LEGISLATIVE COUNCIL

Wednesday 7 October 1987

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

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

PAPER TABLED

The following paper was laid on the table:

By the Minister of Tourism, on behalf of the Minister of Health (Hon. J.R. Cornwall):

Pursuant to Statute—

Betting Control Board—Report, 1986-87.

MINISTERIAL STATEMENT: TAFE REGULATIONS

The Hon. BARBARA WIESE (Minister of Tourism): I seek leave to make a statement.

Leave granted.

The Hon. BARBARA WIESE: I would like to inform the Council that the Government will be moving to revoke amendments to the regulations under the Technical and Further Education Act 1976 published in the *South Australian Government Gazette* on 6 August 1987. This follows an agreement which has been reached between the Government and the South Australian Institute of Teachers representing TAFE teaching staff. In reaching this agreement the Government has reserved its right to re-submit amendments to the regulations if there is a breakdown in further negotiations. The transfer of principals and vice principals to the GME Act remains unresolved and will be tested in the Supreme Court.

QUESTIONS

TOPS

The Hon. M.B. CAMERON: I seek leave to make a statement prior to asking the Minister of Tourism a question on TOPS.

Leave granted.

The Hon. M.B. CAMERON: Everyone in this Council would be quite familiar with the frequent publicity now given to Australia's becoming an increasingly popular destination for tourists from overseas. It appears that films such as *Crocodile Dundee* and the character portrayed by Paul Hogan have added much to Australia's existing reputation of land of vast contrasts and exotic wildlife and being populated by a suntanned, easy-going population.

Tourist operators around Australia, and, particularly, in relation to this question, in South Australia have done their bit to capitalise on the success of such films and, in connection with the Federal Government, have spent large amounts of money in advertising and providing promotional material encouraging people from overseas to take a trip down under, in particular to South Australia. But, the Federal Government's decision last month to scrap its Tourism Overseas Promotion Scheme, as part of its budget pruning, has savagely bitten tourist operators in a manner that is, I should have thought, usually reserved for Dundee's crocodiles. The Federal Government has without warning scrapped TOPS whereby tourist operators could get back up to 70 per cent of their expenditure on promoting Australia to people overseas over and above an initial outlay of $5 000.

Many tourist operators have outlayed large amounts of their own money this year in promoting both South Australia and interstate destinations and attractions, believing in good faith that they would be entitled to a rebate on their expenditure. I learnt today of one well-known South Australian tourist operator, Desert Trek (whom most people in the State have heard of) who has spent more than $47 000 this year on producing promotional material, believing that he would qualify for a Federal Governmment rebate grant through TOPS of $29 400. That operator tells me that the expenditure was not made blindly, or without prior knowledge of how the scheme operated, because he has had rebates in the past, having operated under TOPS since 1985, at the invitation of the Federal tourist authorties.

I was also told that some interstate tourist operators have been financially embarrassed by the scrapping of TOPS, some having spent up to $150 000 of their own money on promoting Australia, but none of it is now apparently likely to attract Government grants. The Desert Trek operator said it had no inkling that TOPS would be scrapped and, in addition, Desert Trek and 1 000 other Australian tourism industry representatives at a Sydney conference in mid June were reassured by the Federal Minister for Tourism, Mr Brown, that TOPS would be continued, and that, in fact, a further $8 million had been allocated to it. It seems to me that the very least the Federal Government can do is reimburse all tourism operators who have spent money, properly and sincerely, with clear assurances from the Federal Tourism Minister, and who now appear to have been conned.

In particular, Desert Trek applied for registration under TOPS in March of this year, so it is not as though this matter has occurred in the last few weeks. It received registration numbers on 25 May. It was normal under the scheme for people to spend the money prior to receiving a rebate. In many cases they were registering and going ahead with the expenditure because certain deadlines were set by the Federal Tourism Minister for participation in certain promotions overseas.

So, they had to spend the money. On 25 May, because no rebate or no indication of ministerial approval had been received, the fact is that Desert Trek rang the TOPS office and was told by an officer that the application had been processed, had been applied for in time and correctly and would therefore go ahead with the schemes of payment applied for. The time delay was, therefore, according to this officer, not their fault. When extra finance became available, their applications would be forwarded for approval and would be approved.

That was a clear commitment on 25 May, and it was shortly after that that the Federal Tourism Minister in fact made it clear that TOPS was to continue. One could imagine the situation, some months after the original application, when they received word that no such money would be available, after they had spent their money. My questions are: what steps will the Minister of Tourism take to ensure that those people who have taken part in TOPS and have received registration numbers from the Federal tourism department and who operate in this State and have been waiting since March for Federal ministerial approval of their grant will receive their money?

I would appreciate it if, as the State Tourism Minister, she would approach her Federal counterpart and make this situation very clear. How many South Australian tourism operators have been caught in the situation as a result of what I regard as a scandalous abrogation of the Federal Government's commitments to these operators, who have

done their best to ensure that tourists do come to this country and, more particularly, to this State? Is the Minister aware that in June the Federal Minister for Tourism assured the industry that TOPS would continue? What protest does the Minister plan to make to her Federal counterpart on the effects that the Federal Government's decision is having and will continue to have on South Australian tourist operators?

The Hon. BARBARA WIESE: I, too, was rather surprised to learn that TOPS was to be abolished, because as recently as July this year when the Federal Minister of Tourism was in South Australia for the opening of the Australian Federation of Travel Agents conference at the Convention Centre, he stated that TOPS would be continued. He also pointed out that there had been some problems with TOPS and the use of TOPS by some tourism operators, and he expected that there would be some changes to the scheme. It certainly came as a surprise to me when the Fedral budget was brought down to note that the scheme was abolished, because it had been my understanding that the guidelines would be changed rather than the scheme being abolished altogether.

As a result of the decision that has been taken by the Federal Government with respect to this matter, I have asked officers of my department to make an assessment of the impact of the abolition of TOPS on operators in South Australia. I am advised that TOPS is not used extensively by operators in this State, but I want to get a much clearer picture of that before I make decisions about the way in which I might raise the matter with my Federal colleague.

The Hon. M.B. Cameron: They entered the scheme by invitation from the Federal tourism department. It was not as if they went in on their own.

The Hon. BARBARA WIESE: I am aware of that. I am also aware that individual operators have applied for TOPS assistance without being invited as well, so the use of TOPS nationally has been quite extensive and has grown very rapidly since its inception. The overall cost of the scheme has risen quite dramatically during that time. As I was saying, I want to collect as much information as I can about the use of TOPS by operators in South Australia and what impact its withdrawal will have on the work of those operators, so that I can take up those matters with my Federal colleague as quickly as possible.

TOURISM ADVICE

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Minister of Tourism a question about advice given to her.

Leave granted.

The Hon. L.H. DAVIS: I have been informed through the Department of Tourism that the Minister of Tourism on many occasions is preferring the advice of a gentleman living in another State to advice from her departmental officers and industry representatives on critical tourism policies and issues. I understand that there is concern in both the Department of Tourism and wider Government circles about the source, frequency of contact, and the nature of the advice.

First, will the Minister advise whether the gentleman in question is on the payroll of the Department of Tourism as an employee or consultant? Secondly, in future will the Minister ensure that she seeks and takes advice from those people employed by the department to provide that advice together with the appropriate industry representatives?

The Hon. BARBARA WIESE: These questions are a bit of a riddle to me, and I cannot answer them unless I know the name of the individual involved.

MAINTENANCE PAYMENTS

The Hon. K.T. GRIFFIN: I seek leave to make an explanation before asking the Attorney-General a question about gaol for the non-payment of maintenance.

Leave granted.

The Hon. K.T. GRIFFIN: I raise a matter of grave concern in relation to a Mr Phillip W. Rogers. I raise it in the Parliament because he was gaoled on 20 September 1987 for seven months for failing to pay $5 300 arrears of maintenance for two children to his former wife. I raised this matter with the Minister of Community Welfare by letter of 2 September, but all that I have received is a brief acknowledgement dated 7 September from the Minister's Chief Administrative Officer informing me that the matter had been drawn to the Minister's attention. Nothing more has been heard from the Minister since then, and in the meantime Mr Rogers languishes in gaol.

I also wrote to the Ombudsman who has made a preliminary investigation, but he indicates that he is unable to continue with the investigation. Mr Rogers sought legal aid when the matter first came up last year and again earlier this year, but it was refused. At the time of rejection of his application he was told that the legal aid people thought he would not win because both the Department for Community Welfare and the courts are looking to make examples of people who do not pay maintenance.

Mr Rogers was injured at work in March 1982. He is permanently disabled and receives a superannuation pension. The Department for Community Welfare sought information from his former employer and from a company, Tailgate Couriers, as to payments being made to Mr Rogers. Tailgate Couriers wrote to the department about a Mr Phillip Rogers but it was the wrong one. The Phillip Rogers in gaol has never worked for Tailgate Couriers, yet the letter from Tailgate Couriers was submitted to the court on one of the many occasions Mr Rogers appeared but it has never been withdrawn even though Mr Rogers has tried to have the court review his position. He has been given short shrift by the court when he has appeared, and he has not been able to put his side of the case effectively against that of the department because he has not had a lawyer to represent him.

Mr Rogers' difficulty is that he has no assets and his modest expenditure exceeds his income, yet he is now in gaol. That will not help him. Mr Rogers, has written to me as follows:

> At law I'm treated more harshly than a criminal due to *(a)* no remission for good behaviour *(b)* the debt remains although I serve a prison term. Surely, court orders for maintenance should cease during the period of imprisonment *(c)* the debt accrues while serving a prison term.
>
> The Department of Correctional Services lumps 'contempt of court' which is not a criminal offence on equal standing with criminal offences such as arson, murder, manslaughter, wounding, assault, rapes, carnal knowledge, incest, indecent assault and behaviour, kidnapping and abduction, robbery and armed violence, and extortion. Consequently, although I'm classed as 'very low security' I'm not eligible for home detention, whereas criminal offenders are.

One can discern from that that Mr Rogers is rather bitter about the system. Mr Rogers makes the point also that it is no benefit to his children in relation to whom he has access if he is 'prevented from seeing them'. He also states:

> I'm locked into a situation of spending many years in prison because there is no way of purging my contempt. Surely this is

not in the children's welfare, having access to the non-custodial parent denied.

I make clear that I do not have sympathy for those in default in payment of maintenance obligations if there is wilful avoidance but, where there is a genuine inability to pay, the community has to face the fact you cannot get blood from a stone. When the Minister of Correctional Services in the past few days announced community work orders for fine defaulters—and it costs $120 per day to keep defaulters in gaol—it is surprising that some consideration has not been given to alternatives for those who genuinely cannot pay maintenance. In this case, according to the figures of the Minister of Correctional Services, the cost to the taxpayer of keeping Mr Rogers in gaol will be $25 500 and he still will have to pay all the outstanding maintenance. It looks as though he will be on a perpetual merry-go-round.

I raise two questions with the Attorney-General, as the Leader of the Government, and also because the matter involves the administration of justice and it does not appear as though the Minister of Community Welfare will do anything about investigating the matter. My questions are:

1. Will the Attorney-General indicate whether the Government is proposing any alternatives to gaol for maintenance defaulters?

2. Will the Attorney-General have Mr Rogers' case investigated as soon as possible to see whether there is some way in which the gaol order can be reviewed, suspended or revoked?

The Hon. C.J. SUMNER: I do not know the details of the case to which the honourable member has referred. Members of the community generally (and I think that this is reflected by the Federal Government and the Opposition) are concerned about persons who, following a family break-up, do not honour their obligations to maintain the spouse or the children of the marriage. According to some calculations that I have seen, that failure to live up to those responsibilities costs the taxpayers of Australia in social security payments an amount running into billions of dollars. That is why the Federal Government is examining means whereby a system for maintenance payments from spouses who have an obligation to pay maintenance for their children—but do not—can be made more foolproof.

As the honourable member would well know, for many years in this State a system has operated within the Department for Community Welfare whereby people entitled to receive maintenance can have that entitlement enforced through the South Australian courts. I assume that in this case the obligation to pay maintenance is there; that the matter was taken to the courts; that court orders were made; and that the individual concerned did not comply with the court orders. As a result of his failure to comply with the court orders, he has been given a term of imprisonment in default of that payment or compliance with the orders. That being the case, I am not sure whether there is anything specific to this matter that would give any cause for concern, but I will cause inquiries to be made and I will bring back a reply for the honourable member.

As to the question of alterations, at present the whole area is being examined by the Federal Government and it may be that the present system whereby State bodies carry out enforcement procedures for the payment of maintenance will no longer exist and they may in fact be taken over by the Federal Government. I am not able to say what will be the outcome of that. If the State continues to have responsibility in this area, then the suggestion made by the honourable member can be examined but, in the meantime, we have to continue our negotiations with the Federal Government on what is a major social problem, namely, the splitting up of families. That leads to a major budgetary problem for the Federal Government in the payment of social security benefits. I would have thought that the honourable member would be keen to ensure that people who find themselves in this situation do not, in fact, attempt to avoid their obligations.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: That is not necessarily a comment on this particular case. I am just saying that I would have thought that the honourable member would be keen to ensure that people honour their obligations with respect to maintenance payments following a family break-up. It is a major social problem which leads to major budgetary problems for the Federal Government, and it is examining means whereby that impost on the Federal social security benefits can be lessened by the more effective collection of maintenance where that maintenance is due.

In relation to this case, I do not know the circumstances. I will refer the matter to the appropriate Minister to ascertain whether there are any issues that give rise to concerns. With respect to the first question, it may be that some alternative system of enforcement is indicated, but whether that would be done at the State level will depend on the outcome of present discussions with the Federal Government on the future of the enforcement of maintenance orders.

ABORIGINAL IMPRISONMENT

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Attorney-General a question about Aboriginal imprisonment.

Leave granted.

The Hon. M.J. ELLIOTT: I also seek leave to table two documents.

The PRESIDENT: What are they?

The Hon. M.J. ELLIOTT: One document is a table of Aboriginal prisoners and the extent of over-representation by State, and a second document gives the number and percentage of prisoners by most serious offence and aboriginality in Australia.

The Hon. C.J. Sumner: You can't table documents and ask questions without giving us copies.

The Hon. M.J. ELLIOTT: Are you denying me the chance to table them?

The Hon. C.J. Sumner: You can't go tabling bunches of documents and ask a question on them without giving me copies of them.

The Hon. R.I. Lucas: You used to do it all the time.

The Hon. C.J. Sumner: That's not correct. I can't respond to a question without having the document he's referred to.

The PRESIDENT: Order! The honourable member is seeking leave to table documents. If anyone wishes to refuse permission they know the procedure.

The Hon. C.J. Sumner: Well, I refuse, subject to our getting a copy. If he gives us a copy he can have the leave. I am not going to answer questions without the documents.

The PRESIDENT: Leave is refused.

The Hon. C.J. Sumner: For the moment.

The Hon. M.J. ELLIOTT: I thank the Attorney-General for his indulgence.

The Hon. R.I. Lucas: We have a couple of crucial votes coming up today, Michael; we'll sort him out.

The PRESIDENT: Order!

The Hon. M.J. ELLIOTT: Ms President, according to the tables that I have they compare State by State the extent of representation of Aborigines as a percentage of total prisoners and also take into account the relative proportion

of Aborigines in the population. It is interesting that for the year 1986, with the exception of Queensland which has no figures available, South Australia has the highest rate of representation, which stands at 28 per cent, as compared with Western Australia at 25 per cent; the next highest States, Victoria and New South Wales, stand at 17 per cent. The rate for South Australia is almost identical to the figure in 1982. In fact year by year it has been fairly well static, whilst Victoria in the same period has virtually halved the rate at which Aborigines are present in its prisons.

