LEGISLATIVE COUNCIL

Thursday 18 October 1990

The PRESIDENT (Hon. G.L. Bruce) took the Chair at 2.15 p.m. and read prayers.

PUBLIC WORKS COMMITTEE REPORT

The PRESIDENT laid on the table the following report of the Parliamentary Standing Committee on Public Works, together with minutes of evidence:

RN 5405 McIntyre Road-Main North Road-Bridge Road Reconstruction and Widening.

PAPERS TABLED

The following papers were laid on the table:

By the Minister of Tourism (Hon. Barbara Wiese)—

Medical Board of South Australia—Report, 1989-90.

By the Minister of Local Government (Hon. Anne Levy)—

Royal Commission into Aboriginal Deaths in Custody—

Reports of the Inquiries into the Deaths of—

Gordon Michael Semmens

Malcolm Buzzacott

The Woman Who Died at Ceduna on 18 February 1983

MINISTERIAL STATEMENT: PRISONERS' LEAVE

The Hon. ANNE LEVY (Minister of Local Government): I seek leave to make a statement about prisoners on unaccompanied leave.

Leave granted.

The Hon. ANNE LEVY: Yesterday the Opposition's legal spokesperson, Hon. Trevor Griffin, claimed that prisoners released on special unaccompanied leave are made to sign a form which binds them not to speak to the media. The Minister of Correctional Services would like to assure the Council that this is not the case. As he has told Parliament on many occasions—and the media would know this from experience—we have a very open prison system is South Australia. We leave it entirely up to offenders whether they do or do not speak to the media. Prisoners on unaccompanied leave are required to meet exactly the same conditions as those on parole, and this does not in any way include any reference to speaking to the media.

MINISTERIAL STATEMENT: 'OUT OF SIGHT OUT OF MIND'

The Hon. ANNE LEVY (Minister of Local Government): I seek leave to make a statement in response to the report 'Out of Sight Out of Mind'.

Leave granted.

The Hon. ANNE LEVY: The South Australian branch of Disabled People's International yesterday launched a report called 'Out of Sight Out of Mind', which examined the treatment of disabled offenders in the South Australian criminal justice system. It is noted that the report is intended to be only a preliminary investigation into a complex problem. Nevertheless, the Department of Correctional Services considers it to contain a number of basic deficiencies which have led to quite fallacious conclusions.

The report estimates that 8.2 per cent of prisoners, that is, about 70 prisoners in South Australia, experience a measurable intellectual deficit. This figure is based on the results of a survey conducted in New South Wales in 1988 in Hayes and McIlwain. The number of intellectually disabled prisoners in South Australia, according to this approach, is 13 and not 70. This makes a significant difference in terms of planning progress and accommodation requirements. The department attempts to fully consider the special needs of all prisoners and ensure they are met.

Wherever possible the department aims to integrate disabled people into the mainstream prison environment. This maximises their opportunities for involvement in the range of programs available to the prison population as a whole. It is also consistent with the recommendations in the report. A number of areas in the report deserve clarification.

Identified prisoner: As a basis for cooperating with the author, the Department of Correctional Services sought a guarantee of privacy for detainees. It is regrettable that that guarantee has not been adhered to, with the name of a particular prisoner being published. Because of the claims made about this prisoner there are a few points I would like to make. The Prison Medical Service categorically states that he is not sedated 24 hours a day, as the report claims, but is on medication for a range of medical problems. This particular prisoner was referred to the Management Assessment Panel by the sentencing judge, and over the intervening years has been the topic of considerable debate.

By virtue of his behaviour he is a most difficult prisoner to manage. However, consistent efforts are made to develop programs to enhance the quality of his life. In 1989, for instance, a program was mounted for him at a cost of $10 000 involving the Aboriginal Community Aid Panel and the Aboriginal Health Centre (Pika Wiya) at the Port Augusta Gaol. Sadly, a further episode of self-destructive behaviour meant that the prisoner had to be returned to Adelaide for medical treatment and, as a result, the program did not come to fruition. Currently the Management Assessment Panel and the Department of Correctional Services are considering a range of program options for this offender in his final time in prison. Negotiations are being conducted by the most senior officers of the department and the Health Commission.

Protection: Prisoners are placed in protection areas for their own safety and not, as the report suggests, to increase the efficiency of an institution.

'G' Division: The Minister of Correctional Services is concerned by the nature of this aspect of the report. The report indicates:

> . . . people with disabilities are confined during the day to small, bare, concrete cages at Yatala Labour Prison.

This is quite untrue. All prisoners have a variety of activities within the segregation unit of Yatala Labour Prison and spend their time in a variety of locations, including the games room, an indoor activity area with static hydraulic weights equipment, the outdoor games yard area and their cells. It should be pointed out that it is not common to place prisoners, including disabled prisoners, in 'G' Division for protection. Two prisoners in the State are being held in segregation on a regular basis for their own safety.

Prison staff: The claims that Yatala Labour Prison staff had negative attitudes to intellectually disabled prisoners is a broad generalisation given that less than 1 per cent of the staff at the institution were interviewed. The training of staff pays particular attention to addressing the needs of prisoners with special requirements. Considerable time is given over the current training of officers to consider the case of prisoners with special needs, such as Aborigines,

women, disabled and minority ethnic groups. However, it must be noted that correctional officers are not trained medical personnel nor do they have specialist skills in the area of psychiatry. It is not reasonable to expect that they should have these particular skills given their role and the wide variety of persons with whom they deal.

Facilities for disabled prisoners: In construction of new institutions and major redevelopments of existing prisons undertaken since 1984, facilities for disabled prisoners have been provided in accordance with those prescribed in the Australian Standards.

Special Needs Unit: The report recommends that a Special Needs Unit be established at Port Lincoln Prison for prisoners with particular needs. If the Government was able to find the necessary funds for such a unit, it would not be located in Port Lincoln. It would be more realistic to place such a facility in the metropolitan area as the prisoners would need ready access to a wide range of services.

Medical facilities at the Adelaide Remand Centre: A psychologist has been reappointed to the Adelaide Remand Centre and prisoners who experience episodes of mental illness have access to a visiting psychiatrist at least once a week. Remandees requiring urgent treatment may be transferred to James Nash House under the Mental Health Act or as voluntary patients.

