.

I suppose one consequence is that there may be delays in court procedures, but I accept as a matter of principle that, if a person does not understand the nature of the proceedings or the questioning or the detail of the proceedings in the English language, then as a matter of principle they should be able to have an interpreter present to translate those proceedings into that person's native language. The courts and all those involved in the administration of justice will have to ensure, if there has ever been any doubt about it, that that can be put into practice in order to protect the witness's rights. Subject to that one point of clarification, the Opposition supports the second reading.

The Hon. C.J. SUMNER (Attorney-General): I thank the honourable member for his contribution and I thank the Opposition for its support for the Bill. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

SUMMARY OFFENCES ACT AMENDMENT BILL (No. 3)

Adjourned debate on second reading.

(Continued from 22 October. Page 1340.)

The Hon. K.T. GRIFFIN: The Opposition supports the principle of this Bill, which seeks to provide that, where a person is being questioned by a member of the Police Force in the investigation of a suspected offence and that person is not reasonably fluent in English, his or her native language being a language other than English, that person is entitled to be assisted by an interpreter. If a person requests the assistance of an interpreter, the questioning is not to proceed until an interpreter is present. That principle is accepted and it is a matter which, as the Attorney indicated in his second reading explanation, is already covered by the Police General Orders. The consequence of that, apart from that question of principle, is that a person who asserts that he or she is not reasonably fluent in English will be able to delay questioning and, if questioning continues without an interpreter, I presume that that person will be able to raise that circumstance as an issue in the court by way of objection to the use of the statement given to the police or on appeal.

I can envisage the *voir dire* examination being extended in some cases to determine whether or not the person from whom a statement was taken was able to understand the English language reasonably fluently and whether or not that person requested an interpreter. Questions arise as to the position if the police proceed to question without an interpreter being present. In those circumstances, the question may well be, 'What happens to the statement that has been taken?' It may be that the statement demonstrates a good understanding of English but not a level of fluency which might be expected by the Bill but which is very difficult to define. There may be information in the statement which is helpful to police but which they may subsequently be precluded from using by virtue of the operation of this Bill.

It may be also that someone who is street-wise might be able to assert that he or she is not fluent in English for the purpose of delaying questioning in order to allow accomplices to escape. Further, a person may be able to answer questions with some fluency (but not at the level of fluency expected by the Bill) sufficient to give police additional information upon which they can then pursue investigations without having to rely on the statement of the person they are questioning being given in evidence.

The Bill really says that, if a witness asserts that he or she is not reasonably fluent in English, and English is not his or her native tongue, that person can say, 'I want an interpreter' and then the police will not be able to continue questioning even if they are prepared to acknowledge that the information gained is not to be used in evidence against that suspect but might be information that will enable them to continue their investigations. That is a fairly serious impediment to the conduct of police investigations—not the prejudice to the suspect but the prejudice to other investigations which either might be in relation to that suspect and give the police further leads which they can explore or might give them the opportunity to explore other avenues against other persons who might be accomplices.

It would seem to me that, if a person in any part of South Australia perhaps asserts that he or she speaks only Mandarin, or some other obscure dialect or language, the investigations could be held up for a very significant period or brought to a halt because, if the police act contrary to the mandatory requirement to cease questioning if an interpreter is requested, if they do not cease questioning and if they continue questioning, they are in breach of the section. That will have disciplinary consequences for the police as well. I would have thought that there might be a way by which either a time limit could be imposed or there could be a provision whereby police may continue the questioning provided that the statement given may be used in evidence against that person.

It may be that there are other mechanisms by which the investigations can continue rather than being arbitrarily brought to a halt by the provisions of this Bill as presently drafted. We must try to find a good balance between ensuring protection for the person who genuinely is not fluent in the English language and, on the other hand, not impeding police investigations by their being unable to continue questioning so that the administration of justice and the potential apprehension of offenders is frustrated. Will the Attorney consider that point?

Another difficulty is that, if a suspect is apprehended, say, in a remote part of South Australia, and if he is streetwise and says, 'I don't speak English' or 'I can't understand English and I want an interpreter' there is the question whether the police can make a judgement as to whether the person is fluent, as is presently provided in the Police General Orders, or whether they have to take a decision that the suspect is lying and proceed, running the risk that the statement will not be allowed to be given in evidence or that they will be subject to disciplinary action for having disobeyed the section. There may be some other method whereby that problem can be overcome.