The second table that I have in my possession looks at the sorts of offences which have led to people being imprisoned and whilst Aborigines make up 10.6 per cent of the Australian prison population, for certain crimes they make up a higher proportion. For instance, for offensive behaviour, the figure is 36 per cent; assault 19 per cent; justice procedures, whatever they are, 22.5 per cent; and driving offences and administrative offences about 20 per cent and 23 per cent respectively. Is the Attorney-General aware that according to these figures, which were given to me by the Australian Institute of Criminology, South Australia has the highest rate of Aboriginal imprisonment, compared to its population, of any State other than Queensland? If so, does the Attorney-General have an explanation as to why that is the situation? I know that he is not in a position to answer at this stage, but in future could the Attorney provide a breakdown of figures for South Australia, comparing Aboriginal and non-Aboriginal prisoners in relation to the crimes that led to their imprisonment?

The Hon. C.J. SUMNER: There is nothing new in the figures that the honourable member has indicated to the Council. I am not able to confirm the precise situation, but certainly Aborigines are over-represented in the South Australian prison system compared to their number in the South Australian population. This matter is of concern to the Government which has set up the Justice and Consumer Affairs subcommittee of Cabinet to investigate the problem. This committee, of which I am the Chairman, has on it Ministers who are responsible for various areas of justice administration. The Minister of Correctional Services, the Minister of Emergency Services and the Minister for Community Welfare are on the committee.

Some time ago when issues in the criminal justice system were being examined it became clear that Aborigines are over-represented in all stages of the criminal justice system—in the courts and, in particular, in the prisons. As a result, the Justice and Consumer Affairs Committee appointed a task force of departmental officers to examine the issues relating to Aborigines in the criminal justice system and to provide recommendations to the committee. That task force has been working on a number of issues, one of which has been the question of imprisonment of Aborigines for fine default. The task force has been cooperating with the Australian Institute of Criminology and a report on that topic will be available shortly.

The honourable member will also know that this Parliament has passed legislation to provide for community service orders for fine defaulters. When that is implemented it should have an effect on the number of persons imprisoned for fine default: this includes Aborigines, who, once again, are over-represented in prisons as a result of failure to pay fines. So, one initiative has already been taken. The task force is also working on other aspects relating to Aborigines in the criminal justice system and the problem of their over-representation and, when that work is completed, the Government should be in a position to implement procedures in an attempt to alleviate the situation.

There is no doubt that it is a major problem; there is also no doubt that it is not a problem that will be easy to solve. However, the Government is aware of the issues and has taken action to evolve some concrete proposals that will hopefully overcome some of the problems of Aborigines in the criminal justice system and in the courts system, as well as the problems of the over-representation of Aborigines in imprisonment and, in some cases, the unnecessary gaoling of Aborigines.

The Hon. M.J. ELLIOTT: Will the Attorney-General return to this Council at a later time with figures which indicate the percentage of Aborigines imprisoned as a result of committing a crime?

The Hon. C.J. SUMNER: I understood that the documents to which the honourable member referred, and which I am happy for him to table, if he provides me with a copy, contain those figures.

The Hon. M.J. Elliott: Not by crime in South Australia.

The Hon. C.J. SUMNER: I assume that, if the Australian Institute of Criminology has figures for the whole of Australia, it almost certainly would have figures for each State. However, I will make inquiries on that matter and see if the information is available for the honourable member.

CHRISTIES BEACH WOMEN'S SHELTER

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Attorney-General a question about the Christies Beach Women's Shelter.

Leave granted.

The Hon. DIANA LAIDLAW: In response to a question that I asked on the same subject on 19 August, the Attorney confirmed that three months after the allegations in relation to shelter staff were referred to both the Corporate Affairs Commission and the Commissioner of Police inquiries were continuing in order to determine a breach of either the Associations Incorporation Act or the criminal law. On 23 September, during the Estimates Committee debates on community welfare, the Minister of Community Welfare advised that he had received a copy of the Corporate Affairs Commission report and confirmed that the Commissioner 'had found that there were irregularities'. He also said, 'I know that there were various bank accounts which were not declared.'

As the report 'Shelters in the storm' was tabled in this Parliament and thereafter available for public scrutiny, will the Attorney table the report of the Commissioner of Corporate Affairs relating to the allegations referred to in the 'Shelters in the storm' report? If he will not do so, will he explain why? Also, can the Attorney-General say whether the report of the Police Commissioner has been finalised? I have been advised to that effect, although I have not been able to confirm that advice. If not, will he determine the status of investigations by the Police Commissioner and advise if this report will be released and, if not, why not?

The Hon. C.J. SUMNER: The honourable member obviously does not understand the procedures that are followed in these sorts of matters. I can tell the honourable member that reports of police investigations are not made available to Parliament under any circumstances. The honourable member may recall a somewhat controversial debate.

An honourable member interjecting:

The Hon. C.J. SUMNER: That may be, but certainly it has not been done very often because of the problems that would occur if members of Parliament could call for reports of police investigations. The whole business of police inquiry and law enforcement would be made farcical if that was

the case. If one could call for a whole bunch of documents and statements from the police after an investigation had been carried out into something—

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: I am just telling you that any call for police reports in relation to allegations of criminal behaviour that have been investigated by the police cannot be countenanced in Parliament because police work would be made absolutely impossible.

An honourable member interjecting:

The Hon. C.J. SUMNER: Very well. The honourable member will recall the debate about the Duncan case. That report was not tabled in Parliament for the very good reason that it was a police investigation which contained people's names, certain allegations and statements. It was not tabled by me, it was not tabled by the Hon. Mr Griffin for the reason (as he well knows and you do not) that, if you get into the business of tabling in Parliament reports or statements that have been obtained by police during the conduct of criminal investigations, the system of criminal investigation will be rendered completely impotent.

The Hon. Diana Laidlaw: So you won't do it?

The Hon. C.J. SUMNER: I am just outlining the problems. I should have thought that as a sensible backbencher in the Parliament the honourable member would accept the problem.

The Hon. L.H. Davis: She's not a backbencher: she's a front-bencher.

The Hon. C.J. SUMNER: As far as the official Parliament is concerned, she is a backbencher.

The Hon. Diana Laidlaw: Actually, it does not really fuss me very much.

The Hon. C.J. SUMNER: I know that it does not fuss the honourable member. There are problems with the tabling of the results, by way of reports or statements, of police investigations. It is not the custom to do it, and I do not intend to start that procedure now, particularly if no charges are to be laid. It would be an abominable situation if no charges were to be laid yet I was to come along and table in the Parliament a whole bunch of allegations that—

An honourable member interjecting:

The Hon. C.J. SUMNER: Just a minute!

An honourable member interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: Statements could be tabled in the Parliament and, because privilege would attach to them, they could be published in the newspapers. The reality is that major problems exist with the tabling of reports of police investigations, including statements that police have obtained from witnesses, in the Parliament or anywhere else. I am advising honourable members, who can accept it or reject it. If they do not accept it, I suggest that they have a word with the Hon. Mr Griffin. The problem with tabling those sorts of reports and statements is simply that we will render criminal investigation virtually impossible.

With respect to the specific questions, the honourable member seems to have forgotten that a motion on this topic, which is to be debated some time, is to be moved by the Hon. Mr Elliott. I understood that the Hon. Dr Cornwall was going to respond to that motion when it was moved.

The Hon. Diana Laidlaw interjecting:

The Hon. C.J. SUMNER: Just a minute! I am not aware of the full details of the results of the investigations in both cases. In my view the investigation by Corporate Affairs officers ought not to be tabled for similar reasons to those that I gave relating to the police. However, I do not know what the position is with respect to criminal charges or whether they will be laid. That is a matter for the police. At this stage I do not know, but maybe the Minister of Health will be able to provide more information on that topic tomorrow. I do know that the Corporate Affairs Commission will be instituting legal proceedings in this matter. I do not have the details of those matters before me, but I have been advised by the Corporate Affairs Commissioner that proceedings will be taken by the commission in relation to certain matters dealing with the Christies Beach Women's Shelter.

The Hon. M.B. Cameron: Some have been taken.

The Hon. C.J. SUMNER: Whether or not they have been taken, I have been advised that proceedings are being taken by the Corporate Affairs Commission in relation to the Associations Incorporation Act.

The Hon. Diana Laidlaw: Not criminal charges?

The Hon. C.J. SUMNER: I do not have the details in front of me, but the proceedings will presumably be for non-compliance with the Associations Incorporation Act. The honourable member can characterise them how she likes. They are proceedings for non-compliance with certain provisions of the Associations Incorporation Act. That is as much as I know. If the honourable member wants the precise details of those proceedings, they can be obtained, although I am not sure whether they have been taken. Certainly, however, I am advised that it is the intention of the Corporate Affairs Commission to take proceedings.

The Hon. DIANA LAIDLAW: By way of supplementary question, the Attorney indicated that he would be prepared to bring in precise details of the proceedings. Will he agree to bring them before the Parliament?

The Hon. C.J. SUMNER: Once they have been taken and are in the public arena, yes.

COMPUTER CRIME

The Hon. R.I. LUCAS: I seek leave to make a brief explanation before asking the Attorney-General a question on computer crime.

Leave granted.

The Hon. R.I. LUCAS: On 27 October 1983 I asked a question of the Attorney-General—

The Hon. K.T. Griffin: I remember it well.

The Hon. R.I. LUCAS: The shadow Attorney remembers it well, and I am sure that the Attorney does also. I outlined significant problems not only in South Australia but in Australia in relation to computer crime at that time and the likely problems for the future. I asked the Attorney whether he would consider the legislative changes that have recently been introduced in the United States and bring back a report to the Parliament on any possible need for legislative change in South Australia. On 1 December 1983 I received a response from the Attorney which, amongst other things, stated:

> I have asked that the Standing Committee of Attorneys-General should look at computer crime. Any examination of the matter by the Standing Committee will take into account development in other countries.

I am advised that over the past four years there have been quite a number of reports both in Australia and elsewhere.

For example, the Tasmanian Law Reform Commission has looked at it, and the Standing Committee of Attorneys-General has been looking at it for four years. I am told that the Queensland Government is about to put out a green paper. In the United Kingdom the Scottish Law Commission published a paper, and the United States and Canada have published papers. Also, the Organisation for Economic Cooperation and Development last year outlined develop-

ments in 12 Western European countries. The common feature of virtually all those reports and recommendations is that much computer crime can be dealt with by existing offences with substantial penalties. To give two examples, a person who dishonestly alters computer-held accounting records can be convicted of false accounting. A person who deliberately wipes a computer program or data can be convicted of criminal damage.

On 9 September 1987 the Victorian Attorney-General, perhaps known for his reforming nature, introduced a Bill entitled the Crimes (Computer) Bill. The introduction to that Bill states:

A Bill to ensure that major fraud offences apply to conduct involving the dishonest manipulation of a computer or other machines; to create new offences covering the falsification of computer-related articles, such as computer-held records, discs, tapes, and automated teller machine cards, and of other instruments not in written form; to ensure that major theft and fraud-related offences are able to reach improper acts done outside Victoria which have a real and substantial link with Victoria; and to increase penalties for corruption offences.

The Attorney-General in Victoria, Mr Kennan, noted in the second reading as presented to Parliament that the Bill was 'in line with agreements reached to date by the Standing Committee of Attorneys-General'. My questions to the Attorney are:

1. Has the Attorney considered the Victorian legislation introduced by Mr Kennan, and will he be introducing legislation similar to that introduced by Mr Kennan into the South Australian Parliament this session and, if not, why not?

2. More specifically, does the Attorney-General believe that computer hacking or unauthorised use which does not involve criminal intent or harmful consequences should be treated as a criminal offence?

The Hon. C.J. SUMNER: Whether the Government will proceed with the legislation in precisely the same terms as the Victorian Bill, I cannot say at this stage. The matter is under investigation in my department. The Standing Committee of Attorneys-General has reached a broad agreement essentially to ensure that the existing law will cover computer crime where there is some fraud or damage to property, that is, within the current classification of crime. The standing committee, however, has not made a decision that just pure unauthorised access should be as such a criminal offence.

The Hon. R.I. Lucas: There are different views.

The Hon. C.J. SUMNER: There are differing views; there is no doubt about that. One view is that the existing criminal law suitably amended is sufficient to deal with computer crime, and just because you have a computer, you should not thereby expand the nature of the activity which you make criminal. For instance, if there is unauthorised access to the honourable member's papers on his desk by the Hon. Dr Ritson, for instance, or anyone else, then that is not a criminal offence unless perhaps they are taken away.

The Hon. R.I. Lucas: They might be looking for a bottle of wine.

The Hon. C.J. SUMNER: That is possible, and it might be a matter of privilege for the Parliament. It is not a criminal offence as such for someone to interfere without damage but just to look at the material that the honourable member may have on his desk. The question is whether examining material that is in a computer by way of hacking or some other unauthorised access ought to be a criminal offence.

The Hon. R.J. Ritson: You would be arresting a lot of matriculation students.

The Hon. C.J. SUMNER: I do not know about that. The honourable member may be more aware of the activities of matric students than I am. The debate is whether what is basically not now criminal—that is, unauthorised access to information—ought to be made criminal in the context of computer information. Everyone, I think, is agreed that the criminal law should be placed in a position whereby what is now criminal, that is, damage to computer information, should be criminalised; that fraud as a result of the use of computers should be criminalised; and generally the view is they are covered by the existing law.

I think the criminal damage Bill that we passed in this Parliament a few months ago would probably cover the damage to computer programs by intervention into a program and damage to it. I think that is probably already covered by the law, so in that sense it may be that we are ahead of Mr Kennan. I am sure he would not confess to it. With respect to theft and other fraud, a Bill is being considered generally by the Government on theft, and the question of whether or not computer fraud is properly covered by the existing criminal law will be considered in that context. Generally, the view is that the existing law is satisfactory to deal with those matters which are now criminal—damage to property, theft, or fraud.

The Hon. R.I. Lucas: What view have you put?

The Hon. C.J. SUMNER: I will come to that. The real issue, one of the most important issues, is the question of what you do with unauthorised access to computers, and that is a matter about which there are differing views. I cannot say that I have a final view of the matter as yet, but I have expressed the view to the standing committee that unauthorised access ought to be criminalised. That is not a view that is universally accepted. It is not a final concluded view because there are obviously differing points of view. It is not a view that all the officers in the Attorney-General's Department would agree with, but I have exercised a little ministerial independence and indicated that *prima facie* there ought to be something dealing with unauthorised access.

The issue for the moment is still one that is under consideration. The agreement is that those issues of the existing criminal law should be tidied up, and that will happen where it has not occurred. This other issue is still open for debate. Certainly, if any honourable member has any views on it, I would be interested to hear their position. My view on the face of it, and my initial view which remains to be confirmed or repudiated, is that unauthorised access probably ought to be criminalised.

ENGINEERS

The Hon. I. GILFILLAN: I seek leave to make a brief explanation before asking the Minister of Tourism, representing the Minister of Employment and Further Education, a question in relation to the training of electronic, electrical, and mechanical engineers.

Leave granted.

The Hon. I. GILFILLAN: I have made efforts to encourage the training of engineers and the increased use of engineers in South Australia in other contexts, but with the submarine project now an established fact in South Australia, other people are showing concern for South Australians being employed and trained as far as is humanly possible on the project. I have received an approach from the President of the Electronics Association of South Australia Incorporated, and I must say I think it is a very moderately expressed request which I hope the Government will take at a very high priority of interest and attention. I preface my question with an extract from this letter, addressed to me, which states:

This Association wishes to draw attention to a potentially counter-productive situation which appears to be developing in South Australia. In the current climate of budget cuts in the public sector, it seems that blanket cuts are being applied with no assessment of the relative worth to the State's economy of the various institutions. A particular example which concerns our members is that of training in the electronics field.

With the submarine project now substantially established in South Australia we would expect corresponding resources to be built up, even at the expense of other less critical ones. It appears however that the areas of electronic, electrical, and mechanical engineering at technical officer level are receiving the same budget treatment as other areas. We feel that this is potentially disastrous since indications are that we will require a substantial increase in these types of personnel within the next two years. Figures of 200 to 300 are being quoted.