Northfield Prison: The allegation that money has been reallocated from the women's prison at Yatala is not true.

Security: The Jones report indicates that a prisoner's security rating should not be a major consideration if that prisoner is disabled. The department maintains that the security requirements must be of a higher consideration. The Department of Correctional Services welcomes any interest or investigations into the prisons from any organisation. However, it requests that inmates' names not be used without permission and that a more accurate assessment of the system be made.

NATIONAL CRIME AUTHORITY

The Hon. K.T. GRIFFIN: I seek leave to make an explanation before asking the Attorney-General a question about the National Crime Authority.

Leave granted.

The Hon. K.T. GRIFFIN: Members will recall from matters reviewed in this Council previously that Mr Justice Stewart, the then Chairman of the National Crime Authority, prepared a report of the NCA's investigations into Operation Noah 1989 and signed it prior to ceasing to hold office on 30 June 1989 and that Mr Faris, the new Chairman of the NCA stopped its presentation to the State Government and subsequently presented a very much abbreviated report to that Government.

On 22 February 1990, the Attorney-General said, in relation to questions about the tabling of the Ark Report of the Stewart NCA investigations into Operation Noah 1989:

> Even if we decided to table it, trying to get it tabled with appropriate safeguards is extraordinarily difficult.

On 20 March 1990 the Attorney-General said:

> It is extremely difficult to release the report even with the names deleted.

On 22 March 1990 the Attorney-General said:

> Crown Law officers have been looking at it to see if the report can sensibly be released with the names just deleted.

On 5 April 1990 the Attorney-General finally told the Legislative Council that the Government would not table the report and said:

> If the document were to be released, heavy editing would be required to remove references to informants and suspects and to ensure that there was no prejudice to the reputations of persons named in the report.

Before any of these statements were made by the Attorney-General, the Solicitor-General, an independent Crown legal adviser, advised the Attorney-General on 16 February 1990 that, in effect, about half the report on Operation Ark could be released. I seek leave to table that opinion.

Leave granted.

The Hon. K.T. GRIFFIN: My questions are:

1. Why did the Attorney-General avoid ever referring to that advice, which ultimately he did not follow, which omission was tantamount to misleading the Council?

2. Why did he not follow the advice which was given by the Solicitor-General?

The Hon. C.J. SUMNER: The conclusion I reached after considering the advice, which included the matters contained in the report that were raised and discussed with the Crown officers including the Crown Solicitor and the Solicitor-General, was, as I stated in answer to questions raised about the tabling of the report earlier this year—and that remains the position—that heavy editing would be required.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: Well, that is the effect of the Solicitor-General's advice. I do not have that advice before me at the present time but, as I recollect, his advice was that significant editing would have been required to table the report, unless members wanted to deal unjustly with the individuals named in the report or to release the names of informants.

The reason in the final analysis is simply that this document was not a report of the National Crime Authority (and I have been through that before), according to Mr Faris, who was the Chairman at the time that the Government was dealing with the National Crime Authority on this matter. From the correspondence that I have tabled in the Chamber, Mr Faris did not consider this to be a report of the authority. He referred to it as a document.

An honourable member interjecting:

The Hon. C.J. SUMNER: Justice Stewart had a different point of view, and that is all out in the public arena. There is nothing new about any of that. The fact that there was a dispute between the two of those is on the public record.

Mr Lucas: This is all new, though.

The Hon. C.J. SUMNER: The fact that there was a dispute between Mr Justice Stewart and Mr Faris is on the public record. The Government was not in a position to get involved in that particular dispute. All I am saying and repeating is that the document, according to Mr Faris, QC, was not a report of the authority. Furthermore, as members know from Mr Faris's letter which I tabled in the Council, Mr Faris did not agree with the conclusions of the document that was prepared in the Stewart authority. In fact, not only did he not agree with the conclusions in that document, but also he was very trenchant in his criticism of the manner in which the report was prepared and written.

He was also of the view, which he advised us and of which I think I have advised the Council, that the release of the report would be unfairly prejudicial to the individuals concerned and some of the individuals who were named in it. The Government took what I think was a justifiable position and tabled the conclusions of that report—the earlier Stewart document—along with the full report as prepared by the authority as it was constituted when it was dealing with the Government—that is, as chaired by Mr Faris. As I said, that is all on the public record. It was not tabled for the reasons I have outlined. It would have required heavy editing, and that is clearly the case, to remove the names of the informants. The editing that would have been necessary with respect to the rest of the report also would

have had to be heavy and, in the final analysis, it was agreed that it would be extremely difficult to make sense of the report with the editing that was necessary, and that was the conclusion that was arrived at.

The Hon. R.I. Lucas: That was your decision.

The Hon. C.J. SUMNER: I take responsibility for the decision, certainly, but it was a decision arrived at after discussions with the Solicitor-General, the Crown Solicitor and others who were involved in trying to get the report in a form which could be tabled. I assure the honourable member that a considerable amount of time and effort was involved in trying to edit the report in a manner that would make it sensible to table.

An honourable member interjecting:

The Hon. C.J. SUMNER: Well, I do not think I have the answer to my question in front of me at the present time. From what the honourable member has said, there is no disagreement about this point. According to the section he has quoted in the Council, I said that heavy editing would be required, and that is still the situation. In addition, there is the very strong view by Mr Faris that it would be grossly unfair to the individuals named in the report to table it in the form in which it was produced because, according to Mr Faris, the Chairman of the NCA with which the Government was dealing at the appropriate time, the report is unfair to individuals named in it. Of course, those individuals undoubtedly would, to a large extent, be South Australian police officers.

If members opposite want police officers in this State to be unreasonably and unjustifiably condemned by having tabled in the Parliament a report which is not, according to Mr Faris, a justifiable report, let members opposite make that decision.

The Hon. R.I. Lucas: That's not what the Crown Solicitor recommended, and you know it.

The PRESIDENT: Order!

The Hon. C.J. SUMNER: Mr President, I repeat that, if members opposite want the report released with the names of the police officers concerned, given Mr Faris's comments on the report and what he considers to be the status and the deficiencies in the Stewart document, then let them call for it. Let them call for it and let them take the responsibility of potentially condemning innocent police officers who have been named in this report, given that the Chairman of the National Crime Authority, Mr Faris, did not believe the report should be tabled, because he did not agree with the conclusions that that document came to in relation to police officers. If members opposite want it, then let them come out and say directly what they want and let them take the responsibility for potentially smearing innocent people.