This Bill will have State-wide impact and will relate not only to the metropolitan area or other closely populated areas of the State where interpreters may be readily available. It will mean also that even in the metropolitan area there will have to be readily available a panel of interpreters in many languages and dialects to ensure that there is no unreasonable frustration of police investigations into suspected offences.

Another difficulty I see is that the Bill is limited only to the police. There are some relatively minor offences to which the embargo is applied, yet there are other statutes such as the companies code, the securities industry code, the Fisheries Act, woods and forests legislation and transport legislation where certain offences attract substantial prison sentences and the same protections are not given to suspects in relation to questioning by persons who are not police officers but who may be investigators of the Corporate Affairs Commission, fisheries inspectors, transport inspectors or a variety of other sorts of inspectors who do question and have very wide powers of investigation and apprehension. Another one that comes to mind is tow truck inspectors.

If this provision is to be applied to the police, it ought equally to be applied to all other persons who are in the nature of inspectors or special constables and who do have wide powers of questioning, arrest and so on, so that there is an even-handed approach across the board to the principle embodied in the Bill. I have an amendment on file to do that. I do not yet have amendments on file to overcome the other problems to which I have referred as they are issues on which the Attorney-General may need to seek advice from the Police Commissioner and the Corporate Affairs Commission.

There are sufficient areas of concern about the way in which the Bill will operate (probably inadvertently) to warrant some more careful thinking about its consequences and the way in which it will be applied. Subject to that, the Liberal Opposition supports the principle of the Bill and points out some of the real problems it may create in practice. Without wishing to prejudice in any way individuals who genuinely are not fluent in the English language, consideration needs to be given to ensuring that the Bill does not have those unintended consequences. I would hope the Attorney-General would consider them and give some response in the Committee stage so that they can be clarified, thereby avoiding great problems for the administration of justice in South Australia. I support the second reading.

The Hon. I. GILFILLAN: The Democrats support the Bill. From the comments of the Hon. Trevor Griffin there may be some interesting debate in the Committee stage. It would appear that one of the confusions that could arise as to admissibility or otherwise of evidence, which the Hon. Mr Griffin raised, could be in part solved by the amendment I have on file to make it an obligation of the police to inform the person being questioned of their right. I will speak briefly to that amendment, although I do not want to canvass all areas raised by the Hon. Mr Griffin.

It appears that you could always raise questions of difficulty in implementation of certain procedures. Although it may be reasonable in looking critically at a piece of legislation, it has to be kept in balance. I consider that the possible hesitancies or difficulties that could occur in the questioning by the police and these other rather bizarre cases of people who may be questioning or apprehending people for various offences or situations in which they may find themselves in no way provide an excuse for not ensuring that people in our community who are not fluent in English are given of the best we can offer them to get fair and just treatment.

As the police are in the front line, the legislation as drafted is a good reform. However, I urge the Attorney-General to look seriously at the amendment I have on file as people could be overlooked in the heat of questioning. I am sure that it is not the intention of the Government for certain people to avoid using an interpreter because an over zealous police officer 'forgot' to inform the person being questioned of his or her right. The reasons for the legislative initiative are clear and commendable. I would be disappointed if we were distracted from it by any motive of gungho onslaught on those who are suspect. It is always a hazard in a society that has a blood lust for pinning down alleged criminals. The price of that, when it means that people do not get a fair hearing and equal treatment before the police or the law, is too high a price to pay. I support the legislation and hope that honourable members in due course will support the amendment I have on file.

The Hon. C.J. SUMNER (Attorney-General): I thank honourable members for their support of the Bill. A number of issues have been raised that I will address in my reply. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

COMMERCIAL ARBITRATION BILL

Adjourned debate on second reading.

(Continued from 22 October. Page 1342.)

The Hon. K.T. GRIFFIN: The Opposition supports the Bill. It has been a long time in development. As the Attorney-General said, 1974 saw the first consideration of a proposal for uniform arbitration legislation before the Standing Committee of Attorneys-General. It has taken nearly 12 years to get to the point of agreeing on essentially uniform legislation across Australia. It was the subject of discussion when I was on the Standing Committee of Attorneys-General and I thought that we had agreed to most of it then. However, another four years has elapsed and it has taken that much time to get the final model Bill up to the barrier.

I understand from what the Attorney-General has said in his second reading explanation that the Bill was enacted in New South Wales and Victoria in 1984, in the Northern Territory and Western Australia in 1985, and it has been introduced in the Tasmanian Parliament this year but not yet passed. Now that the Queensland election is out of the way, one would anticipate it being introduced in the Queensland Parliament fairly soon. That will mean there is a relatively uniform commercial arbitration system in force across Australia and that can only enhance commercial transactions between parties in different States or territories. With the adoption of the Vienna Convention on the international sale of goods, which provides for some more uniform system of contracts at the international level, I can see that a lot of the present difficulties in commercial transactions will be eliminated.