If we do not train them in South Australia the alternative will be to import them from interstate or overseas which would defeat at least two of the declared purposes of the project:

1. To employ more local trades persons, technical officers, and engineers.
2. To increase the total technology base in South Australia, since many of the imported personnel would be expected to leave South Australia at the end of the project.

In order to ensure that the necessary trained personnel will be available when required it is essential that extra students are enrolled in the next six months—

I emphasise 'the next six months'; there is not much time to spare—

as the courses involved required at least two years full-time study. This is especially important in the electronics field as local industry is absorbing all the advanced trade and technical officer level personnel who are currently graduating. This stand is supported by the fact that the Commonwealth funding authorities consider that there is a shortfall in qualified personnel in this discipline, and are correspondingly providing funds for appropriate retraining. We formally request that this matter is given urgent attention and that training priorities be adjusted to ensure that the bulk of the submarine workforce, especially the skilled workforce, consists of local people.

Signed
R. Grill, President.

Is the Minister of Employment and Further Education aware of this situation of a critical or potentially critical shortage of trained personnel for these areas in South Australia and, in particular, for use in the submarine project? Has he sought Commonwealth funds for an increased capacity for this training? Would he provide the Council with any measures, or intended measures, that the Government will take to deal with this potential shortfall of trained South Australians for the jobs available?

The Hon. BARBARA WIESE: I know that this is a matter which the Minister of Employment and Further Education is spending a lot of time thinking about and making plans for. I will be happy to refer that question to him and bring back a detailed reply, which will indicate just exactly what action he is taking.

BIRTHS, DEATHS AND MARRIAGES REGISTRATION ACT AMENDMENT BILL

The Hon. I. GILFILLAN obtained leave and introduced a Bill for an Act to amend the Births, Deaths and Marriages Registration Act 1966. Read a first time.

The Hon. I. GILFILLAN: I move:

That this Bill be now read a second time.

It may be of mild surprise to members that a Bill to obstruct the original Federal ID card legislation is now proceeded with after the Federal Government indicated that it no longer intended to proceed with the original legislation. I am determined to proceed with this legislation because the Government has indicated that it will move towards a higher integrity tax file number system for a database and for the correction of tax evasion. If the tax file number is made compulsory and is used as the standard universal identifier for a centralised multipurpose database, then all we have is the ID card with a different name, and in those circumstances it would be the *quasi* ID card legislation resurrected.

I will read into *Hansard* a succinct paragraph explaining the Australian Democrats' opposition to the ID card or any legislation pretending to be under another name, which in fact has the identical purpose and structure of the ID card legislation.

The Hon. C.J. Sumner interjecting:

The Hon. I. GILFILLAN: In due course you can hear about it in some detail: the longer you interrupt the longer it will take to get through it. The Australian Democrats' position states:

The Australian Democrats' opposition to the ID card remains as steadfast as it ever was. We regard it as a dangerous, costly, and ultimately ineffective proposal. The introduction of a unique personal identification system and its attendant centralised data bank would fundamentally alter the relationship between the Government and the citizens of Australia. The potential for computer surveillance and data linking of individuals is repugnant to basic civil liberties principles, and we will continue to fight the ID card until it disappears from the political agenda in this country.

I again state that the ID card can masquerade under a different name, and that is the reason for our determination to fight the possibility of the re-emergence of the legislation any chance we get. It has been said that those who opposed the original ID card legislation are not clearly indicating their response to the present statements by the Federal Government, but there is nothing to respond to. Those who are concerned about this legislation can see nothing substantial to respond to and say whether or not we agree or do not agree, and propose possible amendments to it.

An interesting article, referring to the Federal Liberal Shadow Cabinet, entitled 'Shadow Cabinet snubs tax file plan' appeared in yesterday's *Advertiser*. As happens from time to time that heading was grossly inaccurate, and the text of the article did not deserve that emotional and inaccurate heading. Mr Tuckey, who was speaking for the Opposition, made several points which the Democrats find are quite an acceptable reflection on the present situation. The article states:

The Opposition will oppose the Federal Government's plans to implement an upgraded tax file number system as an alternative to its abandoned identity card.

That is another inaccurate statement, but then it gets into the substance of the article which has a little more relevance to it. The article continues:

The Opposition health spokesman, Mr Tuckey, said yesterday the Government's tax file number proposal appeared to be nothing more than a *de facto* Australia Card system.

'We presume all they propose at the moment—until they tell us differently—is that they're going to replace the tax file number in exactly the same legislation,' he said.

A Shadow Cabinet meeting yesterday decided to recommend to the Party room that it support all moves to improve the integrity of the tax file number system but oppose 'any moves to expand its use as a *de facto* ID card'.

They are exactly the Democrats' fears. The article continues:

Mr Tuckey said the Opposition expected the Government to withdraw its ID card Bill this week and replace it with legislation that would still require a common number to be quoted in tax related situations such as banking, real estate purchases and primary production deals.

The article then continues to discuss several other points. It may well be that there will be differences between the Democrats and the Liberals in their attitudes to the proposal that the Government brings forward. I see no great difficulty in a tax related system being used for identification when

conducting banking and financial transactions. It may be that that is an effective and non-intrusive way of using the tax file number to remove the instances of fraud and double identity.

Further on in the article Mr Tuckey referred to measures, other than the ID card system, that could be used. He criticised the Taxation Office, and I also believe that there is plenty of scope for the Taxation Office to improve its job. However, one should bear in mind that it did improve last year and collected an increase of $750 million, and for that it should be commended.

Regarding so-called social security or dole fraud, Mr Tuckey said that a possible alternative to the Government's plan included a community work for the dole system. The Democrats depart from his view on that. We do not accept that as being an acceptable measure in the circumstances that are generally regarded as being satisfactory. It is important to recognise that until now the reaction of those who opposed the original ID card legislation has not been fairly measured by the media. Until something substantial comes forward it would be irresponsible of us to make categorical statements about what we will or will not support.

The Democrats have a strong inclination to support the recommendations of the Joint Parliamentary Committee, and they include such things as a recommendation that the Department of Immigration and Ethnic Affairs upgrade the quality of its records; that the computerisation of all State and Territory registries of births, deaths and marriages proceed; that a data protection agency be set up to control the collection and use of personal data; and that the Commonwealth Government introduce privacy legislation based on the recommendations of the Australian Law Reform Commission report on privacy as soon as possible.

Further, it recommended that the outstanding recommendations of the report of the House of Representatives Standing Committee on expenditure on the control of prohibited immigration be implemented as soon as possible, and that legislation be passed allowing Commonwealth departments and authorities to report suspected cases of fraud.

It went on to say that, irrespective of whether a tax file number or an Australia Card number were introduced, a withholding tax on interest payments be imposed on interest bearing accounts which are not associated with a number and that the use, in fact, of the tax file number rather than another number associated with an Australia Card be extended to cover all the financial transactions proposed in the Government's submissions for use of the Australia Card number by the Australian Taxation Office as well as for social security purposes.

It recommended that the integrity of the tax file number be upgraded to that of the proposed Australia Card number and listed a number of premises on which that could be done. Finally, it suggested that, within three years of the introduction of the upgraded tax file number system, a parliamentary committee be established with the express task of reviewing the implementation of those recommendations. Certainly the joint parliamentary committee majority report was concerned about approaching the question of tax and social security fraud in a positive way, but doing it in such a way that those people who were innocent of such behaviour did not unduly have impositions placed on them, did not unduly have their privacy invaded and did not unduly have infringements of their civil liberties. It was interesting to note that option B, as it became known, the tax file number alternative, was discussed during meetings of the parliamentary committee during 1985-86. The end result of the committee's work was two separate reports, a minority of three Labor MPs supporting the Australia Card and a majority of other members, including might I emphasise Labor as well as Liberal, Democrat and National Party MPs agreeing that there was a cheaper, easier and more efficient way to catch tax and welfare cheats. The Democrats' pamphlet states:

> The recommendations of this all-Party majority report of the joint select committee on an Australia Card have become known as option B: the tax-file number alternative. Option B consists of a few simple changes to our current tax and welfare systems which include:
> —Increasing the integrity of the tax-file number to a high level by requiring proof of identity for new file numbers, and
> —Giving sufficient funds to the Social Security Department so that they may confirm the eligibility of all welfare recipients over a five-year period.
>
> Currently tax-file numbers are for internal use by the Taxation Office only—you are given a file number after you are given a job. Under option B your tax-file number will be used to maintain a record of your financial dealings with the Government by both the Taxation and Social Security Departments. It's that simple!
>
> If you are not in receipt of wages, other income or social security payments you will not need a tax-file number! If you have had a tax-file number for more than five years you will not have to be interviewed! Your health, education, travel, war service and other personal records will not be mixed up with your financial records!
>
> Because option B doesn't require us all to be interviewed and photographed; because option B uses an existing system of identification; because option B limits access to your personal information to only two Government departments—it will be much cheaper and more efficient and less open to abuse than Labor's Australia Card.

As can be seen, already there has been a lot of constructive thought in developing the alternative system to the original identification card legislation proposed by the Federal Government, and that Bill is here.

We are most concerned that, in order to play the game of dodging around it, it will be reintroduced with a different title but with the same contents and, instead of having proclamation by regulation, it would be by some other measure. Quite obviously, the Federal Government will not have the ability to introduce that in a Joint House sitting, so perhaps the political risk of something sneaking past the Federal Government is now diminished (and I hope it is). I do not believe that we can ignore the fact that so many Australians, who were suddenly alerted to one of the biggest threats to the character of life in Australia, came forward and were prepared to be counted with a host of other people with different interests and different economic, political and employment backgrounds to make plain to those in Government that they would not accept an identification type of legislation.

As a safeguard, the Bill introduced by the Democrats seeks to make it an offence for anyone in the State to cooperate with any such authority, setting up this type of personal identification centralised data bank system, by providing data from the Births, Deaths and Marriages Registration Division. As I understand it, there is no other way in which the State Government or the people of South Australia can have a direct influence. Having assessed the questions and the reaction of members of the Labor Government, I suspect that they have shown grave misgivings (and it is to their credit) about the identification card legislation as first introduced. Unfortunately, they were somewhat tardy and bashful in making those views known publicly. Certainly, the Leaders of the Party in this place and the Premier have been a little reluctant to come forward, but nonetheless this legislation that I have introduced gives the Government that opportunity to put into *Hansard* its own misgivings about the original ID card legislation.

I do not want to attempt to score political points, because I think one of the incredible things about this whole exercise has been the non-partisan response to it. I think that, in

happier times and with less threat of a big brother intrusive system, it may well be that rationalisation of the births, deaths and marriages on a national basis will take place. While there is any threat that that could be abused as the basis for raw data in establishing the ID card-type system, I believe it is appropriate for us to use any measure that we can to prevent that happening. The anomalies that can exist because we have a State by State and a non-computerised system of births, deaths and marriages registration can be overcome by other measures that do not require a universal centralised computerised system. In essence, the Democrats' Bill is covered by clause 2 which states:

2. The following section is inserted after section 75 of the principal Act:

The principal Act is the Births, Deaths and Marriages Registration Act 1966. Clause 2 further states:

75a. (1) Notwithstanding any other law to the contrary, it is unlawful for any person to make available to a Commonwealth agency any register, record, index, information or data maintained, made or compiled under or pursuant to this Act for any purpose associated with a national births, deaths and marriages register or a national data base established to centralise information on members of the public.
Penalty: $50 000.
(2) In subsection (1)—
"Commonwealth agency" includes any Minister, department, authority or agency of the Commonwealth, whether established by statute or otherwise.

I urge the Council to support this Bill. I have attempted to establish the argument for continuing to have energetic and enthusiastic support from people who are concerned about the ID card legislation. On that basis I recommend it to the Council.

The Hon. M.J. ELLIOTT secured the adjournment of the debate.

SOUTH AUSTRALIAN TIMBER CORPORATION

Adjourned debate on motion of Hon. L.H. Davis:

1. That a select committee be appointed to inquire into and report on the effectiveness and efficiency of operations of the South Australian Timber Corporation with particular reference to the corporation's—
(a) 70 per cent interest in International Panel and Lumber (Australia) Pty Ltd;
(b) Production, distribution and marketing policies and practice;
(c) Current financial position;
(d) Relationship with Woods and Forests Department.
2. That the committee consist of six members and that the quorum of members necessary to be present at all meetings of the committee be fixed at four members and that Standing Order No. 389 be so far suspended as to enable the Chairperson of the committee to have a deliberate vote only.
3. That this Council permit the select committee to authorise the disclosure or publication as it thinks fit of any evidence presented to the committee prior to such evidence being reported to the Council.

(Continued from 9 September. Page 779.)

The Hon. L.H. DAVIS: Madam President, when I last addressed this matter I noted that the South Australian Timber Corporation had been established in 1979, pursuant to the provisions of the South Australian Timber Corporation Act. When the South Australian Timber Corporation was established, and during the course of the debate in Parliament, the Hon. Des Corcoran stated:

The corporation will meet capital service costs on its borrowings from dividend income on investments and will therefore not be a burden on the State's revenue budget.

Eight years ago the Labor Government, when establishing Satco, assured the taxpayers of South Australia and the Parliament that this new organisation, established to produce forest products and market these products in South Australia, interstate and overseas, would pay its way. They undertook that Satco would be a profitable organisation. Today an examination of Satco's accounts reveals a Government backed organisation, which is technically bankrupt, which has had a string of commercial failures and which produces an annual report that has less detail and less information than any other annual report I have seen for a corporation of substance either in the private or public sector.

I have highlighted Satco's decision to participate with SGIC as an equal partner in the world's first commercial plant producing scrimber. I have yet to be convinced that there is a commercially sustainable market for scrimber in Australia and overseas. Which companies with expertise in timber production in the private sector believe that the scrimber operation is competitive with existing products and will be a financial success? Why should South Australian taxpayers foot a $22 million plus bill for such a venture? Why has the Premier, the Minister of Forests, Mr Abbott, and Cabinet allowed this highly risky venture to proceed when Satco, in the 1986-87 financial year, reports an accumulated deficit of $3 million, loans from the South Australian Financing Authority totalling $37 million as at 30 June 1987—that is up from $8.4 million in 1984-85—and $23.2 million in 1985-86? It also reports an inability to pay the South Australian Financing Authority $5.9 million interest owing on moneys borrowed from SAFA.

As if all that was not enough, in early 1986 the South Australian Timber Corporation plunged into an investment at Greymouth in New Zealand. By 30 June 1987 (the latest figures available) Satco has invested nearly $13 million in the IPL (New Zealand) operation. It is an operation expected to lose $1.7 million in the seven months to 31 October 1987. That is the same operation which the Premier blithely said publicly would not cost the taxpayers of South Australia any money. Although some publicity has been given to the IPL purchase it has not been given the public attention it deserves. To have a proper understanding of Satco's New Zealand operation, it is necessary to understand the location of the Greymouth plant, the source of logs, the transport of the finished products and the current position of the timber industry in New Zealand. I seek leave to have incorporated in *Hansard* a map of a purely statistical nature.

The PRESIDENT: A map?

The Hon. L.H. DAVIS: Yes.

The PRESIDENT: *Hansard* is not able to cope with diagrams and figures. Material incorporated in *Hansard* can be of a statistical nature but not diagrams or figures.

The Hon. L.H. DAVIS: Ms President, with respect, I believe that *Hansard* can cope with this and it is something which can be reproduced. I have had it prepared especially for *Hansard* and I would seek the leave of the House to have it incorporated.

The PRESIDENT: I will oppose the incorporation of material in *Hansard* which is other than statistical in nature. The Speaker in the Assembly has been giving identical rulings to this and there have been problems for *Hansard.* All Ministers have been asked to ensure that answers to questions on notice do not include any graphs, pie charts or diagrams which cause problems with *Hansard. Hansard* is meant to be a record of parliamentary proceedings and, while numbers can be read, incorporating them in *Hansard* without their being read simplifies procedures. However, diagrams cannot be read and, as such, should not form part of the record of Parliament, which is what *Hansard* is.