The Hon. R.I. LUCAS: I seek leave to make a brief explanation before asking the Attorney-General a question about the National Crime Authority.

Leave granted.

The Hon. R.I. LUCAS: A report tabled in the Federal Parliament yesterday by the Parliamentary Joint Committee on the National Crime Authority indicates that, first, the former Chairman of the NCA, Mr Faris, attempted, before taking up his appointment with the NCA, to delay the transmission to the South Australian Government of the Operation Ark report prepared by his predecessor, Mr Justice Stewart; secondly, that the current NCA Adelaide member, Mr Gerald Dempsey, prior to his appointment to the Adelaide office, attempted in September 1989 to have his predecessor, Mr Le Grand, removed from the NCA by giving advice to the authority calling into question Mr Le Grand's appointment in January 1989; and, thirdly, that Mr Dempsey, before taking up his appointment in Adelaide, wrote two opinions which were highly critical of the Operation Ark report prepared by Mr Justice Stewart. My questions to the Attorney-General are:

1. Was the Attorney-General or any other member of the South Australian Government consulted or informed about any of these three actions and, if they were, did they concur with any of them?

2. If the Government was not consulted or informed, will it immediately inquire into the reasons for these actions in view of the serious implications for the previous and ongoing investigations of the NCA in South Australia?

The Hon. C.J. SUMNER: I will take that question on notice and bring back a reply.

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before also asking the Attorney-General a question about the National Crime Authority.

Leave granted.

The Hon. DIANA LAIDLAW: The report tabled yesterday by the Federal Parliamentary Joint Committee on the National Crime Authority shows that at a meeting on 4 August last year, attended by the former chairman of the NCA (Mr Faris), the former Adelaide member (Mr Le Grand), and the South Australian Police Commissioner (Mr Hunt), Mr Hunt was told at that meeting that the NCA was vetting the Operation Ark report prepared by Mr Justice Stewart. Was the Attorney-General or any other member of the South Australian Government aware of that information, that is, that Mr Hunt was informed in August of last year that the NCA was vetting that Operation Ark report?

The Hon. C.J. SUMNER: I have answered questions on this topic at great length previously—

The Hon. R.I. Lucas: You didn't answer—

The Hon. C.J. SUMNER: That is not correct. I have answered questions on this topic previously. I will have to take that question on notice. I will check with the relevant officers in relation to the matter and bring back a reply.

The Hon. DIANA LAIDLAW: I have a supplementary question. As the Attorney-General in the past has indicated that he first became aware of this information in December, and as the Federal parliamentary report yesterday indicated that the Police Commissioner was advised that the NCA was vetting this report in August, my question is: if the Attorney-General or any other member of the Government was not aware of this advice given to Mr Hunt in August, will he inquire why this was so?

The Hon. C.J. SUMNER: As I said, I will get an answer to that question, including the supplementary question.

UNEMPLOYMENT BENEFITS

The Hon. I. GILFILLAN: I seek leave to make an explanation before asking the Minister of Local Government, representing the Minister of Employment and Further Education, a question about unemployment benefits for a biologist working on Kangaroo Island.

Leave granted.

The Hon. I. GILFILLAN: What I believe may be described as a classic case of bureaucratic bungling has come to my notice. It concerns Dr Greg Johnston, who is a qualified biologist specialising in the study of reptiles and who has been receiving unemployment benefits for the past 30 weeks. It is worth noting that employment prospects in this highly specialised field are somewhat limited in South Australia.

Nevertheless, the National Parks and Wildlife Service has recognised the importance and skills of Dr Johnston and

has recently invited him to participate in survey work of flora and fauna on Kangaroo Island. The work begins next week and will run for approximately four weeks. Unfortunately, despite the importance of the work to parks and wildlife officials, the service is unable to pay Dr Johnston through a chronic shortage of adequate funding. Whether or not this is an indictment of the Government's commitment to the environment and its parks is a question for another time.

However, this places Dr Johnston in a difficult position because the Department of Social Security has indicated to Dr Johnston that, if he accepts four weeks voluntary work on Kangaroo Island, he will not be entitled to collect unemployment benefits. It claims that he does not meet the criteria for voluntary work, which includes the provision that a person must have received benefits for a minimum of 52 weeks not the 30 weeks that Dr Johnston has received benefits. He has also been told by departmental officials that Kangaroo Island is a place of low employment prospects and that by staying there for four weeks he is making himself virtually unavailable for work.

So, here we have a situation where a highly qualified specialist, desperate to work in his area of expertise and prepared to undertake crucial work for no pay to help not only himself (in terms of experience for future job prospects) but the National Parks and Wildlife Service, will lose the meagre benefits offered by the Federal Government. As this work is obviously to the advantage of South Australia, I ask the Minister whether she will urge her colleague the Hon. Mike Rann to intervene on behalf of Dr Johnston at a Federal level to rectify this unacceptable and intolerable situation, so that Dr Johnston can give his valuable service to the State without penalty? If Dr Johnston does lose his unemployment benefits, will the Minister ensure that the work performed by Dr Johnston on behalf of the National Parks and Wildlife Service is properly paid for?

The Hon. ANNE LEVY: I am happy to refer that question to a colleague in another place. The honourable member suggested that I refer it to the Minister of Employment and Further Education. It would seem to me appropriate that I could also refer it to the Minister for Environment and Planning, both of whom I represent in this Chamber. I shall be happy to refer that question to both my colleagues in another place.

NATIONAL CRIME AUTHORITY

The Hon. J.C. IRWIN: I seek leave to make an explanation before asking the Attorney-General a question about the National Crime Authority.

Leave granted.

The Hon. J.C. IRWIN: In the report tabled yesterday by the Federal Parliamentary Joint Committee on the National Crime Authority it was disclosed that a special working party under the chairmanship of the South Australian Deputy Commissioner of Police had considered all of the recommendations contained in the reports on the Operation Ark investigation prepared by both the Stewart and Faris National Crime Authorities, and had 'taken remedial action where appropriate'. My questions are:

1. What remedial action has been taken?

2. Will the Attorney-General table any report by the special working party?

The Hon. C.J. SUMNER: I will refer that question to my colleague the responsible Minister and bring back a reply.