This Bill deals with commercial arbitration. It differs in some respects from the model Bill and those differences are, in my view, improvements on the model Bill. The first is in relation to a body corporate which had an unqualified right to legal representation at an arbitration, but a natural person did not. That is overcome to give all parties a right to legal representation. The model Bill has also been redrafted in respect of the so-called use of *Scott v Avery* clauses to oust the jurisdiction of the courts to give again both parties an opportunity to request a dispute be referred to arbitration rather than the first into court with that request. The imbalance which was in the model Bill has been overcome, and I can remember that this was an issue debated when I was on the Standing Committee of Attorneys-General and, as I recollect, the proposal now in the Bill was one that South Australia was proposing but it met with some opposition from other States. I must say I cannot really understand why that was so.

I have been informed by the Institute of Arbitrators, to whom I referred the Bill, that it would like to see the Bill in effect as soon as possible. It makes the point that it regrets that it did not have more of an opportunity to examine the Bill, which was introduced in South Australia. It went to Melbourne where it was compared with the existing Acts in Victoria, New South Wales and Western Australia, and some differences were noticed. Notwithstanding the fact that the institute would have liked more time to consider the content of the Bill, it urges that it be passed at the earliest opportunity. It says it would have preferred uniformity with the Acts already in force, but recognises the improvements made in this Bill. It notes that there are small differences between the Victorian, New South Wales and Western Australian Acts, but there are greater differences in the South Australian Bill.

The institute understands that experience with the new Acts already in force is pointing the way to some amendments, and it hopes that South Australia will be able to also consider those amendments at the time they are brought into operation in the other States. So, there will quite obviously be a settling down process. There will be a need for some fine tuning amendments, and the hope of the Institute of Arbitrators is that South Australia can accommodate to those amendments as quickly as possible after they are agreed with the other States.

I do not intend to deal with the detail of the Bill. It has been agreed on a national basis. There has been generally a more than adequate consultation over the years on this difficult subject and I am pleased that it is now likely to be in force in South Australia fairly soon. I support the second reading.

The Hon. J.C. BURDETT: I, too, support the Bill. It reflects the efforts of many years work by the Standing Committee of Attorneys-General. I commend the efforts of the committee and I am pleased that on this occasion it has produced a concrete recommendation which is likely to produce acceptance by the Parliaments of the Commonwealth. I am afraid that matters before the Standing Committee of Attorneys-General seem to me often to go on and on and on and sometimes produce no results. I am pleased that this matter has come to a resolution. The Bill repeals the initial Arbitration Act and includes that Act as amended and consolidated by the 1974 Act. That Bill was introduced by the Hon. L.J. King (the then Attorney-General), and introduced a major amendment which is substantially changed, or one could say abrogated, by this Bill. In his explanation of the Bill at page 501 of *Hansard* of 15 August 1974, he said:

> The purpose of this Bill is to render ineffective any provision in an agreement relating to future claims or disputes under which arbitration is made a condition precedent to the institution of proceedings in a court of law. Provisions of this kind are called *Scott v Avery* clauses after the decision of the House of Lords in 1856 which decided that such clauses did not have the effect of ousting the jurisdiction of the courts and were therefore valid. The effect of the clause is that a person cannot sue in the courts. He must resort to arbitration which is expensive and is conducted in private.
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> These clauses are often oppressive to claimants under various kinds of contract. For example, in many contracts of insurance a person is compelled to resort to arbitration before he can sue on the policy. This is an additional and unnecessary expense to him. It severely curtails his rights where things go wrong in the arbitration. It gives the company the advantage of sheltering behind the privacy of arbitration and thereby escaping the adverse publicity of a court action. Arbitration is frequently a shield for unethical business practices. The publicity of a law suit, which may expose a company's effort to avoid liability on some unmeritorious ground, may be very injurious to the company. But arbitration proceedings are conducted in private, and so much publicity is avoided.
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> However erroneous or defective an arbitration award may be, a claimant cannot obtain redress for its deficiencies except in the most exceptional circumstances. However artificial, or onesided, the agreement may be he is still usually obliged to depend on it for the assertion of his rights. Commonly, for example, in indemnity insurance policies the liability of the insurance company is quantified by a *Scott v Avery* clause, but the liabilities of the other party are not so qualified. These evils are intensified where the agreement is made between parties of widely different bargaining strength. The stronger party puts forward a form of contract, usually a printed form, which the weaker party must either adopt or reject. The terms of the arbitration clause are not open to rejection. Even between parties of equal bargaining strength the clause is unsatisfactory because it involves binding the parties to arbitration at a time when the cause of the dispute and its suitability for arbitration proceedings is unknown.