The Hon. L.H. DAVIS: Madam President, I appreciate the points that you are making. I do not happen to agree

with those points, but I do not want to hold up the passage of this debate. I would like to reflect on the points that you have made and discuss the matter with *Hansard*. If *Hansard* believes that it can accommodate this map (and I have had no difficulties in the past with pie charts and other documents), I hope it can be incorporated with the rest of the material that I am presenting in this second reading speech. I also point out that this House is not aware of any rulings that the Speaker has made. I also point out that we are our own masters and mistresses in this Council, and I hope that that will always be the case.

The PRESIDENT: I appreciate fully the remarks that the honourable member has made. I was merely informing the House of what has happened in the other Chamber, as I thought it might be of interest to members. Discussions have certainly taken place between myself and the Leader of *Hansard* regarding the incorporation of other than statistical material. The Leader of *Hansard* has stressed the point which I have just made, namely, that *Hansard* is a record of parliamentary proceedings and that, while it is possible for numbers to be read out and thus incorporated in *Hansard*, and although it can save time by having tables incorporated in *Hansard* without their being read, this procedure does not invalidate *Hansard* as being a record of parliamentary proceedings. However, diagrams, graphs and pie charts are not matters which can be incorporated as part of the proceedings of the Parliament.

The Hon. L.H. DAVIS: I am distressed to hear that discussions have taken place between you and *Hansard* without the members of this Council being aware of the outcome of those discussions.

The PRESIDENT: I have just informed you of the outcome of those discussions.

The Hon. L.H. DAVIS: I have gone to some trouble to prepare this map in order that it may be incorporated straight into *Hansard*. I would not have gone to that trouble if I had known that *Hansard* would not allow its incorporation. I am suggesting, Madam President, very gently, that if a decision has been made which varies an established practice it would be useful for the members of this Council to be advised of that variation of practice.

The PRESIDENT: I appreciate the point that the honourable member raises, but it has been not only my practice but also that of many of my predecessors in this Chair to refuse to accept material containing graphs or diagrams as part of the *Hansard* record. I appreciate that occasions do exist when one or two examples have slipped through, but that has been without the knowledge of the President. I can recall rulings given by the Hon. Frank Potter when he was President, and the Hon. Arthur Whyte, when he was President, which refused the incorporation in *Hansard* of graphs or diagrams. I am certainly not creating any precedent by the ruling that I have given.

The Hon. L.H. DAVIS: I will take up this matter with *Hansard* and perhaps consult with you again within the next 24 hours if *Hansard* finds it possible to accommodate this very well constructed map of New Zealand which would need no alteration whatsoever. It is a very professional job.

I now seek to explain to the many readers of *Hansard* exactly what they may be missing out on. This is a map of the South Island of New Zealand. Greymouth, where the IPL plant is located, is about two-thirds of the way up the west coast of the South Island. About 290 kilometres north east of Greymouth by road is the township of Nelson, which is in the middle of the northern tip of the South Island. Greymouth is, as I have said, the location of the IPL plant, and it receives logs from the Nelson region. When I last spoke on this motion I explained that Greymouth is a city of about 10 000 people. It is situated in the mountainous west coast region of New Zealand and does not have a deep sea loading facility.

When the logs have been processed into plywood at Greymouth, the finished product is transported by rail to Christchurch, which is on the eastern side of the South Island of New Zealand. The distance by road is some 256 kilometres. By rail it is a slightly shorter distance because a rail tunnel cuts out a lot of the mountainous country that must be traversed by road. The train journey from Greymouth to Christchurch takes some five hours. It can be seen that the raw material comes from the Nelson area by road some 290 kilometres into Greymouth, and the finished product is transported by rail a distance of 200 kilometres to Christchurch, the journey taking approximately five hours.

I understand from discussions that I have had with people in New Zealand that the raw material will have to be transported to Greymouth from the Nelson region for at least the next two to three years until pine trees become available for felling in the Greymouth region. One does not have to be an expert in forestry and timber products to understand the immediate and enormous transport cost disadvantage associated with this venture because the cost of transport of the finished product from Greymouth to Christchurch is as much as the cost of transporting the finished product from Christchurch to Australia by sea.

Not only is there a considerable disadvantage within the South Island because of the very high transport costs which have continued to plague the Greymouth mill and made it a wooden lemon, as I previously explained, for many years, but also the operation suffers a commercial disadvantage compared with the timber operations on the North Island, where timber is closer to the mills and the transport costs are much less.

To further illustrate the gravity of the situation, it should be known that the timber industry in New Zealand is in a perilous state. I understand that the Tauranga Bay Mill at Westport which, on the map—which may or may not appear in *Hansard*—is 105 kilometres by road immediately north of Greymouth and is also located on the coast, has recently been closed down. Mr Geoffrey Sanderson, whose name is not unfamiliar to members of the Bannon Cabinet who are associated with the timber industry in Australia—the Attorney-General is screwing up his nose, but he obviously has not read the many pages of budget estimates committee debate involving his colleague, the Minister of Woods and Forests—is associated with IPL in New Zealand.

Mr Sanderson is quoted in a New Zealand paper in the past few weeks as saying that the high rates of interest and the strengthening New Zealand dollar is placing pressure on the market for New Zealand timber products, both domestically and externally. I understand further that there has been a fall of about 20 per cent in the demand for timber products in New Zealand because of the slump in the building industry, occasioned no doubt by the continuing high interest rates, which are well in excess of 20 per cent. Notwithstanding the reassuring noises made during budget Estimates Committees by the Minister of Forests (Hon. R.K. Abbott), Greymouth is still haemorrhaging financially. Why else would the Greymouth mill management be extending the Christmas shutdown by eight days? In fact, the mill will be shut down from 23 December to 1 February. Why else would seven casual employees have recently been retrenched?

Another sign of a fundamental weakness not only in the timber industry in New Zealand but also of the Government's wisdom in acquiring through Satco the interest in the IPL plant at Greymouth is the fact that wage increases

for the timber workers at the Greymouth mill have been deferred until quite recently. Because of the slump in the timber market discussions that were usually held annually in February were deferred until quite recently, and the timber workers union has just reached agreement with the IPL management that there should be a 6.5 per cent wage increase from October 1987 to 29 February 1988, when the normal 12-month discussions will again take place.

So, that is the sorry state of the IPL investment. The investment was made, we were told, because of the shortage of forest products resulting from the 1983 bushfires—that the shortage of timber would be overcome by the acquisition of the IPL plant at Greymouth. One question that is yet to be answered satisfactorily is what level of exports is coming out of Greymouth. I will be interested, when the Government replies (hopefully with alacrity) on this matter to ascertain that fact. Satco's annual report used to outline the level of exports from Australia until the 1983-84 annual report. It stopped doing it in 1983-84, presumably because the level of export of Satco products out of Australia fell off. Therefore, it will be interesting to learn exactly what the level of exports is out of the Greymouth plant, given that that was advanced as a reason for the purchase of the Greymouth plant just last year—early 1986.

I have traversed some of the issues that have led the Opposition to call for a select committee to investigate the South Australian operations of the South Australian Timber Corporation and to report on the effectiveness and efficiency of those operations. There is no question that there is a case to answer—no question at all. I have not touched upon many other matters that give me cause for alarm. The standard of reporting by Woods and Forests and the South Australian Timber Corporation is quite disgraceful. To see the Woods and Forests revalue its forests and then create a profit out of that revaluation is at variance with all accounting practice. The Auditor-General commented critically and at length on that revaluation in his recent report.

The fact that the South Australian Timber Corporation, a multimillion dollar operation, presents a report of just a few pages—more significant for what it does not say than what it does say—again highlights the gravity of the situation. Taxpayers' money is at stake. It is being lost in a very big way, and the South Australian Timber Corporation, in particular, as the commercial vehicle for timber operations in this State, has suffered dramatic reversals for many years.

It is time to put an end to this nonsense. It is time for some public accountability of the operations of the South Australian Timber Corporation. It is time for a select committee to root out the commercial wrongdoings in the South Australian Timber Corporation. The string of failures that it has had over recent years and the doubtful investments that it has made in more recent months need to be addressed urgently. I hope that the Government will respond quickly to this call for a select committee. We have no time to lose if we are going to protect taxpayers' money.

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

CHRISTIES BEACH WOMEN'S SHELTER

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

That this Council condemns the Minister of Health for his preemptory and destructive action, by his defunding of the Christies Beach Women's Shelter.

(Continued from 9 September. Page 790.)

The Hon. M.J. ELLIOTT: When I last spoke on this motion, I said that the majority of the points raised in the report 'Shelters in the Storm' were demonstrably false or clearly misleading. I provided written evidence which indicated that to be the case. I remind members of the frequency with which the Minister accuses others in this place of abusing parliamentary privilege; he often uses the term 'coward's castle'. He stands condemned for doing the self-same thing. I will now continue to look at some of the other allegations that have been made about the Christies Beach Women's Shelter. Page 67 of the review states:

> Frequent and regular requests for advances. Christies' deficit has been accumulating each year since 1981-82. Their deficit was paid out in 1984 through WESP. By the end of that financial year, they were again in deficit. Reasons given to the department for the consistent over-expenditure were not satisfactory.

It is worth pointing out that the Christies Beach shelter at the beginning of 1981 was already in deficit to the extent of $6 000.

The shelter moved premises in August 1983 and has also been forced to purchase capital items such as fridges, washing machines, a typewriter and photocopier, with no budget line for such essential items. Appendix 9 of the review refers to another shelter which will be moving premises at a cost of $20 000. Those sorts of costs simply were not taken into account when trying to look at the deficits of the Christies Beach Women's Shelter.

In terms of funding, the shelter was receiving about the same level of funding as were eight other shelters that were experiencing similar problems. Nowhere in the report has there been any mention of service and value for that service. It is worth comparing figures of about three years ago. A person in Government residential care costs $180 per head per night. In a women's shelter it costs $10 per head per night.

The Hon. Diana Laidlaw: What about the prison system?

The Hon. M.J. ELLIOTT: In the prison system, the cost is about $240 to $250 per head per night. If we compare what the Government offers in residential care for $180 a head against what the women's shelter is doing for $10 per head per night, we see quite clearly that many of the shelters are under continual financial duress, and I do not believe that this shelter was particularly outstanding in that regard.

The report also said that in February 1986, Christies Beach received an additional $17 271 through SAAP, backdated and paid to the end of the third quarter. Despite these additional funds, the shelter still required an advance of $20 000 at the end of the financial year. At the beginning of the review, Christies Beach had a deficit of $19 150. This statement is highly misleading. What the review does not tell is that $9 500 of the $17 271 was for backdated salary indexation increases, something which quite clearly the shelter could not have made an allowance for.

The difference between the two figures gives a more accurate deficit figure of $7 771. The mention of the advance of $20 000 is also misleading, as it might be taken to infer a deficit of that extent. In reality, advances for the next quarter are the rule rather than the exception, not just for the Christies Beach shelter but for all shelters. On reading the review and not understanding the true situation, one could almost infer that they had lost $39 000 in a quarter. The reality was that the $20 000 was an advance into the next quarter, which is not unusual, and you might be talking about a relatively small portion of that as being true deficit. Over half of the other figure mentioned was due to backdated salary indexation.

Such factors as extra pay periods falling within comparable periods, monthly or quarterly, necessitated advances being requested at times by many shelters. On the day-to-

day running, surpluses were also indicated. That is documented in a letter tabled previously by a DCW accounting officer. The review highlights the miserly fashion in which grants were made to the shelter. A standing deficit was allowed to continue from 1981. No money was provided for capital items, and no allowance was made for moving premises. It is of interest that the review does not analyse the effectiveness of the shelter or other shelters, for that matter, in terms of service delivery or client numbers. There is no mention of how many people are going through the Christies Beach shelter, but I think it is something like 300 families each year.

At the time of the review, it was correctly noted that the Christies Beach shelter is one of two shelters which have still not signed the financial agreement. North Adelaide is the other shelter which has not signed it. The agreement would bind them to spend funds for the purposes granted. There is no indication that it has not been signed. The Christies Beach Women's Shelter signed the agreement and forwarded it to DCW on 24 July 1987. The review provides little information about the negotiations that were continuing in relation to signing the agreement. I do not believe there was ever any suggestion that the Christies Beach Women's Shelter would not sign it, but the review does not go into anything of the background of what was occurring there or in North Adelaide.

Perhaps the most insidious and malicious claims made by the review and attributed to the Minister in the press relate to sexual and physical harassment and intimidation. Closely related to these claims are suggestions of professional incompetence. Let me say clearly that the review does not provide any information or substance to these claims. It just notes that they come from departmental files. The review notes that the claims are unsubstantiated.

Nowhere outside this place could a decision be publicly made on such claims without the risk of a legal or institutional (union/employer commission) challenge being made against the accusor. Shelter staff have not been given any indication of what claims may relate to unless, as is often attempted in the review, past resolved situations are again resurrected and treated as fresh discoveries. There are two instances which, in discussions with me, shelter staff have suggested could both fall into the resurrected category.

The first instance involved a contract worker who worked at the shelter. This woman formed a number of close dependant relationships with various women to the exclusion of all other staff members. One woman so affected made a complaint to DCW. The worker was repeatedly warned by all staff members and especially the Administrator, who outlined the dangers in such methods of treatment. Finally, the worker's contract was not renewed because of her continuing refusal to cooperate. That to me seems a firm but reasonable way of dealing with a difficult situation.

The other situation that was considered possible, because they are left to guess what they are actually accused of, relates to a woman who suffers from a serious personality disorder. This person has made frequent accusations against various people including shelter staff, yet at other times, when in a more stable condition, this same person wrote a letter to the Christies Beach Women's Shelter staff thanking them for their help and support, and I have seen a copy of that letter. If any other situations are known to the Minister, he should report them to the police so that proper investigations may occur. I think it is worth noting that CIB investigations have been proceeding for some time, but at the time of speaking no charges have yet been laid. Perhaps the Minister will later inform this Council of conclusions made following police investigations.

Certainly in relation to corporate affairs matters, I am in a position to make some comment on what has happened there. The Corporate Affairs officers went through the Christies Beach Women's Shelter books with a fine-tooth comb. They really went for it. They were obviously under instructions from the Minister to get them.

The Hon. C.J. Sumner: That is outrageous.

The Hon. M.J. ELLIOTT: You will have your chance to rebut when I have finished.

The Hon. C.J. Sumner: To which Minister are you referring?

The Hon. M.J. ELLIOTT: You seem to think that the Minister of Health is controlling this matter.

The Hon. C.J. Sumner: To which Minister are you referring?

The Hon. M.J. ELLIOTT: The Minister of Health. It was the Attorney-General indeed, who in answer to the Hon. Miss Laidlaw earlier today said, 'I cannot answer those questions. Perhaps you could ask the Minister of Health.' That was in relation to police and corporate affairs investigations, as I understood the question. It was the Attorney who deferred in that way. Nevertheless, they went through the Christies Beach Women's Shelter books with a fine-tooth comb. I seek leave to table a letter written by Miss Helen McSkimming, Secretary of the shelter, back on 5 July 1985 to the Commissioner of Corporate Affairs.

The Hon. C.J. SUMNER: On a point of order, Madam President. I indicated before that the Corporate Affairs Commission was going to take legal action in this matter. I now notice from the newspapers a report of some charges that have been laid. I would have thought that the issues that the honourable member is canvassing now probably come very close to offending the rules against *sub judice* that apply in this Parliament.

The Hon. I. Gilfillan: Under what Standing Order?

The Hon. C.J. SUMNER: It is not a matter of a Standing Order. There is a well known parliamentary rule—

The Hon. I. Gilfillan: Why isn't it in a Standing Order?

The Hon. C.J. SUMNER: I am not sure how long the Hon. Mr Gilfillan has been in this Parliament, but he asks, 'Why isn't it in the Standing Orders?' What he fails to understand is that Standing Orders are not an exclusive code dealing with parliamentary procedure or practice. He may well have heard of Erskine May where a whole volume of several hundred pages deal with the issues of parliamentary practice.