Mr G. DEMPSEY

The Hon. L.H. DAVIS: My question is directed to the Attorney-General. Prior to the appointment of Mr Dempsey to the Adelaide office of the NCA, did the South Australian Government make its own independent inquiries about his suitability for the position?

The Hon. C.J. SUMNER: A question relating to Mr Dempsey's appointment was asked of me yesterday or the day before, as I recollect, by the Hon. Mr Lucas and I said that I would examine that matter and bring back a reply. I am happy to do that with respect to the question asked by the Hon. Mr Davis. All I can do is repeat what I said when the Hon. Mr Lucas asked me this question, namely—as I recollect it, and I said that I would check it and bring back an answer—that his appointment was suggested by the National Crime Authority and processed through the Federal Attorney-General's office and agreed to by the South Australian Government.

NORTH YELTA MINE

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister of Local Government, representing the Minister for Environment and Planning, a question relating to heritage buildings and mining.

Leave granted.

The Hon. M.J. ELLIOTT: I have recently been approached by residents of North Yelta, near Moonta, who are concerned about plans for a new, open-cut mine within 200 metres of their town. I quote from a letter from the residents, as follows:

> The mine itself is to be located within 200 metres of fragile buildings in the Moonta Heritage Buffer Zone as adopted by the District Council of Northern Yorke Peninsula and currently stalled in various Government departments. It is proposed that mining by open cut be made, with blasting of the ore body, and removal of approximately 750 000 cubic metres of material to be made within 12 months of starting operations. It appears to us as residents that there will be damage to our houses, the long-term employment prospects based on tourism, and a large encroachment on both our lifestyle and the area's undoubted heritage. Despite our best efforts it seems that mining is to proceed even though we contend that there are only likely to be short-term gains made from this mine and there are likely to be many long-term disadvantages that we must suffer.

The town contains many houses and other buildings recognised for their heritage value. They are of a fragile mud and stone construction. The peak recommended particle velocity of vibration in such buildings is below 2 mm/sec compared with 10 mm/sec for houses of modern construction. The residents believe that, even if blasting at the site is kept within recommended limits, damage will still be caused to these historical buildings. My questions to the Minister are:

1. What consideration, if any, must be given to heritage issues in the immediate vicinity of a proposed mine when that proposed mine is going through the Department of Mines and Energy approval process?

2. Has the heritage and historical value of buildings in the town of North Yelta been considered during the approval process for the mine?

3. Given that the mine is to be located within 200 metres of the town of North Yelta, what consideration has been given to the possible health effects on the residents of the blasting at the mine and associated dust? The Minister might also want to refer those questions to the Minister of Mines and Energy.

The Hon. ANNE LEVY: As requested, I am happy to refer the question to the Minister for Environment and

Planning. I do not represent the Minister of Mines and Energy in this place but I am sure that, if the Minister for Environment and Planning wishes to consult with the Minister of Mines and Energy, she will do so.

PUBLIC TRUSTEE

The Hon. J.C. BURDETT: I understand that the Minister of Tourism has an answer to a question I asked on 5 September on the subject of the Public Trustee.

The Hon. BARBARA WIESE: The protected estates section of the Public Trustee Office has been subject to internal reviews over the past few years occasioned by the steady increase in appointments by the Guardianship Board. For the financial year 1989-90, Public Trustee was appointed administrator in 325 matters representing 79 per cent of all Guardianship Board appointments. Given the number of administrations for which the office is responsible and the constant workflow, the resources requirements are continually monitored. Resources are subject to appropriate funding and the need for Public Trustee to maintain adequate staffing across the whole range of trustee functions.

Funding for a revised protected estate orgainisation was approved in the 1989-90 budget and was implemented in September 1989. In the months prior to implementation, support was allocated to the protected estates section from other areas of the Public Trustee Office. The reorganisation in 1989 provided further staffing and additional supervisory support for the protected estates area to allow a better working relationship between the Senior Trust Officer and staff. Emphasis was placed on designating senior officers to undertake the more complex investigations directed by the Guardianship Board, and a further officer was designated to take over responsibility for finalising Guardianship Board matters where the person either receives a discharge or dies.

Greater emphasis has been placed on staff training. On-job training occurs on a continuous basis. A weekly training session dealing with office procedures and relevant legislation has been instituted. Specific courses on handling protected estates have been undertaken. In June of this year a seminar conducted over two half days was presented to the protected trust officers by a member of the legal profession who was a former Chairman of the Guardianship Board, with the assistance of a present member of the Guardianship Board staff. Some officers have undertaken short courses through TAFE to improve their personal skills. Further courses will be arranged and presented to staff on a regular basis. Public Trustee believes that the work is being processed in a timely manner and that a satisfactory and caring service is being provided to its clients. He is unaware of any recent formal complaint by the honourable member or through his ofice.

COMMISSION OF MULTICULTURAL AND ETHNIC AFFAIRS

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Minister representing the Minister of Ethnic Affairs a question on vacancies which occur in the South Australian Commission of Multicultural and Ethnic Affairs.

Leave granted.

The Hon. J.F. STEFANI: Following the 1983 review of the commission, the former Minister (Hon. Chris Sumner) publicly announced that the Bannon Government accepted recommendation 4.2 of the review team, which recommended to the Minister that the public, including all ethnic communities, should be invited to suggest suitable persons for impending commission vacancies. The review team further suggested that the Government should consult with community organisations and ask them to nominate their preferred candidates, giving details of qualifications and experience. The review also suggested that public advertisements should be placed outlining the statutory criteria for the appointment of members and inviting the nominations of suitable candidates.

A good number of ethnic organisations have expressed great dissatisfaction at the lack of community consultation by the Minister of Ethnic Affairs. They claim that recent appointments to the commission have occurred without placing advertisements in the press and without community consultation. My questions are:

1. When was the last time applications for vacancies were advertised?

2. During the past five years, how many community organisations have been consulted to submit nominations?

3. Will the Minister provide the names of the organisations and community groups which were consulted?

The Hon. C.J. SUMNER: I will refer those questions to the Minister and bring back a reply.