Members of the Opposition at that time (1974) supported the Bill with a needed amendment of the Hon. Sir Arthur Rymill to exempt agreements referring to arbitration matters not judicable at law and also major building contracts. I supported the Bill and, referring to the client of an insurance company, on 11 September 1974 at page 861 of *Hansard*, I said:

> If he wants the insurance he has to take it, and he has no way of getting the arbitration clause struck out from the policy. How-

ever, in the case of the building contract, depending on the size of the contract and his bargaining position generally, if the purchaser raises the matter he has at least the chance of having the builder agree to the striking out of the arbitration clause.

I predict that in 90 cases out of 100 that is not worried about. The purchaser believes that everything is satisfactory; he is happy with the builder, and he does not foresee that any proceedings are likely. As in the case of the insurance companies, I hasten to add that only a small minority of builders shelter behind arbitration clauses.

This Bill repeals the Arbitration Act, including the Hon. Mr King's amendment and, instead of rendering provisions and agreements requiring submission to arbitration as a condition precedent to proceedings before a court, in effect, void, which the Act and the Hon. Mr King's amendment did, it allows, as the Hon. Mr Griffin has said, an option of going to a court or to arbitration.

This seems to me to be a reasonable approach and one can only wonder why the Hon. Mr King did not put his Bill in this form in the first place. The provision that the Hon. Mr King introduced was brought in with a bang, but in this Bill has gone out without even a whimper. This effect of the Bill in removing that provision rendering conditions precedent in agreements void was not even mentioned in the second reading explanation. For the reasons I have indicated and the matters that the Hon. Mr Griffin has canvassed, I support the second reading.

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

LAND AGENTS, BROKERS AND VALUERS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 22 October. Page 1344.)

The Hon. K.T. GRIFFIN: The Opposition supports the second reading of this Bill. It seeks to replace the current trust accounting provisions with a revised system of trust accounting and to replace the consolidated interest fund with an Agents' Indemnity Fund. I might say that the general explanation in the second reading of the Bill refers only to these amendments, but a number of other amendments relate to the cooling off period, transitional provisions, information to be supplied to a purchaser before settlement, and deposit to be paid on the sale of a small business.

I regret to say that the detailed explanation of the clauses are not much more informative about the reasons for some of the changes than the general explanation on the second reading. I want to address some remarks to those other issues as much as to the Agents' Indemnity Fund provisions, which have been fairly well canvassed among members of the real estate industry and on which they have been able to make a reasonable level of input. They inform me, though, that all other parts of the Bill have not been the subject of consultation and that they will certainly want to have some input with respect to those provisions. I understand a copy of a submission has gone to the Attorney-General identifying concerns about those questions.

The same applies with respect to the Law Society which raises some questions about aspects of the Bill other than in respect of the Agents' Indemnity Fund. I have a letter from the Land Brokers Society, to which I also sent the Bill for consideration, and it indicates that there are some aspects on which it has made urgent submission to the Attorney-General in relation to finance brokers, I hope that time will be given to consider the various submissions that have been made to the Attorney-General as a result of my circulation of the Bill to various interest groups.

I will deal with various provisions of the Bill, as it may be the most convenient way of putting on record my questions and concerns I have about the Bill. Clause 2 deals with the commencement of the provisions of the Bill. As I understand it, the Land Agents, Brokers and Valuers Act Amendment Bill, that we passed in 1985, is to come into effect next Monday (10 November). Some questions have been raised as to whether the Bill now before us is to be rushed through with a view to bringing it into operation on the same date. Obviously, that will not occur. It may never have been intended or may have been intended, but it picks up some of the problems in that Act that will come into effect on Monday. What it will really mean is that those agents, brokers, lawyers and others, who have an interest in the Land Agents, Brokers and Valuers Act and the way in which it impinges on them and their clients, will now also have to consider the consequences of passing the present Bill.

When is it proposed that this Bill, when it passes Parliament, will be brought into operation and what notice is to be given to those involved in the real estate industry as to the date of proclamation of this Bill? Clause 3 of the Bill deals with a bank and the definition of a 'bank' as being a body corporate that is authorised under the Commonwealth Banking Act and includes the State Bank of South Australia.