The Hon. I. Gilfillan interjecting:

The Hon. C.J. SUMNER: Well, you interjected when I was making a point of order. The point is that it is a very serious point of order. Charges have now been laid, according to the newspaper, by the Corporate Affairs Commission in relation to this matter. What I anticipate the honourable member is about to embark upon—and he certainly has embarked on it to date—gives rise to the *sub judice* rule with respect to the procedures of this Chamber, and I am drawing that to the attention of the President, I believe quite properly. If what you want to do is to go down the track where you will permit a person in the Parliament to prejudge the court proceedings—

The Hon. M.J. Elliott: I am not going to do that.

The Hon. C.J. SUMNER: —or even to debate the issues that may come up in the court proceedings, then you are going down the track of offending the rules that have hitherto been applicable in this Parliament. It is a matter for the President to consider and rule on.

The Hon. R.I. Lucas: Can you confirm they were charged?

The Hon. C.J. SUMNER: It is in the newspapers.

The Hon. R.I. Lucas: You cannot rely on the newspapers.

The Hon. C.J. SUMNER: I was advised that they were going to be charged.

The Hon. R.I. Lucas: Going to?

The Hon. C.J. SUMNER: I understand that they have been.

The Hon. M.J. Elliott: Who told the newspapers?

The Hon. C.J. SUMNER: I do not know.

Members interjecting:

The Hon. C.J. SUMNER: That is quite possible. I do not know who told the newspapers. It is possible that the press have got it from the court proceedings.

The PRESIDENT: I certainly accept the point of order raised by the Attorney-General. It is a long-standing practice in this Parliament not to deal in Parliament with any matters in such a way that it could be prejudicial to a fair trial occurring in a matter which is currently before the courts.

While this is not specifically covered in our Standing Orders, it is covered, I think, by Standing Order 1 which states that where we have no particular Standing Order we are covered by the practice of the House of Commons in London. Erskine May makes clear that matters that are *sub judice* in the United Kingdom are not mentioned or are ruled out of order in the House of Commons. I would agree with the Attorney that since today, according to the newspaper, charges have been laid on corporate affairs matters relating to the Christies Beach Women's Shelter.

In consequence, I ask all members in this debate to not refer to the corporate affairs matters. This does not mean that debate on the motion cannot proceed. As I read the motion it is concerned with a lot more than issues relating to corporate affairs. Certainly, no other charges have been laid, so it is only the corporate affairs matter that could be classed as being *sub judice.* I am sure that many other aspects of this motion can be discussed without in any way infringing on the *sub judice* rule.

The Hon. R.I. LUCAS: I rise on a point of order. At this stage I am not moving disagreement with your ruling, and I guess the option always remains for the Hon. Mr Elliott to either continue as you suggested towards the end and debate related matters but not matters strictly relating to the press report or perhaps adjourn on motion for debate tomorrow. My understanding of the precedents in both Houses of this Parliament is that the presiding officers cannot rely on press reports with respect to procedures in courts.

With due deference to our afternoon newspaper or whatever section of the media we happen to be referring to, the presiding officers of the Parliament should not rely on press reports for the accuracy of whether charges have or have not been laid in relation to any particular matter when we have the Minister in charge of this matter in this Chamber. He was asked a question during question time today just 1½ hours ago as to whether charges had been laid, and he said, 'I do not know. I have had some discussions, but they might be going to be laid'—

The Hon. C.J. Sumner interjecting:

The PRESIDENT: Order! I do not want a debate. You are raising a point of order.

The Hon. R.I. LUCAS: Well rule him out of order then.

The PRESIDENT: I have called the Council to order. I now want to hear your point of order without a very lengthy—

The Hon. R.I. LUCAS: My point of order is that, based on the precedence of former presiding officers in this Chamber and in the House of Assembly, I do not believe it is correct for a presiding officer to rely on media reports as to the accuracy of whether charges have or have not been laid. The precedent has always been that the presiding officer satisfied himself or herself that charges had been laid and then ruled on the matter of *sub judice.* I do not believe that it is acceptable, based on precedent, that a presiding officer can say, based on advice from the Attorney-General, that there is a press report that states that charges have been laid, particularly when we have the same Minister who is in charge of corporate affairs—

The PRESIDENT: Order! I asked you not to debate the issue.

The Hon. R.I. LUCAS: I am not debating. I am just giving you some reasons for my point of order. The Attorney 1½ hours ago said that he was not aware whether charges had been laid in relation to this matter. If charges have not been laid then all the points of order in relation to *sub judice,* based on precedence, are not relevant. If charges are going to be laid, then the precedents in this Chamber about *sub judice* are not relevant and, therefore, I believe that you, Madam President, should not accept the point of order of the Attorney-General. I think that as a presiding officer—

The PRESIDENT: Order! I think that you are debating the matter. I hope that you are not going to repeat what you have said for the last five minutes.

The Hon. R.I. LUCAS: No. You need to satisfy yourself that charges have been laid, and I do not believe—

The PRESIDENT: You have said that. Now will you sit down and let me give my ruling.

The Hon. C.J. SUMNER: I wish to make a submission on the point of order that I raised and the point raised by the Hon. Mr Lucas. The point is that the basis of his point of order, to my way of thinking, has no substance. The reality is that the Council is surely entitled to take notice that charges have been laid. If there is any suggestion that charges have been laid then the Hon. Mr Elliott should not be allowed to proceed in contravention of the *sub judice* rulings of the Parliament.

Members interjecting:

The Hon. C.J. SUMNER: Surely, having been given notice by me today that charges were going to be laid, having now noticed in the press that two charges have been laid apparently, you are not going to then enable an honourable member to proceed to debate the substance or issues relating to those charges. That, to my way of thinking, would be an abuse of the procedures. I put to you, Madam President, if the honourable member wants to take the technical point, which I frankly believe has no substance, then the matter clearly can be adjourned. However, I would have thought the Council was in a position to take notice that charges have been laid, and even if there is some doubt as to whether charges have been laid—and I do not believe there is—surely it is obviously prudent for the Council to enforce the *sub judice* rule or, alternatively, to adjourn the proceedings.

The Hon. M.J. ELLIOTT: Madam President—

The PRESIDENT: Order! We cannot have another point of order until this point of order has been settled.

The Hon. M.J. ELLIOTT: I am talking about this particular point of order.

The PRESIDENT: You are referring to the same matter?

The Hon. M.J. ELLIOTT: Yes. You have ruled that I cannot talk about corporate affairs. I imagine that the *sub judice* rule should apply to the particular charge and the substance of that charge. It was never my intention to discuss that charge itself, but to discuss other events in relation to corporate affairs. It does so happen that corporate affairs has laid a charge after investigations. However, I was not going to talk about the charge but about other events. I do not believe that it is in order for you to gag

me, or for the Government to try to gag me, from what is in fact—

The Hon. C.J. Sumner: You have to obey the rules of the Council.

The PRESIDENT: Order!

The Hon. M.J. ELLIOTT: But I am pointing out that the *sub judice* rule would apply to the particular charge, and that I do not wish to address the charge that has been laid.

The Hon. C.J. Sumner interjecting:

The PRESIDENT: Order!

The Hon. R.I. Lucas: Throw him out.

The PRESIDENT: That 'Order' applies to you, too, Mr Lucas.

The Hon. M.B. CAMERON: Madam President—

The PRESIDENT: Order! I have made up my mind what I am going to rule.

The Hon. M.B. CAMERON: Madam President, I will not waste your time; I will not say another word. That is the most extraordinary statement I have heard from a President. I think that I have the right to put a proposition to you on the point of order before you make up your mind. I do not care whether you say afterwards what you were going to say before, but at least you should listen to me. I think that the Hon. Mr Elliott had a point, and that was that the press report referred to two specific incidents, and they are that the shelter women are going to be charged with offences for failing to keep proper accounting records of a shelter bank account, and of not ensuring that the end of year financial statement for 1985-86 was audited by an authorised person. They are very specific charges about two small items in the whole shelter problem of Christies Beach. I think that, if there is a ruling, it should relate only to those two incidents; in other words, the Hon. Mr Elliott should not then canvass those two small items, because I do not think that the rest really count.

The PRESIDENT: In relation to the various viewpoints that have been put to me, I reiterate that the Council should not discuss a matter that is *sub judice*. I do not accept the point made by the Hon. Mr Lucas that I should satisfy myself that in fact these charges have been laid.

The Hon. Diana Laidlaw: Why not?

The PRESIDENT: It is my turn to speak now—not yours. That charges have been laid is reported in the press in a manner which leads me to feel that they have been laid. There are detailed descriptions of the charges and the names of the people charged. It is most unlikely that the press would publish such matters if in fact they had not occurred. I agree that there is a chance that it has not occurred. However, since the newspaper arrived in the Chamber, I have not had a chance to leave the Chair and check, presumably by contacting the courts, whether in fact the charges have been laid. If members wish, I am happy to do that, but it seems to me that, in view of what appears to be a factual account in the press, we should err on the side of caution and presume that these charges have been laid and, in consequence, the matter relating to the charges by the Corporate Affairs Commission against the Christies Beach Women's Shelter is *sub judice*.

The Hon. M.B. Cameron: On those two items?

The PRESIDENT: With regard to the breadth of the matter, of course I cannot judge the content of what Mr Elliott seeks to table, because I have not seen it. Further, while my experience of court cases is not extensive, I do know that matters relating to a particular charge can draw in other matters that are perhaps peripheral as part of evidence relating to whether or not a charge is proven. I am not a lawyer who is able to judge whether something is directly related, peripherally related or unrelated in legal terms. It seems to me that it is advisable for members to tread warily indeed when discussing anything that can be related to what is *sub judice*. I am not a lawyer, but I would have thought that this document produced could be relevant to the defence, and perhaps the prosecution of the matters stated. It could be that the tabling of this document could prejudice a fair trial. I ask that it not be tabled under our *sub judice* rule.

The Hon. DIANA LAIDLAW: Could I seek clarification of your ruling? You have indicated that no reference should be made to both charges. One of the charges noted in this paper relates to failing to keep proper account records of a shelter bank account. As we are not certain which bank account is referred to, does that mean that we cannot refer to any financial transactions or involvement with respect to the shelter over some considerable period of time?

The Hon. M.B. CAMERON: On a point of order and further to that, I think that the newspaper has made very specific reference to a shelter bank account of $1 500. Members who have had any dealings with the shelter would be aware that that is a very small account involving voluntary donations. It has nothing to do with the shelter funding generally, and members who have had any contact with the people formerly associated with the shelter would be aware of that fact. I am certainly aware of that fact.

The Hon. Diana Laidlaw: That is not indicated in the charge.

The PRESIDENT: No, it is not indicated in the charge. According to the newspaper, it relates to an alleged breaching of the Incorporations Act with regard to a particular bank account. I know no more about this matter than any member present, and probably a lot less than many people. I am concerned that proceedings in this Council in no way prejudice the right to a fair trial, and that is very much my concern. I feel that, under our *sub judice* rule, matters that are likely to be raised in the courts should not be discussed.

I would have thought that many matters relating to the Christies Beach Women's Shelter do not in any way come into the context of the charges laid by the Corporate Affairs Commission. I feel that debate on those matters can proceed in a quite uninhibited manner, with full rights of privilege but, where it deals with the Corporate Affairs Commission's charges and things that may relate to them, that is another matter. We do not know what defences may be used or what evidence the prosecution may wish to present. I think that on any matter that could relate either to the prosecution or to the defence of these charges we need to tread very carefully so that we do not, through Parliament, prejudice a fair trial for the people concerned. I know no more than what is contained in the newspaper and I suggest that many other people do not either and that they would have no idea of the line of evidence that the prosecution and defence will follow.

As both the prosecution and the defence can spread a fairly wide net, I think that in this debate members need to be very careful not to infringe the right to a fair trial. If this means that, once we know what the prosecution and defence in the trial will be, things are not said which could have been said, so be it. It seems that it is better to err on the side of caution and not inhibit the fair trial of the people concerned. I ask all members to keep that firmly in mind when debating this motion.

The Hon. M.J. ELLIOTT: One of the two charges that have been made against some of the people from the Christies Beach Women's Shelter relates to the keeping of accounts, which they either did or did not—

The Hon. C.J. SUMNER: What is happening now? Are we debating the point—

The Hon. M.J. ELLIOTT: Sit down! I'm speaking.

The Hon. C.J. SUMNER: I am raising a point of order.

The PRESIDENT: Order! The Attorney is raising a point of order that you are breaching the rule that I uttered a minute ago. I have given my ruling on this matter. I ask that, unless you wish to challenge my ruling, you now continue to debate the motion before the Chair, and that is that this Council condemn the Minister of Health for his pre-emptory and destructive action by his defunding of the Christies Beach Women's Shelter.

The Hon. M.J. ELLIOTT: That is what I was doing when I was interrupted, Ms President.

The PRESIDENT: Do you wish to challenge my ruling?

The Hon. M.J. ELLIOTT: I do, Ms President.

The PRESIDENT: You must put a motion in writing.

The Hon. C.J. Sumner: The point is that you cannot debate an issue about which charges have been laid. He knows that.

The Hon. M.J. ELLIOTT: Can I seek leave to conclude my remarks?

The PRESIDENT: If the honourable member is disagreeing with my ruling, he must immediately state his objection in writing and it will then be debated.

The Hon. M.J. ELLIOTT: I am seeking to conclude my remarks and I may in fact avoid some other trouble. I may proceed with the other matter later but, at this stage, I am asking whether I may conclude my remarks.

The Hon. R.I. Lucas: He didn't move a motion.

The PRESIDENT: He stated—and I clearly heard him—that he objected to my ruling. The procedure under Standing Orders is that the objection must be dealt with at once. It must be stated in writing. We will then have a motion relating to it.

The Hon. R.I. Lucas: You want a fight, do you?

The PRESIDENT: I do not want a fight. I would be only too happy if the Hon. Mr Elliott wishes to withdraw his objection to my ruling and continue the debate. Standing Orders provide that the Hon. Mr Elliott should move a motion that the President's ruling be disagreed to. If the motion is seconded, I will follow Standing Orders by indicating that, unless there is a specific motion that an immediate determination is required, any debate on this motion must be adjourned and made the first Order of the Day for the next sitting day.

The Hon. I. Gilfillan: Unless the Council decides—

The PRESIDENT: I stated that—unless the Council decides that the matter requires immediate examination, and it is so resolved under Standing Orders, the matter must be left and made the first order of business for the next day of sitting.

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

That the President's ruling be disagreed to.

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

That the matter be dealt with forthwith.

The Hon. C.J. Sumner's motion carried.

The Hon. M.J. ELLIOTT: Ms President, your ruling means that I will be virtually incapable of mentioning Corporate Affairs or its investigations in any way at all. My understanding of *sub judice*—and I am not a lawyer—is that I cannot say anything that is likely to have any outcome on the result of the case. The charges that have been made—and I think it is important that I mention what those charges are—relate to the keeping of records and whether or not an audit was carried out on the organisation. I do not intend to reflect on whether or not an audit was carried out. That should be a simple matter to resolve one way or another: either it was or it was not. The other matter as to whether or not records were kept is also a simple matter to prove: either records were or were not kept. I fail to see how my comments on the way in which the investigation was carried out and the charges that eventuated—

The Hon. C.J. Sumner: That is completely *sub judice.*

The Hon. M.J. ELLIOTT: The *sub judice* rule should surely relate to the substance of the charges, and nothing that I was going to say would in any way have related to that. The President has said that I will be able to proceed with other matters, but I submit that what has happened in relation to the CIB investigation and the Corporate Affairs investigation is at the very nub of the argument that I was putting and that the President, by ruling that out of order, has effectively gagged the most essential part of the debate.