COMMUNITY HEALTH

The Hon. R.J. RITSON: I seek leave to make a brief explanation before asking the Minister representing the Minister of Aboriginal Affairs a question on the subject of community health and bureaucracy.

Leave granted.

The Hon. R.J. RITSON: The Nganampa-Pitjantjatjara Health Council based in Alice Springs is an organisation which delivers community health and welfare to Aborigines living on the traditional lands in South Australia. This particular matter concerns the question of broken taps and blocked toilets, which is not particularly romantic, but it is a matter of great importance to those people who are trying to minimise disease and reduce infant mortality in those communities.

Presently, there is no allocation for maintenance of Aboriginal housing in these lands through any locally administered global fund but, when the toilets block and taps do not work, the Nganampa Health Council contacts the South Australian Government, which sends up an officer from Sacon, I think. In any case, a survey of the maintenance required is made and the officer comes back to Adelaide, the quantity of work to be done is assessed and put out to tender.

After tenders have come in, a successful tenderer is appointed, who then goes up into those lands and unblocks the toilets and repairs the taps. Officers of the Nganampa Health Council have made representations to the effect that if a modest amount of funding—perhaps $200 per house, which is considerably less than is allocated for maintenance of remote area teacher housing—could be made available locally for maintenance funding, they could actually employ a tradesman to go out and unblock the toilets and fix the taps as and when the problems arise instead of waiting until there is an almighty mess, and then having to set in motion the wheels of this cumbersome bureaucracy designed more to run the Royal Adelaide Hospital rather than to fix the sewerage in outback Aboriginal housing.

I am sure that it is expensive—more expensive than allowing the Nganampa Health Council to employ a tradesman locally in the area. It is certainly more cumbersome,

as with the Government tendering system the unhealthy and potentially dangerous situation persists for much longer than would be the case if the local people were allowed to fix it themselves. Will the Minister, yet again, check with the officers of the Nganampa Health Council and see what they want, and try and grant what they want instead of persisting in the belief that urban-based bureaucracy is the best way to fix taps in the outback?

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

ELLISTON HOSPITAL

The Hon. PETER DUNN: I understand that the Minister of Tourism has an answer to a question I asked about Elliston Hospital on 2 August 1990.

The Hon. BARBARA WIESE: In response to the question about the sharing of the Director of Nursing position between Elliston Hospital and the Central Eyre Peninsula Hospital, it appears that the honourable member has quoted from a costing carried out by the Elliston Hospital which apparently indicates a net salary saving of $35 per week from these arrangements. Whilst the Health Commission has not had the advantage of this costing, it believes the costing assumes that the Director of Nursing would be travelling in paid time between the two locations. In the structuring of such an arrangement, the Health Commission would want to see both sites nominated as the workplace and the employee would be expected to travel in his or her own time.

The comment was also made that the Director of Nursing needs to be there to meet a crisis or to organise extra help. May I remind the honourable member that the normal hours for a Director of Nursing are Monday to Friday, 9 to 5, and emergencies cannot be planned on that basis, anyway. The original proposal to share a Director of Nursing between the two sites was put forward by the Director of Nursing of the Central Eyre Peninsula Hospital at a time when Elliston Hospital was unable to recruit a Director of Nursing. It was a classic case of country neighbours putting up sensible and practical arrangements to help in the hour of need. As in most things associated with the Elliston Hospital issue, it has been considerably distorted.

The Health Commission is working with the Australian Nursing Federation on the general principles to be associated with joint Directors of Nursing in country South Australian hospitals, and although that work is not complete it is likely that such arrangements will be a permanent feature of the future management of our country hospitals.

ODEON THEATRE

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation prior to addressing a question to the Minister for the Arts on the subject of the Odeon Theatre.

Leave granted.

The Hon. DIANA LAIDLAW: I trust the Minister has seen the reference in Samela Harris's 'Back Chat' column of Monday of this week. It reads as follows:

> Shock and incredulity. Can this appalling rumour be true? Would the Arts department—

perhaps she should have put there 'the Bannon Government'—

> allow such mindless waste? Is the Odeon Theatre at Norwood to cease being a live theatre and to turn into a mini-cinema? Why? After the money and determination of the Carclew Centre for the Performing Arts [now known as Youth Arts] in transforming the former cinema/South Australian Film Corporation premises into a good and busy Lions Theatre favouring productions for the young—the Festival patrons of tomorrow—one cannot comprehend the rationale of turning it back into a place for screening bits of celluloid. Yet word has it decisions have been made, sealing the theatre's fate. Within a couple of months the Odeon is to become a cinema, they say. So much for the Festival State. It's an outrage.

The Minister would be aware that the Odeon Theatre was established in 1986. At that time its function (I certainly thought it was determined this way) was to make available a fully equipped professional theatre complex, theatre dressing-rooms backstage and rehearsal facilities for use by young people, companies, schools, community groups and youth organisations, recognising the importance in this Festival State of encouraging youth in terms of the performing arts as an investment both in terms of performance and audience for the future. I ask the following questions of the Minister:

1. Why, after only four years since the theatre opened in 1986, has the board now determined that it will rid itself of the Odeon Theatre at Norwood?

2. The annual report for the year ended 31 December 1989 identifies that the operating expenses for the theatre were $101 915. What is the intention this year? Has that sum been cut totally from the Carclew budget, therefore requiring it to get out of the theatre, or are some or all of those funds to be used in terms of the youth performing arts in this State?

3. Can the Minister identify what the original capital cost of renovating and outfitting the Odeon Theatre was some four years ago?

The Hon. ANNE LEVY: I certainly do not have the information with regard to the historical capital cost of the Odeon Theatre, but I will undertake to get that information for the honourable member. The funding to the South Australian Youth Arts Board has not been cut by $101 000. I am afraid I cannot recall the actual grant, but there certainly was not a cut.

The Hon. Diana Laidlaw: Was there a cut?

The Hon. ANNE LEVY: You have seen the budget papers the same as I have.

The Hon. Diana Laidlaw interjecting:

The Hon. ANNE LEVY: Neither can I.

The Hon. L.H. Davis: Let us just concentrate on the odium of the Odeon.