The Real Estate Institute put forward a proposition that building societies are now allowed more and more commercial facilities that were previously within the sole powers of the banks. The institute suggested that it might be appropriate to extend the definition of 'bank' to include 'other financial institutions as shall be prescribed'. I think that that is probably already covered in a later provision of the Act, but quite obviously it may be appropriate to give some consideration to other financial institutions being able to act as banks for the conduct of trust accounts and the Agents' Indemnity Fund.

Clause 4 deals with branch offices, and the Real Estate Institute expressed the hope that the Commercial Tribunal will be able to react speedily to a request for an extension of time for the replacement of a manager. New section 38a requires the approval of persons who are nominated to be managers of real estate agents' offices. Perhaps the Attorney-General could give some indication as to the mechanism that is likely to be followed to ensure that there is a capacity to react speedily to requests for extensions of time or appointments.

Clause 5 involves a matter of more substance. It repeals sections 42 and 43 of the principal Act which deal, first, with a requirement that an agent is to render an account to the client within a particular period of time and, secondly, with false accounts. The two sections set some requirements for agents to account to their principals. I think that the potential repeal of those two sections leaves a gap in the obligations of agents and brokers, even though the proposed section 67 deals with the keeping of records. Notwithstanding that proposed section 67, the agents should still be required to account to their principals. That is a view that has been related to me by the Law Society and, although it is not an official view of that society, nevertheless it is the view of the Chairman of its Property Committee who, because of the limited time available since the Bill was introduced and forwarded to him by me, has not been able to obtain the concurrence of the full Property Committee of the Law Society. His view is that there ought to be a duty to account to the principal. My present inclination is to oppose clause 5, or to make some variations to sections 42 and 43 consistent with the other provisions of the Bill

in order to ensure that the agent does account—and is required to account—to the principal.

Clause 6 of the Bill sets up a new regime for the conduct of trust accounts and the establishment of the Agents' Indemnity Fund. Generally speaking, those provisions are accepted and, although the Commissioner for Public and Consumer Affairs is the person who has a wide range of powers (powers which I would question in the sense of the person who has the responsibility for overseeing the administration of that fund), nevertheless there has been consultation to such an extent that I think that that principle has been agreed with the real estate industry and I do not propose to vary it. In effect, the control of the Land and Business Agents Board over the fund is to be abolished and, in its place, the Commissioner will have a variety of responsibilities. I think that it would have been more appropriate (as under the Legal Practitioners Act) for trustees, independent of Government, to be appointed to administer the fund. That is something which must be looked at at some time in the future.

The proposed section 64 in clause 6 deals with the withdrawal of money from trust accounts. The Real Estate Institute suggests that it is deficient in that it does not provide a mechanism for an agent to divest himself or herself of moneys which may be in dispute. The Real Estate Institute has suggested that there be incorporated in that proposed section 64 a procedure to ensure that, where there is a dispute over moneys held in an agent's trust account, the agent can pay those moneys into court of his or her own volition and thus allow the parties to sort it out by reference to that court rather than the agent being involved in any way. The proposed section 64 identifies when an agent may withdraw money from a trust account and provides:

> An agent may withdraw money from a trust account—
> *(a)* for payment to the person entitled to the money or for payment in accordance with the directions of that
> *(b)* in satisfaction of a claim for commission, fees, costs or disbursements that the agent has against the person on behalf of whom the money is held;
> *(c)* to satisfy the order of a court of competent jurisdiction against the person on behalf of whom the agent is holding the money;
> *(d)* for payment into a court before which proceedings have been instituted in relation to the money;
> *(e)* for the purpose of dealing with the money in accordance with the Unclaimed Moneys Act 1891; or
> *(f)* for making any other payment authorised by law.

I think that there is probably some merit in the point which has been put by the Real Estate Institute. Would the Attorney-General give some consideration to that proposition with a view to possibly ensuring that there is a mechanism for disputed moneys held by an agent perhaps to be paid into court without the necessity for the agent to be involved in proceedings between the parties? I know that there is provision in the Supreme Court Rules (and I think in the District Court rules) for moneys in dispute to be paid into court in certain circumstances, but I am not sure that that really goes far enough in the context to which I have just referred as to moneys in dispute held by a land agent.