The Hon. C.J. SUMNER: Ms President, I ask the Council to uphold your ruling. I put to the Council that a fairly fundamental question of parliamentary practice is being raised by this debate. I do not want to gag the honourable member from expressing a legitimate point of view. If the honourable member wishes to rehash these issues after the legal proceedings have been dealt with, I see no barrier to that occurring. He can go through the issues then; he can make his points; the Minister can respond; and the Council can vote on the matter.

However, the point of order which I was making and which led to the President's ruling was that there is in existence a very firm rule in parliamentary procedure, which is called the *sub judice* rule; basically, that means that, particularly in criminal matters where issues are before a criminal court, they ought not to be the subject of debate or a motion in Parliament. I should have thought that the reason for that was obvious to all honourable members, namely, that there is the capacity for prejudice to a fair trial. If members of Parliament were able, according to their procedures, to debate issues that were before the courts, it would be a very serious matter indeed—serious for the individuals who are entitled to have their matters dealt with fairly and impartially by an independent judiciary. While these charges, on the face of it, are not serious criminal charges, they are nevertheless charges relating to breaches of the Associations Incorporation Act. I submit that—

The Hon. K.T. Griffin: Alleged breaches.

The Hon. C.J. SUMNER: Alleged breaches of the Associations Incorporation Act. However, as the charges have been laid, it places the matter very firmly within the *sub judice* rule. That does not mean that the honourable member cannot canvass other issues relating to the—

The Hon. M.J. Elliott: Relating to Corporate Affairs.

The Hon. C.J. SUMNER: It depends what you are saying about Corporate Affairs.

The Hon. M.J. Elliott: I haven't started yet.

The Hon. C.J. SUMNER: I know you haven't started, and that is why it was important to raise the point of order before you embarked on matters that might be covered by the *sub judice* rule. The problem with the honourable member carrying on about the Corporate Affairs investigation is that, by doing so, he would in general have offended against the *sub judice* rule, because the Corporate Affairs investigation—and I do not know the full details of it—obviously covered a number of issues. Certain charges have arisen out of it, and I would have thought that reference to Corporate Affairs investigations and the charges were firmly and squarely within the *sub judice* rule and therefore ought not to be referred to.

There may be some Corporate Affairs issues to which the honourable member could have referred that were not *sub judice*, but I think generally that the Council ought to take the cautious approach and not refer to matters that could

relate to the charges, and that would probably also mean the investigation that led to the charges.

May's *Parliamentary Practice*, 20th edition, states the *sub judice* rule on page 429, as follows:

> This resolution bars references in debate (as well as in motions, including motions for leave to bring in Bills, and questions, including supplementary questions) to matters awaiting or under adjudication in all courts exercising a criminal jurisdiction from the moment the law is set in motion by a charge being made to the time when verdict and sentence have been announced, and again when notice of appeal is given until the appeal is decided; and in courts martial from when the charge is made until the sentence of the court has been confirmed and promulgated, and again when the convicted man petitions the Army Council, the Air Council or the Board of Admiralty.

It then goes on to deal with civil courts which I will omit as they are not relevant to this situation. That passage referred to a motion passed in the House of Assembly on 23 July 1963. On 28 June 1972 a further resolution was passed to the effect that:

> . . . notwithstanding the resolution of 23 July 1963, and subject to the discretion of the Chair, reference may be made in questions, motions or debate to matters awaiting or under adjudication in all civil courts, in so far as such matters relate to a ministerial decision which cannot be challenged in court except on grounds of misdirection or bad faith, or concern issues of national importance such as the national economy, public order or the essentials of life; and that in exercising its discretion the Chair should not allow reference to such matters if it appears that there is a real and substantial danger of prejudice to the proceedings—

In that event, it should have regard to certain considerations. That refers again to civil proceedings, so, the general rule has not been qualified in any way by that reference. The general proposition—and I will repeat it for honourable members—is as follows:

> bars references in debate—

this is what the honourable member was doing—

> to matters awaiting or under adjudication in all courts exercising a criminal jurisdiction from the moment the law is set in motion by a charge being made to the time when verdict and sentence have been announced . . .

It says:

> bars references in debate . . . to matters awaiting or under adjudication in all courts.

Surely that is very clear. That is the ruling, as I understand it, that you, Ms President, have made, namely, that there cannot be references in this debate to those charges that have been brought before the courts. Obviously, that means there cannot be references to the Corporate Affairs investigation that led to those charges. I should have thought that that logically followed.

So, I put to the Council that your ruling, Ms President, is a very proper one. It does not bar the Hon. Mr Elliott from debating the motion, but it certainly does (and ought properly) bar him from canvassing the issues that are now before the courts, and that is the ruling that you, Ms President, as I understand it, have made.

The Hon. R.I. LUCAS: I, and I imagine all members in this Chamber, will not disagree with the substance of what the Attorney has just put in relation to parliamentary precedent in matters *sub judice*, that is, certain matters that are before courts and tribunals. However, the two points which I make and which I made earlier in this dispute are, first, that the precedent in this Parliament has always been that if there is a question of *sub judice* the Presiding Officer cannot rely on press and media reports that a matter is before the courts and therefore comes within the province of *sub judice* rulings in the Parliament. My point (and it was, and still is a proper point) is that it would have been fair for the Presiding Officer involved, in this case yourself, Ms President, to urge caution and satisfy yourself that the matter indeed was before the courts and therefore able to be ruled by you as being a matter that was *sub judice*.

The PRESIDENT: Would you like me to adjourn the Council so that I contact the courts?

The Hon. R.I. LUCAS: I do not know whether you, Ms President, can enter the debate later. You can interject later if I am out of order. However, I am speaking at the moment, and should be allowed to put my case. The point which I made earlier and which I make again in relation to this motion is that only two hours ago we asked the Minister responsible for the Corporate Affairs Commission whether charges had been laid. The Minister was not able to say, as the responsible Minister, that charges had been laid in relation to this matter.

The Hon. C.J. Sumner: I said that charges had been laid.

The Hon. R.I. LUCAS: The Attorney did not say that. He is now saying that he said charges had been laid.

The Hon. C.J. Sumner: Charges were going to be laid.

The Hon. R.I. LUCAS: That is quite different. The Attorney now goes back to what he did say, namely, that charges were going to be laid, but he could not say whether they had been laid, and he did not know the precice detail of what charges might be laid at some time in the future. The point which I made earlier and which I make again is that a Presiding Officer is obviously quite within his or her rights to rule that a matter is *sub judice* if it is before the courts. However, a Presiding Officer cannot rely on press reports to tell us what is going on before the courts while the Minister responsible, who sits in his Chamber, is not able to say whether or not a matter is before the courts.

That is the first point in regard to the ruling which you, Ms President, made originally, with which I then disagreed and with which I would still disagree if that original position had been maintained. The point I was making was that the sensible course would have been for you, Ms President, to urge caution. The matter could perhaps have been adjourned on motion so that you could satisfy yourself that the matter was before the courts, and you could therefore rule that it was *sub judice*. You, Ms President, should not have ruled *sub judice* until you had satisfied yourself that that was the case. There are many ways within the procedures of this Council by which we could have adjourned the matter on motion during private members' time. I am sure that the Hon. Mr Elliott would have agreed to that, to enable you, Ms President, to satisfy yourself that it was before the courts. You could have then properly ruled, if the matter was before the courts, that it was *sub judice*. So, my first point is that you, Ms President, ruled *sub judice* before you satisfied yourself, as you should have, based on the precedent in this Parliament, that the matter was before the courts.

The second point with your original ruling rather than the latter ruling is that you ruled the Hon. Mr Elliott out of order in referring to matters in relation to the Corporate Affairs Commission in its entirety. What should have been ruled as *sub judice*, if the matter is before the courts, are those parts of the Corporate Affairs Commission inquiry that relate, either directly or indirectly, to the charges, if they have been laid, against those administrators. If other parts of the Corporate Affairs Commission's work and activities relate to the Christies Beach shelter but do not relate to the specific charges that might be before the courts, they cannot properly be ruled as *sub judice*. That was the import of your first responses, Ms President, to the point of order taken by the Attorney-General in this Chamber.

If you, Ms President, had maintained that ruling, I would have been sorely tempted to support a motion of disagreement to your ruling. However, with subsequent debate you

moved away from that original ruling and ruled that the Hon. Mr Elliott could continue with the debate. You advised caution first and then ruled that he could continue with the debate on matters that did not directly or indirectly relate to the charges that might be before the courts in relation to Corporate Affairs Commission inquiries. That is the ruling to which the Hon. Mr Elliott in his motion has moved disagreement. For those reasons, I will not support the motion that has been moved by the Hon. Mr Elliott. However, I believe that if the matter had been handled properly by you, Ms President, we would not have got ourselves into this situation.

The Hon. C.J. Sumner: That's a reflection on the Chair.

The Hon. R.I. LUCAS: It is not a reflection on the Chair: it is a view that is, I am sure, shared by a number of members in this Chamber. I cannot remember the Hon. Mr Elliott's exact words, but I will be interested to look at the verbatim *Hansard* transcript. However, I thought he said, 'I am going to object.' Perhaps he did say, 'I object'. He then tried to get us out of the situation after an objection by saying, 'Let me think about it. I will seek leave to conclude my remarks'. Perhaps wiser and saner heads could have prevailed, and we might not have had this motion before us. For those reasons alone, I will not support the motion.

The Hon. K.T. GRIFFIN: I believe that we ought to take a narrow view of matters *sub judice*. Nevertheless, we must ensure that it is a rule of procedure that is precisely applied. I share the view of my colleague, the Hon. Robert Lucas, that it is in the knowledge that proceedings are current before a court that we can then make a decision whether or not the issues that are being debated do impinge upon the matter in the courts and are therefore *sub judice*.

In the particular instance of the Hon. Mr Elliott's objection, I also indicate that I will not support the precise resolution objecting to your ruling, Madam President, because, if proceedings had been issued with respect to alleged breaches of the Associations Incorporation Act, it is then improper in my view within this Chamber to refer in debate to those matters which directly or, to some extent, indirectly impinge on those specific charges.

It does not preclude raising matters which might have been subject to review by the Corporate Affairs Commission but not be the subject of proceedings. However, it does preclude a debate on the issues which form the subject of any charges for alleged breaches of that Act. So, in the present circumstances I am satisfied that, if proceedings had been issued alleging two breaches of the Associations Incorporation Act, it is improper in this debate to canvass matters which impinge upon those charges.

Of course, the *sub judice* rule is less generously construed when matters of a civil nature are before the courts where more latitude is allowed with respect to debate, but in the area of alleged criminal charges or breaches of statute the ruling is much more strict. That is the basis upon which I have made my decision on the resolution objecting to your ruling, Madam President.

The Hon. I. GILFILLAN: I want to indicate that I will support the motion. I think the situation has been clarified, and I am sure in balance it will help the conduct of debate in this place. It will be unfortunate, unless the matter is cleared up completely, if the opportunity is open to the Attorney to stall any debate on any issue on the indication that he thinks that charges may have been laid. I hope that this ruling will not encourage him or anyone else to attempt to stop what should be a free and open debate on as wide an area as possible.

The Hon. C.J. Sumner interjecting:

The Hon. I. GILFILLAN: The newspaper, in my opinion, is not a reliable authority for the running of this place. I believe that the Attorney, because he is tending to wave it about, now has some substantial evidence, a long time after the original obstruction and point of order was raised. I believe we ought to have it clear that, if a point of order is raised that a debate relates to matters that are *sub judice*, the point of order can be sustained only if it is proved beyond doubt that the actual charges have been laid. Otherwise, it could be used as a manoeuvre to the disadvantage of proper and free debate in this place.

The PRESIDENT: I believe that I have the right to speak in a debate on my ruling, and I wish to do so. I made the ruling that the matter was *sub judice* as a result of a newspaper report which I, along with every other member of the Council, had seen just a few minutes before. I have since been handed a copy of a complaint and summons with endorsements and form for pleading guilty in writing. I do not know how much of this the Council would like me to read. I am quite happy to read the lot, although it will take quite a time, but I assure members that it is a charge that the person named herein committed an offence in that she failed to take all reasonable steps to secure compliance by Christies Beach Women's Shelter Incorporated with its obligations under section 35 (1) of the Associations Incorporation Act 1985, contrary to section 57 (1) of that Act, with particulars detailed for over half a page.

There is a second charge that this person committed an offence in that she failed to take all reasonable steps to secure compliance by Christies Beach Women's Shelter Incorporated with its obligations under section 35 (2) of the Associations Incorporation Act 1985, contrary to section 57 (1) of that Act. It is again followed by half a page of the particulars of the complaint.

I do not propose to take up the time of the Council in reading that in detail, but it would seem to me that my judgment that a matter was *sub judice* on the basis of a non-sensational and detailed newspaper account was a wise move for me to take. If I had not taken that approach and had let the honourable member proceed, the *sub judice* rule might have been breached. It was a wise precaution for me to make the ruling that the matter was *sub judice*, as indeed we now have proof thereof, in order to prevent the possible prejudice to a fair trial for the person concerned under these charges.

I note that it has been pointed out to me that the matter of the *sub judice* rule is a very ancient one indeed. It has been traced back to at least 1812 and may go back well beyond that. It applies totally for criminal matters and has been applied also in civil matters on several occasions.

A committee of the House of Commons investigated the whole question of the *sub judice* rule about 15 years ago and, amongst other things, it emphasised that in all circumstances the application of the principle of *sub judice* should be at the Speaker's discretion. If there is any doubt as to whether or not a matter is *sub judice* or whether the *sub judice* rule would be infringed, it is the Speaker's responsibility to step in to see that there is no infringement of the *sub judice* rule.

My original ruling was certainly not intended to gag debate on the motion before the Chair. I said so at the time and, if anyone understood it differently, I regret that. However, it was certainly not my intention. I imagine that *Hansard* tomorrow will back me up—that my ruling was that any matter relating to possible charges laid by the Corporate Affairs Commission in the matter of the Christies Beach Women's Shelter was *sub judice* and should not be debated by the Parliament. However, this did not prevent debate of

the motion before the Chair on other matters relating to the Christies Beach Women's Shelter and the actions of the Minister of Health in defunding it. I hope the Council will uphold my ruling, because, if it does not do so, it would be a serious breach of the *sub judice* principles and would create a great precedent for all Houses of Parliament under the Westminster system.

The Hon. M.J. ELLIOTT: I have an impression that there may be some degree of misunderstanding about what exactly your ruling was. My understanding of your ruling was that, if I mentioned the words 'Corporate Affairs', you were likely to tell me to sit down, whereas I think two of the Liberals who spoke seemed to give me the impression that they felt that your interpretation was not quite that narrow. I do not know whether it is in order for me to ask you to express once again exactly what your ruling was meant to be, because there does seem to be some confusion at least between me and some other members of this Council.

Members interjecting:

The Hon. M.J. ELLIOTT: I wanted to seek leave to continue; honourable members should not forget that. Is it in order for me to ask you, Ms President, to ask you to clarify exactly what your ruling was?

The PRESIDENT: I have just repeated it, and it will be in *Hansard* tomorrow, anyway. If the debate is now terminated, I will put the motion in the form that it was moved, namely, that the President's ruling be disagreed to.

Motion negatived.

The Hon. M.J. ELLIOTT: The Corporate Affairs investigation looked at many things and studied the books that handled all the moneys supplied by the Government. No charges were laid.

The Hon. C.J. SUMNER: This is just absolute flouting of the ruling that you have just made, Ms President. The honourable member is now referring to charges.

The Hon. M.J. Elliott: I said that I wasn't talking about the charges.

The Hon. C.J. SUMNER: You were talking about charges that were not laid. You were referring to the Corporate Affairs investigation.

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: Maybe he is. If a Corporate Affairs investigation has led to certain charges, my point of order is that it is virtually impossible to extricate the investigation in relation to the other matters from those that led to the charges, because the two may well have overlapped in critical areas. Unless the honourable member is able to indicate what he is about to say, so that we can assess—

The Hon. M.J. Elliott: You stopped me.