The PRESIDENT: Order! The honourable Minister of Local Government.

The Hon. ANNE LEVY: The running of the Odeon Theatre is a matter for the South Australian Youth Arts Board. As members will be aware, it is only 12 months or so since the Youth Arts Board was formed from what was previously the South Australian Performing Arts Board. The charter of the current board is very much broader than that of the previous board in that SAYAB now has responsibility not just for youth performing arts but for all forms of youth arts, including, of course, the performing arts, but extending way beyond that to encompass the visual arts, literary arts, design and all forms of arts for young people.

In consequence, I know that they have been examining all the programs of the previous Performing Arts Board and considering their relevance in relation to the considerably broadened charter of the new Youth Arts Board. I am aware also that they have been considering the substantial cost which maintenance of the Odeon Theatre represents. However, I have not been informed of any decision taken by the Youth Arts Board. If it has made any decisions, it has not communicated them to me. However, I will inquire of Carclew whether decisions have been taken. It may well be that they have made certain decisions, but I remind the

honourable member that the 'Back Chat' column in the *Advertiser* is not necessarily an extremely reliable source of information.

The Hon. DIANA LAIDLAW: As a supplementary question: will the Minister obtain a copy of any feasibility study or business plan prepared by the Carclew board in relation to the conversion of the Odeon Theatre from a cinema to a performing arts venue? Will the Minister confirm also that, as I am aware, many approaches have been made by Carclew over the past few weeks to a number of performing arts groups in this State—so, 'Back Chat' certainly is not out of touch on this matter? Also, will the Minister confirm the range of plans and approaches that the Carclew board has made to prospective companies to take over its current lease?

The Hon. ANNE LEVY: This time, there are two questions as opposed to three. In relation to the second question, I will seek that information from the South Australian Youth Arts Board. With regard to the first question, I will inquire of the Youth Arts Board whether such a study was done four years ago and pass on information to the honourable member. I cannot agree, without consulting with the arts board, to the release of any such report. It may be that if a study was carried out the board would wish it to be treated as a confidential document. However, I will consult with the Youth Arts Board on this matter and report back to the honourable member.

BANKRUPTCIES

The Hon. L.H. DAVIS: I understand that the Attorney-General has a reply to a question I asked on 2 August 1990 about bankruptcies.

The Hon. C.J. SUMNER: I seek leave to have the answer inserted in *Hansard* without my reading it.

Leave granted.

As requested by the honourable member, I have contacted the Federal Attorney-General and have received the following information. It has been usual practice for some years for the new bankruptcy figures to be released by the Commonwealth Minister of Justice and Consumer Affairs, who is responsible for matters associated with bankruptcies, on a quarterly basis, together with analysis and comments. I understand, however, that there have been some instances where, on an *ad hoc* basis, Official Receivers' offices have released figures for their State on a monthly basis. That practice has been the exception.

I understand that, sometime earlier this year, the Adelaide Official Receiver's office advised the honourable member that it was unable to continue giving him monthly figures, in view of the established practice of releasing the figures on a quarterly basis with the press release. In addition, I understand that the office was concerned at an inaccurate press article in the Adelaide *Advertiser* of 20 March 1990 which was attributed to the honourable member. The article suggested that there had been 138 bankruptcies in South Australia in the month of February 1990 and that that was 'an all time record for that month'. In fact, the February figures for South Australia were 160 in 1988, 138 in 1989 and 139 in 1990.

This type of problem is one of the reasons why it has been the practice of successive Federal Ministers to release statistics on a quarterly basis, together with some analysis and commentary on trends over a meaningful period of time. I have been advised that it is a time consuming task to obtain the relevant figures from each State and to collate them and provide some analysis and comment. I think members will agree that provision of the figures on a quarterly basis, with some meaningful analysis, is of more use to the public than statistics made available on a monthly basis, covering only a short period and without any regard being able to be paid to broader trends.

This practice also assists Official Receivers when they are asked by journalists to provide comment on trends in their respective States. With the quarterly statistics and commentary they have an understanding of the national trend and the benefit of detailed analysis to assist in providing useful answers to questions about new bankruptcies in their State. I understand that arrangements have been made for the honourable member to be placed on the mailing list for the release of quarterly figures.

GOVERNMENT AGENCY ANNUAL REPORTS

The Hon. L.H. DAVIS: Has the Attorney-General a reply to question that I asked on 11 April—that is 190 days ago—and 9 August about Government agency annual reports?

The Hon. C.J. SUMNER: I seek leave to have the answer inserted in *Hansard* without my reading it.

Leave granted.

The Premier has provided me with the following response to the honourable member's questions:

In the preface to his question the honourable member made reference to several agencies which appeared to be late in submitting reports to their Minister and subsequently late in having their reports tabled in Parliament.

The honourable member may have overlooked the fact that in many cases the reporting period will be specified by a statute other than the Government Management and Employment Act and may in fact vary from that specified in the GME Act. In these cases the GME Act section 8 (4) *(b)* requires that the reporting period conform to that specified in the other Act.

Despite the differences in reporting requirements, it is apparent that a few organisations have been late in tabling annual reports. The Government Management Board has written to these agencies. These few agencies have been asked to ensure that in future their reports are provided to the appropriate Minister within the specified time frame and subsequently tabled in Parliament within the specified period.

The Government Management Board has advised that it does not consider it necessary or appropriate to establish a register of agencies and tabling dates. The board considers that it is the clear responsibility of the relevant Minister and Chief Executive Officer to ensure that reporting obligations are met. Consequently, the board will remind agencies of their obligations from time to time.

NET FISHING

The Hon. M.J. ELLIOTT: Has the Minister of Tourism the answer to a question that I asked on 10 August about net fishing?

The Hon. BARBARA WIESE: I seek leave to have the answer inserted in *Hansard* without my reading it.

Leave granted.

My colleague the Minister of Fisheries has supplied the following information in response to the honourable member's question:

1. Yes. The principal objective of section 20 of the Fisheries Act 1982 (ensuring through proper conservation and management measures that the living resources of the waters of South Australia are not endangered or over-exploited) is strongly upheld by the Government and the South Australian Department of Fisheries. In allowing exploitation of fish stocks in accordance with this objective the Government ensures that fishing effort is contained within biologically acceptable levels. It is recognised that some fishing methods are more efficient than others and it is suggested that these should be encouraged in the commercial fishery to ensure the ongoing viability of the fishery whilst still ensuring that the total effort does not exceed the acceptable level.