The other aspect of the proposed section 64 is whether that section and others will be wide enough to allow an agent to invest a deposit, either in his or her name, or in the joint names of the vendor and purchaser, and to collect interest for the benefit of the parties. The whole object of the Bill is to ensure that moneys held on trust earn interest and that the interest is ultimately credited to the Agents' Indemnity Fund for the benefit of those who may be the victims of a defaulting agent.

However, there is a practice which has been followed when maybe there is a deposit of $60 000 or some other reasonably large amount of money and by direction of the vendor or with the concurrence of the vendor and purchaser it is invested in the name of an agent in a fixed term deposit and the interest accrues either to the vendor or to the vendor and purchaser as a result of prior arrangement between the parties. It seems to me that that is not dealt with adequately in the Bill, but it should be. Will the Attorney consider that matter also?

Proposed new section 67 deals with the keeping of trust account records. I believe it is wide enough to encompass computer recorded trust account records, but the first reaction of the Real Estate Institute to the Bill at least raised the question whether there is sufficient authority within new section 67 to allow the trust accounting records to be kept by computer. They say that their interpretation of the present draft is that it suggests a graphic representation of records rather than something which might be computer based. I believe that the clause is probably adequate, but that point is worth considering as we move through the Bill.

The Law Society points out that proposed new section 66 imposes conditions under which the tribunal can appoint an administrator of a trust account. It suggests that the conditions be made more stringent. Further, it proposes that, for the protection of persons on whose behalf moneys are held, the appointment of an administrator be a quick and simple process. The submission of the Law Society Property Committee is that the grounds for appointment of an administrator should include that the agent cannot be located at his or her registered address, that he or she has not complied with any provision of the Act or that his or her licence has been cancelled or suspended, or has expired. I believe there ought to be adequate bases upon which an administrator can be appointed to ensure that the potential for defalcation is prevented, and there is some intervention at the earliest opportunity, recognising that not only is the agent's position to be dealt with sensitively but also those persons for whom the agent holds moneys on trust must be considered.

Proposed new section 75 allows money standing to the credit of the Agents' Indemnity Fund to be applied in payment of the costs of administering the fund; in satisfaction of orders of the tribunal to reimburse persons who have suffered loss as a result of default by an agent; in payment of insurance premiums; and for any other purpose prescribed by the Act. I gather from the Real Estate Institute that an earlier draft contained a provision for moneys to be disbursed (remembering that moneys are disbursed by the Commissioner and not by anyone with a direct and vested interest in the real estate industry) for educational purposes conducted by the Real Estate Institute for the benefit of members of the institute or for the public, but in this Bill that provision has been deleted. I can see some benefit in allowing a certain proportion of the funds to be used for the purpose of running genuine educational programs that might enhance the standards within the real estate industry and also to provide educational programs for members of the public. The Real Estate Institute is a body that is reasonably well equipped to do that. There may well be programs established by the REI in conjunction with the colleges of technical and further education, but in some way it would seem to me to be reasonable that at least the power is available to disburse some proportion of the funds in the Agents' Indemnity Fund for those educational purposes. The higher the standard in the industry, the better informed the public and certainly the fewer problems we are likely to see in the whole of the real estate area.

Clause 9 deals with cooling off periods. There is some concern in a variety of areas with this provision. The cooling off period presently depends on the relationship between the service of the section 90 statements on the purchaser and the date of settlement. I understand that there have been some difficulties where no date has been fixed for settlement. This Bill provides that where a date for settlement is not fixed in the contract, the cooling off period extends until settlement actually occurs. I suggest to the Attorney that that does not take into account contracts which, for example, might be conditional in that they provide that the contract is subject to finance being obtained on or before a particular date and settlement occurring within a particular period after that.

It does not take into account those contracts which might be conditional upon the purchaser selling his or her present property. There may be a time within which that is to be done; otherwise, the contract is cancelled. However, if that sale occurs according to stipulated conditions within the contract, it may be that settlement is to take place within one calendar month after the date upon which the purchaser sells his or her present property. In those circumstances, there is no date fixed for settlement in the contract and it would seem to me to be quite inequitable and unjust that the cooling off period continue until the contract is settled.

I propose that where section 90 statements are not delivered to the purchaser prior to the execution of the contract, the cooling off period should be up to the date of settlement or for a period of 10 days after delivery of the section 90 statements, whichever shall first occur. Therefore, if the statements are not delivered within 10 days of settlement, the cooling off period continues up to the date of settlement. If the statements are delivered before settlement, the purchaser has only 10 days within which to exercise the rights under the cooling off provisions. Even that 10 day period might be too long in those circumstances and it might be that, where the section 90 statements are delivered more than 10 days before the act of settlement, the cooling off period extends only for two business days, and that makes it consistent with the other cooling off provisions in the Bill. But where the section 90 statements are not delivered within 10 days of settlement, perhaps the cooling off period should continue right up to and including the time of settlement.