The Hon. C.J. SUMNER: He can indicate outside or in some informal way to the Chair what he is about to say. We are faced with sitting here listening to the honourable member potentially breach the *sub judice* rule.

The Hon. M.J. Elliott: Have I done that so far?

The Hon. C.J. SUMNER: I believe you have, because you are talking about the Corporate Affairs investigation. The point I am making is reasonable. I would have thought that what the honourable member ought to do is indicate to the Chair what it is he intends to deal with. If there is a problem that that will run into the *sub judice* rule then what I was suggesting was that he ought to take up with the Chair what he would deal with. The fact is that what he has already started on, to my way of thinking, leads inevitably to a breach of the ruling that the President has just made. The honourable member is starting to talk about the Corporate Affairs investigation and about charges that were not laid following the Corporate Affairs investigation. Surely that may be indirectly related to the charges that have been laid.

The Hon. R.I. Lucas interjecting:

The PRESIDENT: Order! Could I suggest to the Hon. Mr Elliott that he do as he indicated some time ago and seek leave to conclude his remarks, and that between now and the time the debate is next taken up he indicates to me the line that his argument wishes to take so that I can judge whether it would breach the *sub judice* rule. Then I would not have to be, along with everyone else in the Chamber, on tenterhooks as to whether a particular sentence or phrase might fall from his lips that would breach the *sub judice* rule. I cannot order the Hon. Mr Elliott to do this, but it would enable a smoother carriage of the debate, and we can then be satisfied that the *sub judice* is not broken. I suggest that, knowing that the Hon. Mr Elliott had previously suggested that this was a course he might follow?

The Hon. M.J. ELLIOTT: I will continue with other matters and then seek leave to conclude my remarks further on. In relation to staff management, the review stated:

> In the past 12 months, two workers at Christies Beach shelter have taken six months and more than six months leave respectively on workers compensation. This should be of grave concern to the management committee on two counts: (1) that the way personnel are managed appears to be leading to burnout, and (2) that their workers compensation insurance premium will rise sharply as a result. This issue could also have implications for other women's shelters because their workers compensation insurance premiums may also rise.

Two examples are a cause for grave concern in relation to personnel management. In relation to the first point, 'The way personnel are managed appears to be leading to burnout,' there was one instance of burnout and that relates to the administrator. The other instance of burnout relates to poor health and physical injury to a worker's back—and that does not meet with any definition of burnout that I am aware of.

The administrator notes that by far the greatest stress for her resulted from dealings with bureaucrats, the Minister and the Minister's advisers. Advisers were changed regularly, accountants came and went—all with a constant background of criticism and a lack of understanding of the service being provided. The administrator reports a consistent irritation in the case of most of these bureaucrats in relation to the shelter philosophy. I am not surprised that there was friction; the experts never quite understood.

I am informed that the first administrator under the Minister's new arrangement at Christies Beach Women's Shelter is currently off work with stress. The Department for Community Welfare took the shelter over but within one week the new administrator was off because of stress. I find it interesting that here we have a report critical of the way in which things are being run there and yet the Department for Community Welfare's administrator, inside a week, was out with exactly the same complaint. Quite simply, women's shelters, particularly relating to staffing, are difficult places to run. I think that that shelter was staffed by 5.5 people, whereas under a normal Government formula one would expect there to be at least 13 employees. No wonder there is burnout. Of course, financial constraints made their task impossible.

At the time of the meeting of 4 October 1987 there was friction between the administrator and the Acting Adviser on Women and Welfare. I understand that this is not just the perception of one shelter staff member, but the experience of many. We may aptly term this kind of burnout as projected bureaucratic and political character assassination.

I believe that this review indicates a biased approach in relation to the Christies Beach Women's Shelter when compared with the way in which it deals with the other shelters.

Higher deficits, more financial concerns, and more serious management matters are all mentioned, but these shelters and their staff have not been treated in the same shoddy way as staff from the Christies Beach Women's Shelter. Perhaps it is the Minister's intention to defund a number of other shelters in order to proceed with his new dictum on domestic violence. I believe that the Department for Community Welfare has received instructions to take over the domestic violence field, and perhaps this is the first shot in the Minister's takeover of women's shelters, just as he is at present taking over many Aboriginal health bodies and the functions currently carried out by Kalyra.

The Minister is carrying this out on a broad front, just as he intends to do with certain country hospitals. He is taking over a wide range of areas. The suspicion is that what he has done with the Christies Beach Women's Shelter has more to do with the bureaucratisation of health services than it has to do with the wrongdoings of people at that shelter. Before defunding any other shelter perhaps he could defund his own Party. I understand that its deficit is in excess of $1 million. Perhaps it should demand that Senator Schacht resign after leading it into such a terrible morass.

Members interjecting:

The Hon. M.J. ELLIOTT: I think that the Corporate Affairs Department should look into its books because $1 million is pretty damning. The staff at the Christies Beach Women's Shelter have never claimed that they ran a faultless shelter. There were difficulties with finances, clients and staff. However, the truth is that these were minor in comparison to the bureaucratic bungling and high handedness.

It seems obvious that there is a more sinister intention and I hope that it is not because certain people from that shelter were critical of the Minister's becoming Father of the Year. This Council, Coward's Castle so named by the Minister, affords protection to its members on the assumption that a responsible approach will be taken by them in relation to any remarks they make. The Christies Beach Women's Shelter staff have been viciously maligned in this place. Natural justice has been denied them. They have been accused by way of generalisation and innuendo. The shelter was defunded and those people were thrown out of their jobs before any charge had been laid. If they had been members of any Government instrumentality, they would have had the right to an inquiry, to know exactly of what they were accused and to appear and present evidence on their own behalf in defence. Instead, on the basis of innuendo and generalisation (and even where charges were specific, I have been able to demonstrate that they were demonstrably false) the Minister proceeded before the investigations of the CIB or the Corporate Affairs Commission led to any charges at all. In so doing, he has defied every rule of natural justice. I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

GOVERNMENT MANAGEMENT AND EMPLOYMENT ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 26 August. Page 467.)

The Hon. T. CROTHERS: I move:

That the debate be further adjourned.

The Council divided on the motion:

Ayes (9)—The Hons G.L. Bruce, T. Crothers (teller), M.J. Elliott, M.S. Feleppa, I. Gilfillan, Carolyn Pickles, C.J. Sumner, G. Weatherill, and Barbara Wiese.

Noes (8)—The Hons J.C. Burdett, L.H. Davis, Peter Dunn, K.T. Griffin, J.C. Irwin, Diana Laidlaw, R.I. Lucas (teller), and R.J. Ritson.

Pairs—Ayes—The Hons J.R. Cornwall and T.G. Roberts. Noes—The Hons M.B. Cameron and C.M. Hill.

Majority of 1 for the Ayes.

Motion thus carried.

CITY OF ADELAIDE PLAN

Adjourned debate on motion of Hon. L.H. Davis:

That this Council recognises—

(a) the unique and distinctive character of the city of Adelaide; and

(b) the need for development which is sensitive both to this character and to the needs of the city; and therefore urges the Government to ensure gazettal of the 1987-92 City of Adelaide Plan as a matter of urgency,

to which the Hon. T. Crothers has moved the following amendments in paragraph *(b)*—

Insert after the word 'ensure' the words 'the earliest possible'. Delete the words 'as a matter of urgency'.

(Continued from 9 September. Page 794.)

The Hon. L.H. DAVIS: Madam President, I thank the Hon. Trevor Crothers for his contribution and his indication of support for this motion. I indicate forthwith that the Opposition is prepared to accept his amendments, which detract very little, if anything, from the thrust of the motion that has been proposed.

That means, I believe, that with the concurrence of the Democrats this Council will unanimously recognise the unique and distinctive character of the city of Adelaide; the need for the sensitive development of Adelaide; and the importance of the 1987 to 1992 City of Adelaide Plan. Of course, the nub of the motion is the need for gazettal of that plan as soon as possible. I commend all members for their support of this important motion and I believe that it is a recognition of the importance of planning in this unique city in which we live.

The Hon. T. Crothers's amendment carried.

Motion as amended carried.

WASTE MANAGEMENT REGULATIONS

The Hon. DIANA LAIDLAW: I move:

That the regulations under the South Australian Waste Management Commission Act 1979, made on 26 February 1987, and laid on the table of this Council on 10 March 1987, be disallowed.

I am not concerned about the general thrust of the regulations contemplated. My concern is, rather, a matter of degree, as I shall explain. I am aware that the regulations have been before the Joint Committee on Subordinate Legislation. That committee has considered them and has taken evidence from the Master Builders Association. I am advised that the committee was satisfied that there was no real impediment on normal business transactions. The new regulation relating to the South Australian Waste Management Commission Act provides:

Licences for the production of waste of a prescribed kind:

10. A person who carries on an industrial or commercial process in the course of which waste is produced which consists of or includes—

(a) any of the substances specified in the seventh schedule; or

(b) any container or other material contaminated by any such substance,

must be licensed under section 25 of the Act.

Section 25 has existed since proclamation of the Act in 1979. The section provides:

(i) That a person who carries on an industrial or commercial process in the course of which waste of a prescribed kind is produced must be licensed under this section.

(ii) A licence under this section may be granted upon conditions requiring the licensee to treat and dispose of waste produced by him in a specified manner.

(iii) A person who carries on an industrial or commercial process in respect to which a licence is required under this section without being licensed shall be guilty of an offence and liable to a penalty not exceeding $2 000.

(iv) Where a condition of the licence under this section is not complied with the licensee shall be guilty of an offence and liable to a penalty not exceeding $2 000.

The concern that I raise is in respect of the likely consequences following the passage of this regulation in relation to the schedule. The seventh schedule prescribes the wastes involved, and it includes, for example, paints and inks. People involved in small business have advised the Opposition that a number of industries produce a small amount of such wastes, that is, inks and paints. It has been suggested that a person who threw out a spent cartridge of a ballpoint pen was disposing of waste ink and would be required to obtain the necessary registration under section 75 of the Act.

A further example that has been put to the Opposition is that a person involved in a small printing business who was disposing of an offcut, on which there was a little bit of ink and which could be satisfactorily disposed of through a controlled system, would under these regulations suddenly find that the company could be involved in the ambit of this new regulation. The Opposition has also received a letter from the South Australian Employers Federation on this matter. It states:

The requirements to hold a licence under the Act, pursuant to regulation 10, have been significantly extended by the inclusion of everyday items within the seventh schedule. Many members of the federation produce waste as part of their industrial or commercial process, which may consist of or include inks, oils, solvents, paint sludges or residues and other similar products. Accordingly, the potential exists under the new regulation for any office which has waste ink, or any painting contractor who ends up with paint residue, to be required to hold a licence under the South Australian Waste Management Commission Act.

The above situation is clearly untenable and, whilst we would not expect the commission to use the full extent of its powers under the Act, the potential to regulate in this way should not go unchallenged.

That letter was signed by Mr Peter Hampton, Manager of Industrial Relations for the South Australian Employers Federation. Whilst I acknowledge that in the letter Mr Hampton has indicated that the commission is unlikely to use the full extent of its powers in this regard, the powers could be used by over-zealous inspectors. I am sure that all members of this Chamber are familiar with instances where regulations have been dealt with by such over-zealous inspectors in a manner that we would deem to be extreme.

Section 25 of the Act provides for a fine of up to $2 000. Therefore, a carpenter, for example, who has one or two pots of primer paint which he may use in joinery of a chair, for instance, or for other furniture may now suddenly be challenged and found guilty of producing a prescribed waste, even though that prescribed waste is of a very small quantity and is being handled by someone who has the capacity to handle it properly. Not only would such a person fall into the category of perhaps being challenged and liable to a fine of $2 000, but also that person would have to provide himself or herself with yet another licence to operate.

The Opposition believes that this provision has gone overboard, that it is extreme and that defined exceptions should be made. It is my view that these defined exceptions have not been adequately covered in the regulations as brought down by the Government and assessed by the Subordinate Legislation Committee, notwithstanding the evidence that was given to that committee. The Opposition believes that, unless this matter is considered by the Government many small business people and individuals may fall within the ambit of the regulations. The Opposition does not believe that that is the intention of the Government or the commission, but it is a likely consequence of these regulations.

Regulations and the law ought, as a matter of principle, to be explicit and capable of simple interpretation. On many occasions in this Parliament in relation to Acts and regulations that are being assessed it has been said that the legislation must be understood by those who will be subject to it. All too often that is not the case. There should be no ambiguity which allows an over-zealous inspector to take action, that can be distressing and would inevitably involve legal costs. Such a process would be costly to small business people, even though such people may be subsequently let off with a caution and told that their case did not necessarily fit the circumstances contemplated by the Government at the time that it brought down the regulations.

I believe that the regulation needs to be made much tighter than it is at present and that nobody in the community, either individuals or people in business, should be placed in a situation of having to prove that they were not creating a waste without a licence—and a licence that is far beyond the requirement of their type of activity. On the basis of those few short remarks I hope that this motion for disallowance of the regulation, which I understand is also being debated in the other House, will gain the support of members.

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

LOW INCOME HOUSING

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

1. That a select committee be appointed to consider and report on the availability of housing, both rental and for purchase for low income groups in South Australia and related matters including—

(a) Housing for young people, especially those under the age of 18 years whose only income often is derived from the Department of Social Security.

(b) Housing for lone parents and married couples with children dependent on the Department of Social Security.

(c) Single people over the age of 50 years.

(d) The role of the South Australian Housing Trust in providing accommodation for all age groups.

(e) The role of voluntary groups in provision of accommodation for all age groups.

(f) The role of the Department of Community Welfare in advocating for accommodation for all age groups.

2. That the committee consist of six members and that the quorum of members necessary to be present at all meetings of the committee be fixed at four members and that Standing Order No. 389 be so far suspended as to enable the Chairperson of the committee to have a deliberative vote only.

3. That this Council permit the select committee to authorise the disclosure or publication as it thinks fit of any evidence presented to the committee prior to such evidence being reported to the Council.

(Continued from 26 August. Page 482.)

The Hon. CAROLYN PICKLES: In concluding my remarks I would like to refer honourable members to paragraph *(a)* of the Hon. Mr Elliott's motion, which referred to the fact that a select committee be appointed to look at housing for young people, especially those under the age of 18 years, whose only income often is derived from the Department of Social Security.

Members may well be aware that an advertisement appeared in the *Australian* of 3 October 1987. Inserted by the Human Rights and Equal Opportunity Commission with the aim of setting up a national inquiry into homeless children, the advertisement stated:

The Human Rights and Equal Opportunity Commission is conducting a national inquiry into homeless children and seeks submissions from interested parties. The inquiry will be conducted by the Human Rights Commissioner, Mr Brian Burdekin, with the assistance of the Director of Policy and Research for the Brotherhood of St Laurence, Ms Jan Carter, and Father Walter Dethlefs, who has worked extensively with homeless people in Queensland. Its terms of reference are as follows:

1. To inquire into and report on the effectiveness of existing programs and services involved in, and the development of alternative responses to, addressing the needs of homeless children and young people.
2. To review earlier reports on the needs of homeless children and the action taken by relevant authorities in response thereto.
3. To identify the problems experienced by homeless children and young people in obtaining public housing or private rental accommodation.
4. In accordance with the United Nations Declaration of the Rights of the Child, to inquire into and report on the rights of homeless children and young people to protection from neglect and exploitation, including the availability of income support and their access to legal advice and representation.
5. To recommend the steps which should be taken by all relevant persons and authorities to resolve the identified problems of homeless children and young people.

I read that into *Hansard* because it is yet another indication of the totally unnecessary motion for a select committee on this issue. I refer to part *(d)* of the motion, which is so wide ranging as to be either meaningless or requiring an encyclopedia to be written on the trust's housing activities. But, on the honourable member's behalf, I point out that such information is readily available from the trust and does not require a select committee to obtain it. Some brief facts are that about 20 per cent of South Australian households now live in housing originally constructed by the trust.