It is recognised that the quality of effort for a particular method can change over time due to technological innovation and other factors. It is precisely for this reason that reviews such as is [*sic*] currently taking place in the marine scalefish fishery are implemented. These reviews periodically assess the biological status of the fish stocks being exploited and any changes in effort that has occurred over time, monitor the allocation of fish resources between competing sectors (including the recreational and commercial) and most importantly identify options for making necessary adjustments in response to the former.

In this the Government and the Department of Fisheries have an excellent record. This record is based on continued research, management, education and enforcement, periodic assessment and the implementation of necessary adjustment measures.

2. No. As indicated when responding to the first question effective fisheries management requires a balance of many diverse and often conflicting objectives, aspirations and views whilst ensuring that the principal conservation and maintenance objectives are maintained.

The thrust of the review is that the finite marine scalefish resources are adequately maintained and allocated between competing sectors. This inevitably results in conflict for allocation, particularly when effort increases require adjustment. This frequently results in the operators using less efficient methods blaming the more efficient methods. The green paper endeavours to gain recognition for a need for balance, given that all sectors have impact on the stocks through their activities.

3. An option currently being considered in the marine scalefish fishery review is a ban on net fishing.

MULTIFUNCTION POLIS

The Hon. J.C. BURDETT: I seek leave to make a brief explanation before asking the Minister of Tourism, representing the Minister of State Development, a question about the multifunction polis.

Leave granted.

The Hon. J.C. BURDETT: I refer to an article in *Australian Business* of 25 July 1990 by John Gilmour entitled 'Multifunction bulldust' which states:

At the risk of revealing your correspondent's primitive commercial intellect, it looks to him awfully like an exercise in that old Australian game of property speculation. Cutting through the elegant bulldust—those terms such as infrastructure, sustained development, autogenous thresholds and the like—the polis really is about buying land low and selling it high.

Did I say buying land? More likely the subdividers in this little baby want some Government to give it to them.

With the land in the books at a song, the Japanese and other entrepreneurs with similar benign motives will get Government to rezone it. They will cut it up, build on it, find tenants or occupy it themselves and then sell it for prices that makes the pension funds and life offices think they are getting value.

The main profit will be in the margin between land at broad acre prices—or as a gift—and a completed polis with land at CBD prices.

That margin goes to the polis developers, to the finance institutions and to the Governments who can convert a revenue-sink into properties which will bear the increasing burden of real estate rates and taxes.

There would also be a special place for the bankers behind this rort. They will make the money from lending, from fees for facilities, from changing currency at their normal usurious margins and from getting flash new accommodations at petty cash prices—anchor tenants, they'd be called.

By this stage, the Government must know its options in relation to this subject of the land. Almost all the land in Gillman belongs to the Government. The consultation procedure must include questions of if and not just how the polis is to proceed. My question is: what options is the Government considering in regard to sale, lease back or anything else of the Gillman land in relation to the polis?

The Hon. BARBARA WIESE: I will refer the honourable member's question to my colleague in another place and bring back a reply.

MOTOR VEHICLE REGISTRATION LABELS

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Minister of Local Government, representing the Minister of Transport, a question about motor vehicle registration labels.

Leave granted.

The Hon. DIANA LAIDLAW: In the past week I have received two letters but considerably more telephone calls highlighting motorists' concerns and confusion about practices within the Motor Registration Division as to the posting out of new labels to replace the older style labels. One letter that I have received from a current police officer states:

Recently I received in the mail a new registration label for my private motor vehicle. I was somewhat confused as my vehicle already displayed a current, old style, registration label valid until 14 January 1991. There was no letter of explanation enclosed. There was a prepaid return envelope attached.

My inquiries from the Motor Registration Division have determined that the prepaid envelope was for the purpose of the motorist removing the current disc and returning it to the division. However, this police officer and the other correspondent to whom I referred, plus those who have telephoned my office, cannot understand why the Motor Registration Division would go to the expense of sending out the new green and yellow labels to persons who have already paid up and received their registration label and which registration will not expire for some months—in the case of the letter to which I have referred, 14 January, another being 12 May and another July. It just seems to be a confusing practice. It must be time consuming for staff within the division and certainly an extreme waste of money when people have paid for their registration and their vehicle displays a current registration disc which does not expire for some months.

Therefore, I ask the Minister to explain why the Motor Registration Division has sought to become involved in this cumbersome and costly practice of sending out new discs for vehicles that are currently registered. Also, will the Minister seek to stop this practice and, if not, why not? I have this correspondent's registration disc in my possession, and many other people must not be returning their old disc in the pre-paid envelope and thus have two discs. I suggest that such a practice would encourage fraud and theft, and it should be stopped.

The Hon. ANNE LEVY: I will refer the honourable member's six questions to my colleague in another place and bring back a reply.

PRICE CONTROL

The Hon. R.I. LUCAS: Has the Minister a reply to a question I asked on 8 August regarding price control?

The Hon. BARBARA WIESE: I seek leave to have the reply inserted in *Hansard* without my reading it.

Leave granted.

The following information is provided in response to the honourable member's question. There are three manufacturers of baby food: H.J. Heinz Co. (Aust.) Ltd, Wyeth Pharmaceuticals Pty Ltd and Nestle Australia Ltd. All three manufacturers are based interstate and the South Australian Commissioner for Prices has little opportunity to investigate applications for price increases.

Price increases usually apply on a nationwide basis and generally have been moderate. At the retail level, prices are set at a percentage mark up on wholesale prices which are

themselves calculated at a percentage mark up on the manufacturer's price.

In the case of H.J. Heinz products the wholesale price is calculated at a mark up of 6.5 per cent on manufacturer's price and the retail price is calculated at a mark up of 15 per cent on wholesale price. For products of Wyeth Pharmaceuticals the wholesale price is calculated at a mark up of 15 per cent on manufacturer's price and the retail is calculated at a mark up of 22.5 per cent on wholesale price. The Commissioner does not set any maximum prices in relation to Nestle's products.