There are problems, and real problems, which the legal profession and the real estate industry foresee with the present clause 9 in relation to the very open nature of the cooling off period that is provided—in fairly limited circumstances, but in circumstances which nevertheless occur on a reasonably frequent basis.

Clause 10 of the Bill provides for additional information under section 90, but strangely not under section 91 of the principal Act. That information required is as to insurance under the Builders Licensing Act in relation to a building on the land. There is no objection to the amendment, but it has been drawn to my attention that its physical implementation by inclusion of the appropriate paragraph in the section 90 statement will require some time for implementation. I would like the Attorney to give some indication as to what period of time will be allowed before that becomes a requirement.

Clause 12 creates some concern. The 1985 amendment introduced a provision in relation to the sale of small businesses. The amount of deposit that could be required by a vendor was not to exceed 25 per cent of the total consideration for the sale. This Bill reduces it to 10 per cent, but the second reading speech gives no explanation of why the proportion is to be reduced. I am informed that experience of business agents shows that purchasers of very small businesses, where the legal formalities and appropriate notices have been delivered and where the cooling off period has expired, frequently attempt to avoid their obligations, although they have not exercised their rights during that cooling off period. I am told that this causes considerable problems to the prospective vendor and it may take weeks or even months to be extricated from the contract. Before that occurs, the vendor cannot offer the business for resale. The proposition that has been put by the Real Estate Institute (and it has some merit) is that the deposit should not exceed 10 per cent of the consideration for the sale or $2 000, whichever is the greater. I think there is some equity in that or some similar provision, so I would like the Attorney-General to consider that further.

Clause 14 has a rather curious provision about regulations. It says that a regulation made under this Act may have effect by reference to the determination or opinion of the tribunal, the registrar or the commissioner. I am not sure what that really means. It seems to be a quite unique provision. Is it meant to mean that a regulation may say that the decision of the commissioner on a particular issue will become law and be applied by virtue of the operation of the regulation? If that is the position, I am very concerned about it.

Any regulation or any statute ought to clearly indicate what is the law and not what might be adopted by reference to the decision of the registrar, commissioner or the tribunal. Unless there is some clear and persuasive reason why this provision ought to be in the regulation making powers, I would certainly oppose it. There is no reason at all why, if a decision of a commissioner, registrar or tribunal is desired to be applied as the law, it should not either come back to the Parliament for amendment of the principal Act or be implemented by regulation if it is within in the general regulation making power. I do not like the adoption of decisions, determinations or opinions of bodies such as the Commercial Tribunal, the registrar or the commissioner and applying them as the law even though they may cut across what is in the Act or already in the regulations.

There is another problem in the transitional provisions, that is, in paragraph 11 of the transitional provisions in the schedule. The point has been made that a number of businesses have in fact presently invested what might be regarded as trust money in fixed deposits. The schedule of transitional provisions takes no account of that fact and does not accommodate the possibility that, when the Bill comes into operation, there may be moneys on fixed term deposit and that, by virtue of the operation of the transitional provisions, that term deposit would have to be terminated causing loss to those who presently have moneys invested in that way. More careful consideration needs to be given to the transitional aspects of the Bill insofar as it relates to fixed term deposits.

The Real Estate Institute has raised some other matters. I understand that a copy has gone to the Attorney-General. I will not refer to them in the second reading contribution, but reserve the right to raise them during the Committee stages if these issues are not addressed by the Attorney-General. He may, when replying to the Bill, be prepared to give some response to the submissions made by the Law Society and the Real Estate Institute as well as the Land Brokers Society, which referred specifically to considerable problems it believes are evident with land brokers and agents acting as finance brokers because one, according to a report in the past few days, has gone into liquidation and considerable loss is likely to be suffered as a result. There are other issues that I could raise during the Committee

stage. The matters I referred to are the major issues and, subject to them being adequately addressed, I will support the second reading of the Bill.

The Hon. PETER DUNN secured the adjournment of the debate.

DAIRY INDUSTRY ACT AMENDMENT BILL

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

The Hon. C.J. SUMNER (Attorney-General): I move:

That this Bill be now read a second time.