Throughout its history the trust has provided housing for all household types. Last year, 8 376 households were provided with trust homes, the third consecutive year that the Government's funding commitments have enabled a record number of new tenants to be housed. In 1986-87, the following social groups obtained public housing: single youths (15 to 19 years), 1.7 per cent of allocations; single youths (20 to 24 years), 3.9 per cent; singles (25 to 59 years), 10.2 per cent; aged singles, 8.4 per cent; lone parents, 22.9 per cent; couples with no children, 20 per cent; couples with children, 19 per cent; single other adults, 4.2 per cent; others, 6.2 per cent; and Government allocations, 3.5 per cent.

The part of the motion dealing with the role of voluntary groups in providing accommodation for all age groups is again something that has been the subject of Government investigation, policy formulation and program implementation. The Government has worked very closely with many community groups in this regard and has committed large amounts of funding to assist them. This has been done through the South Australian Housing Trust, the Housing Co-operatives Program, the Local Government and Community Housing Program, and the Crisis Accommodation Program. I only wish that the member proposing the motion had briefed himself on the existing relationships between the Government and community groups with regard to the provision of housing.

The Housing Trust alone has a magnificent joint venture program which involves local government and various community organisations providing aged accommodation in their local communities. In 1986-87, 270 cottage flats and 14 attached houses were constructed under the joint venture and Jubilee 150 programs. The co-operative program encourages, through direct financial support, the formulation of community-based housing associations in which tenants are self-managing in secure and affordable housing. This program has the great additional advantage of drawing in millions of dollars of private sector finance that otherwise would not be available for housing. In fact, $40 m of private finance has been used in this program, which now supports 33 co-operatives with a total of 700 houses. It is one of the biggest success stories involving community groups in the history of housing in this country.

The Local Government and Community Housing Program provides Federal funds to voluntary groups in a wide range of housing projects. The breadth of activities encompassed is too wide to canvass here, but I am sure that any one of the voluntary groups funded in the two years of this program's existence would inform the honourable member so concerned that it is doing exactly what he proposes a select committee investigate.

The role of the Department for Community Welfare in advocating housing for people is already established, and again the motion is redundant. It is a fact that DCW already refers people to the EHO with recommendations. The Emergency Housing Office estimates that 10 per cent of its metropolitan clients and 25 per cent of its country clients are referred from DCW. DCW also actively advocates on behalf of households seeking trust housing. Community Welfare Department social work staff submit many referrals under the trust's Priority Housing Assistance Scheme. Finally, DCW works closely with community organisations, through the Federal/State Supported Accommodation Assistance Program and other grants programs to provide housing assistance at the local community level.

All in all, this motion is tantamount to an insult to all those organisations and individuals who have worked so hard over recent years to meet the housing need in our community, particularly amongst lower income households. A select committee on this matter is unnecessary, would be a waste of taxpayer's money (to which the honourable member is always referring), and would only table information that is already available in many forms and from a number of respected sources. The honourable member—indeed all members of this Council—should be aware that South Australia commits more funds to the broad range of programs under the umbrella of public housing than any other State in the country. In 1985-86, South Australia spent $230.70 per capita on public housing. No other State came near that, except the Northern Territory, which is a special case. New South Wales spends $82.90 per capita, Queensland $99.30 and Victoria $88.60. Once again, South Australia spends $230.70 per head. I therefore oppose the motion.

The Hon. C.M. HILL secured the adjournment of the debate.

TAFE PRINCIPALS

Adjourned debate on motion of Hon. R.I. Lucas:

That the regulations under the Technical and Further Edcuation Act 1976, concerning principals, leave and hours, made on 6 August 1987, and laid on the table of this Council on 11 August 1987, be disallowed.

(Continued from 19 August. Page 311.)

The Hon. CAROLYN PICKLES: I move:

That this debate be further adjourned.

The Council divided on the motion:

Ayes (7)—The Hons G.L. Bruce, T. Crothers, M.S. Feleppa, Carolyn Pickles, C.J. Sumner, G. Weatherill, and Barbara Wiese (teller).

Noes (10)—The Hons J.C. Burdett, L.H. Davis, Peter Dunn, M.J. Elliott, I. Gilfillan, K.T. Griffin, J.C. Irwin, Diana Laidlaw, R.I. Lucas (teller), and R.J. Ritson.

Pairs—Ayes—The Hons J.R. Cornwall and T.G. Roberts.

Noes—The Hons M.B. Cameron and C.M. Hill.

Majority of 3 for the Noes.

Motion thus negatived.

The Hon. BARBARA WIESE (Minister of Tourism): I think that the Hon. Mr Lucas and members of the Opposition are behaving quite irresponsibly in the matter by wanting to bring this issue to a vote when I made it clear earlier today in a ministerial statement that the Minister of Employment and Further Education has been negotiating with the South Australian Institute of Teachers, and an agreement has been reached that these regulations, to which this motion refers, will be revoked and that new regulations will be put in their place. I also indicated, when I made that statement that, in reaching this agreement, the Minister has reserved his right to resubmit amendments to the regulations if there is a breakdown in further negotiations, and I understand that that, too, is the position of the South Australian Institute of Teachers. Both sides in this debate are entering into these discussions without prejudice, and it is hoped that there will be a mutually satisfactory agreement on the matter. It is therefore the Government's wish that in the meantime the existing regulations should be maintained.

It seems to me that the Hon. Mr Lucas is being very petty in this matter by seeking to push this issue to a vote. I understand also that the Australian Democrats share this petty point of view and will be supporting the Opposition in its move to have these regulations disallowed. Since that is the case, we will not be calling for a division on the issue, but I reiterate that it is not the wish of the Government that it be handled in this way. The Government should be allowed to manage this issue in its own way, and that is the action that has been taken by the Minister. We are close to resolution, as I understand it, and this move is petty and unnecessary.

The Hon. R.I. LUCAS: In winding up this debate (and I note the hour and I will not take an excessive period), I point out that that was a lovely whimsical piece of nonsense by the Minister handling the motion currently before the Chamber. The *Hansard* record tomorrow will show that in the first paragraph the Minister said that new regulations will be submitted, and then, three or four paragraphs further on, she went back to the written script—I think she was working off the top of her head for the first couple of paragraphs—when she stated that the Government would reserve its right to resubmit amendments if there was a breakdown in further negotiations. The Minister of Tourism, representing the Minister of Employment and Further Education in this Chamber, really ought to indicate to the Chamber what is the Government's situation—

The Hon. Barbara Wiese: Just that.

The Hon. R.I. LUCAS: It cannot be just that because she has said two things. She said we were irresponsible in moving for a vote on this motion because new regulations will be submitted. They were the Minister's words, and then—

The Hon. Barbara Wiese interjecting:

The Hon. R.I. LUCAS: No. The Minister should look at the verbatim record of *Hansard* tomorrow. I took it down. She said that new regulations will be submitted, but further on said that the Government would reserve the right to resubmit regulations if there was a breakdown. There is certainly nothing irresponsible in the Opposition's moving for a vote on this important matter. In fact, we moved for a vote on it just prior to breaking for the Estimates Committees some three or four weeks ago, but on that occasion did not have the numbers in this Chamber to bring this matter to a conclusion.

The Government's handling of this dispute has been hamfisted and arrogant, and the Minister has lurched from blunder to blunder in the handling of this dispute. It was really only when the Minister was absent from the State overseas and the Government's negotiations were taken over by Minister Crafter and Minister Blevins in joint negotiations with the SAIT negotiators that those Ministers in their discussions found that everything was not as it appeared to have been indicated some two or three weeks earlier when Minister Arnold was handling negotiations. We then saw a significant shift in the Government's position. We have at last seen some possibility of compromise—and that compromise is welcomed by the Opposition—because we have this motion for disallowance in this Chamber. That is a further example of the worth of an Upper House, the Legislative Council. It is only because there was a public indication from the Liberal Party and the Australian Democrats that these regulations would be disallowed that the Minister and the Government were forced back to the negotiating table. If the regulations had not been able to be disallowed by this Chamber, we would not have seen the Minister and the Government back at the negotiating table with SAIT.

The Opposition has maintained all along in this protracted dispute that, if a reasonable attitude had been taken by the Minister and the Government at the earlier stages in July, we need not have had a protracted dispute, and we need not have had the prolonged industrial disputation with the strike and ban action by SAIT staff. The Opposition has maintained right through, both in public statements and in this Chamber, when speaking to this motion and other matters, that we believed there needed to be compromise on both sides with working conditions, and that that compromise and changes in working conditions could be achieved if both sides were prepared to negotiate sensibly.

Ms President, as I indicated, I will not take a long time in winding up this debate. It is not irresponsible to seek a vote on this matter, and if there are to be further amendments to regulations moved by the Government and if they are of the nature of these regulations, I indicate that I will certainly be moving for disallowance of those as well. I urge members in this Chamber to support the disallowance of the regulations.

Motion carried.

LANDLORD AND TENANT ACT AMENDMENT BILL

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Landlord and Tenant Act 1936. Read a first time.

The Hon. C.J. SUMNER: 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

The purpose of this Bill is to amend Part IV of the Landlord and Tenant Act 1936. Part IV contains provisions designed to regulate certain aspects of commercial tenancy agreements. It was brought into operation on 1 January 1986 and has had a slow but steady impact on some commercial leasing practices which were considered by the working party on shopping centre leases to be undesirable and inequitable.

At the time of introducing this important commercial tenancy legislation the Government made a commitment to monitor the effectiveness and efficiency of the reforms. Existing Government resources were assigned the task of accomplishing this monitoring role within the Commercial Division of the Department of Public and Consumer Affairs.

A number of submissions have been made to the department since the commencement of Part IV. These submissions have focused on certain drafing difficulties that have arisen in complying with section 62 (1) *(a)* (iii) of the Act. This section requires that where a written agreement is to be entered into a landlord must insert in the lease a statement advising the tenant of all payments other than rent (commonly referred to as 'outgoings'), the nature of such payments and the amount or the method of calculation of the payments. This statement must be provided at the commencement of the commercial tenancy period. The difficulty in complying with this requirement has been the identification of third party payments, such as maintenance and repair type payments, which may arise at any time during the period of the tenancy, and which are calculable at the commencement of the tenancy period.

Section 62 (1) *(a)* (iii) is based on the principle that there should be full and frank disclosure as to all financial liabilities to be incurred by the tenant. This principle is not denied or criticised by any landlord representative group. However, the practical problem of identifying and calculating the extent of future payments has made landlords' tasks of complying with the provision extremely difficult.

The effect has meant that landlords have had to elect between gross rents, an 'all-up rent figure' or short term leases. Gross rents can lead to gross distortion and over calculation of rent, while short leases which enable frequent recalculation of base rents tend to provide an unstable environment for tenants seeking some limited form of security of tenure. In fact, some landlords in this State have been so reluctant to enter into long term leases which do not comply, or which their solicitor cannot draft to comply, with the Act that they have granted only periodic tenancies.

These side effects have operated to negate the positive benefits of the provision and it is certainly an unintended consequence of the provision to provide such a stumbling block to landlords and their agents in attempting to comply with the legislation. It is not the intention of the Government to bring hardships on landlords in adopting what is an acceptable commercial practice of having a base rent and operating expenses provision in commercial tenancy agreements.

The Bill therefore seeks to redress the current impasse by enabling landlords to provide yearly estimates of those operating expenses which must be met by the tenant. The tenant will be able to assess the contractual liabilities each year and alter his or her costs of business accordingly. It is important to note that the Bill also provides for an exemption for those leases drafted since the Act was brought into force. This is to ensure that commercial tenancy landlords are not denied their contractual right to rent and outgoings which would be rendered void by the operation of section 62 (1) *(a)* (iii).

The Act provides that licensed land and business agents have 28 days in which to lodge security bonds. However, licensed land brokers and solicitors have only seven days. This anomaly has been addressed by allowing this latter group to have the 28-day period. The amendment Bill also provides for a clearer definition of rent and operating costs. It was submitted that the previous definition of rent was confusing in that it did not distinguish clearly the two concepts, base rent and operating expenses.

At the present time there is no reviewing measure in the Act to assist the Parliament in overseeing the operation of the commercial tenancies legislation. Therefore, in order to formalise the Government undertaking as to monitoring developments in this area, a provision has been inserted to require the Registrar of the Commercial Tribunal to prepare an annual report covering the discharge of the tribunal's functions and any other matters which are considered to be significant developments concerning the relationship between parties to commercial tenancy agreements.

Clause 1 is formal.

Clause 2 provides for the commencement of the measure.

Clause 3 sets out new definitions that are to be included in section 54. It is proposed that 'operating expenses' be defined and that the definition refer to administrative and management costs, Government charges, insurance costs, maintenance costs and any other prescribed expenses. Furthermore, after consideration of submissions received from various practitioners in the field of commercial letting it has been decided to revise the definition of 'rent'. In particular, it is appropriate to specify that for the purposes of the legislation 'rent' does not include any amount payable in respect of operating expenses.

Clause 4 provides for the amendment of section 55 of the principal Act. One issue is whether the Act should apply to premises that are constituted by shop premises and an adjacent dwelling. The Residential Tenancies Act 1978, by virtue of regulations made under that Act, does not apply in relation to residential premises that are associated with business premises. It is proposed that this legislation apply if the two types of premises are subject to the same agreement and new paragraph *(a)* (ii) of section 55 will so provide. Other amendments to section 55 will allow the regulations to prescribe that specified provisions only of Part IV of the principal Act will not apply to agreements or classes of agreements or premises or classes of premises referred to in the regulations.

Clause 5 amends section 56 of the principal Act to rectify a potential difficulty with the operation of subsection (2). It has been pointed out that a party could apply at any time for the removal of proceedings before the tribunal to a court. This might be most unsatisfactory in certain cases, especially if the proceedings had all but been completed. Accordingly, it is proposed to amend the section so as to provide that an application may only be made after the commencement of the hearing of the proceedings if the tribunal so allows.

Clause 6 amends section 57 of the principal Act to include a reference to operating expenses. This amendment will ensure that the provision does not restrict the payment of operating expenses on the commencement of a tenancy (provided that the payment is in accord with the other provisions of the Act relating to the payment of such expenses).

Clause 7 makes an amendment to section 59 of the principal Act that is consequential on the insertion of a definition of 'Government charges' in section 54.

Clause 8 will amend section 60 of the principal Act so that a legal practitioner, licensed agent or licensed land

broker will be able to have the benefit of paragraph *(b)* (i) (and so be allowed up to 28 days to the tribunal money paid under a security bond).

Clause 9 provides for the repeal of section 62 (1) *(a)* (iii) of the principal Act. This provision states that a document intended to constitute a commercial tenancy agreement must specify the nature and amount of any payment (in addition to rent) that the tenant must make under the agreement. The Bill proposes that this aspect of a tenant's liability under an agreement be related to operating expenses, as defined by these amendments, and that the landlord instead be required to specify those expenses in a separate statement.

Clause 10 provides for a new section 62a, which relates to the proposed statement that a landlord must supply to a tenant in relation to the tenant's liability for operating expenses. A landlord will be required to set out an estimate of the expenses payable by the tenant over a particular period and at the end of that period will be required to provide a certified statement of the expenses that have actually been incurred. A landlord will be limited in his or her ability to recover from the tenant amounts payable in advance of the expenses actually being incurred. However, the scheme will not relate to operating expenses that are determined according to the tenant's level of consumption or degree of use.

Clause 11 will enact a new section 73a which will require the Registrar of the tribunal to deliver to the Minister an annual report on the operation of Part IV of the principal Act and matters of general significance to landlords and tenants in the State. The report will also contain the audited accounts of the Commercial Tenacies Fund.

Clause 12 is a savings provision. During the review of the principal Act it became apparent that many existing commercial tenancy agreements may not comply with section 62 (1) *(a)* (iii). As this provision is now to be repealed it has been decided to provide that a provision will not be ineffectual by reason of the fact of such non-compliance.

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

APPROPRIATION BILL

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

ADJOURNMENT

At 6.4 p.m. the Council adjourned until Thursday 8 October at 2.15 p.m.