In view of the lateness of the hour I seek leave to have the detailed explanation of the Bill inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

The Australian dairy industry has experienced two years of declining returns, due to overproduction and depressed export prices. Current marketing arrangements do not provide for production control at a national level. Dairy farms in South Australia are licensed under two Acts: those supplying the metropolitan area are licensed by the Metropolitan Milk Board under the Metropolitan Milk Supply Act (1946) as amended; those outside the metropolitan area, such as the South-East or Port Lincoln, are licensed by the Department of Agriculture under the Dairy Industry Act (1928) as amended.

Dairy industry organisations are concerned that continuing increased milk production in Australia will further depress industry returns and have requested the Minister of Agriculture to restrict the issue of new dairy farm licences under the Dairy Industry Act, on industry economic grounds. At present the Minister can only refuse to issue a dairy farm licence under the Dairy Industry Act if the farm is not suitable for use as a dairy farm, or does not meet regulatory requirements in respect of hygiene and construction.

The amendments to the Dairy Industry Act will allow the Minister, on forming the opinion that the issue of further licences would render dairy farming uneconomic, to direct that no new dairy farm licences be issued. This will allow the Government to help reduce milk production in South Australia and improve the viability of existing dairy farms. The restriction will not apply for renewals of existing licences, the transfer of licences following change of ownership or to a person transferring his licence to a new dairy farm.

In proclaiming this legislation time is to be allowed to ensure that individuals who have already committed resources to the development of a dairy farm can apply to a licence. In addition the legislation will permit the Minister to revoke a direction previously made.

Clauses 1 and 2 are of the Bill are formal.

Clause 3 amends section 7 (2a) of the Act to provide that the issue of a licence for a dairy farm is subject to any direction given by the Minister under section 8 or 8a.

Clause 4 inserts section 8a which provides that the Minister may direct that no further licences be issued for dairy farms when the Minister is of the opinion that the establishment of further dairy farms would result in lower returns to dairy farmers, rendering dairy farming uneconomic.

Subsection (2) of the proposed section provides that such a direction shall not affect an application for renewal of a dairy farm licence, transfer of a licence from one person to another, or an application by a holder of a licence to transfer from one property to another. Subsection (3) of the proposed section provides that the Minister may revoke such a direction.

The Hon. PETER DUNN secured the adjournment of the debate.

METROPOLITAN MILK SUPPLY ACT AMENDMENT BILL

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

The Hon. C.J. SUMNER (Attorney-General): I move:

That this Bill be now read a second time.

In view of the lateness of the hour, I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

This Bill accompanies the Bill for amending the Dairy Industry Act and is designed to restrict the issues of new milk producer's licences under the Metropolitan Milk Supply Act. The amendments are therefore similar to those proposed for the Dairy Industry Act, thus ensuring uniformity of action under both Acts. This measure will allow the Metropolitan Milk Board to help reduce milk production and improve the viability of existing milk producers.

The Metropolitan Milk Supply Act and Regulations are also being amended to increase penalties under the Act to $2 500 and under the Regulations to $1 000. Existing penalties of $200 and $100 have not been increased since 1946. These amendments are therefore proposed to make the penalties more realistic and to increase the effectiveness of the Act.

Clauses 1 and 2 of the Parliament are formal.

Clause 3 amends section 29 of the Act to enable the board, on the application of the holder of a milk producer's licence, to amend the licence by deleting the reference to the premises in the licence and substituting a different premises as requested by the holder of the milk producer's licence in the application.

Clause 4 amends section 32 of the Act. Under proposed new subsection (3a), when the Minister forms the opinion that the issue of further milk producer's licences would lower returns to milk producer's thus rendering dairy farming uneconomic, the Minister may direct that no further licences be issued. Proposed new subsection (3b) provides that a declaration under proposed new subsection (3a) does not affect an application for renewal of a current licence. Proposed new subsection (3c) permits the Minister to revoke a declaration. Proposed new subsection (3d) requires the Board to comply with Ministerial directions under proposed new subsection (3a).

Clause 5 increases from $200 to $2 500 the penalty for contravention of any term of an order of the Metropolitan Milk Board admitting a licence-holder to a milk prices equalization scheme in force in respect of milk supplied to the metropolitan area.

Clause 6 increases from $100 to $1 000 the maximum penalty that may be imposed under the regulations for a breach of any regulation.

Clause 7 increases the general penalty provided under section 47 of the principal Act from $200 to $2 500.

The Hon. PETER DUNN secured the adjournment of the debate.

ADJOURNMENT

At 6.22 p.m. the Council adjourned until Thursday 6 November at 2.15 p.m.