On a specific complaint being received an investigation would be conducted by the Prices Division of the Department of Public and Consumer affiars to ascertain whether the maximum percentage mark up applicable to the item(s) in question is being adhered to. No such complaints have been received by the Prices Division.

Infant foods at manufacturer and retail levels are subject to price surveillance under the category of formal control. The question of whether price surveillance should be exercised over infant foods in the future is being addressed as a review of the whole price surveillance function is currently underway. Meat pies and pasties are declared items under the Prices Act and at both wholesale and retail levels are subject to price surveillance under the monitoring category of control.

At the wholesale level, the three major metropolitan manufacturers advise the Commissioner for Prices of increases in the prices of pies and pasties. Other manufacturers are required not to exceed the prices of the major manufacturers. At the retail level the Commissioner allows a fixed percentage mark up of 55 per cent on the manufacturers prices in determining the retail price. As at 23 August 1990, the price of pies and pasties was $1. The question of price surveillance over pies and pasties is also being addressed in the review of the price surveillance function.

ELLISTON HOSPITAL

The Hon. PETER DUNN: In the light of my success in obtaining an answer to a question that I asked on 4 September about the Elliston Hospital, I ask the Minister of Tourism, representing the Minister of Health, whether she has an answer to a question I asked on 15 August about the budgeting of the Elliston Hospital and, if not, why not?

The Hon. BARBARA WIESE: That reply has not yet been provided to me. The honourable member received a response to yesterday's question so quickly because it was in the pipeline, anyway, and had just reached my office yesterday, as a matter of fact, so I was able to provide it today. As I understand it, the same is not true concerning the question about which the honourable member is now inquiring. I am sure that, in the fullness of time, the reply will be made available by the Minister.

SOIL CONTAMINATION

The Hon. M.J. ELLIOTT: Has the Minister of Local Government an answer to a question I asked on 15 August regarding soil contamination?

The Hon. ANNE LEVY: Yes, and I must point out that the slip was provided to the honourable member a week ago. I seek leave to have the reply inserted in *Hansard* without my reading it.

Leave granted.

My colleague, the Minister for Environment and Planning, has advised that contamination of the western end of the land between Seventh and Eighth Streets, Bowden, was discovered as part of the routine testing program in May 1989. There are no residents close to this end of the site and at that stage the housing on Eighth Street was not complete or occupied. The remainder of the site could not be tested until the old factory buildings were demolished.

Following demolition of most of the buildings which covered the eastern two-thirds of the site the remainder of the site was tested. In March 1990, the South Australian Health Commission advised that heavy metal contamination was a cause for concern if the site was to be developed for housing. Planning for remedial action commenced immediately.

The only short-term public health risk that the Health Commission had identified with respect to this site was the possibility of windblown dust during the drier months. As advice on the contamination of the eastern two-thirds, opposite the new housing, was not obtained until March this year, and with the onset of winter, it was not believed that the site posed any short-term health risks for the public.

As remedial action was being planned to take place before the end of winter the question of whether there was a need for the local community to be informed urgently was not contemplated.

Naturally, the Hindmarsh Housing Association and the South Australian Housing Trust which were planning the housing for the Hindmarsh youth housing project which are to develop the site were informed. At the request of the Hindmarsh Housing Association additional testing was carried out on their part of the site. The local community was informed of the problem relating to long-term use of the site and the proposed remedial action at the public meeting held by the Hindmarsh Development Committee on 31 July 1990.

In the light of community concern expressed at the meeting that the site was dusting, despite the wet weather, and concern over accessibility of the site to children, the site is being kept stabilised and has been fenced. The western end of the site where the main scrap metal handling took place has now been tested for polychlorinated biphenyl (PCB) contamination as an additional precautionary measure, however no such contaminant was detected.

The draft planning practice circular which has been sent to all councils for comment will be formally issued soon and instructs councils on the procedures that should be followed when assessing private developments on former industrial land.

The Planning Act and the Development Plan provide power for councils to require the appropriate information including chemical testing in relation to any development application and to apply conditions of approval, or to refuse any application, if the land is unsuitable for the proposed use.

As part of its tasks, the Interdepartmental Committee on Contaminated Land is examining policy and legislative options relating to the assessment and management of contaminated land. An important aspect of legislation which may arise would be to ensure assessment of contaminant levels on land used by potentially polluting industries prior to sale or rezoning. The interdepartmental committee will examine the establishment of a 'super fund' as used in the United States of America. However, primary responsibility for cleaning up a contaminated site should rest with the polluter.

The development of any funding arrangements should be consistent with arrangements being developed in other States.

Testing of ex-industrial land proposed for residential development is being undertaken by redevelopment authorities such as the Hindmarsh Development Committee and the South Australian Housing Trust. As well, private testing is being undertaken, where required by planning authorities.

The Minister for Environment and Planning has established a Contaminated Land Task Force to report to her as soon as possible on the management of contaminated land in urban areas. The task force will advise on the need for testing, short-term management of contaminated land awaiting rehabilitation (including the need for isolation and public notification), method of rehabilitation and long-term management (including monitoring) of subject land. The Contaminated Land Task force is constituted of the following:

Garry Stafford (Chairperson)	Department of Environment and Planning
Max Harvey	South Australian Waste Management Commission
Ian Calder	South Australian Health Commission
Leanne Reichelt	Department of Environment and Planning
Robert Bruce	Department of Environment and Planning
Murray Hutchesson	South Australian Housing Trust
Nabil Gerges	Department of Mines and Energy
Richard Grabbe	Local Government Association
Bill Edwards	Department of Lands
Barry Wheeler	Department of Labour
Garry Verral	Conservation Council of South Australia
Viv Streeter	Councillor, Corporation of the City of Hindmarsh
John Hunt	Hindmarsh Development Committee
Kristine Casey	Community Representative
Peter Torr (Executive Officer)	Department of Environment and Planning

Parliament shall be kept informed in this matter.

NORTH TERRACE

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Minister of Tourism a question about North Terrace.

Leave granted.

The Hon. DIANA LAIDLAW: The glossy booklet that the Minister released in July outlining the Government's vision for North Terrace highlighted on the last page that the implementation of the vision would generate $23 million in new funds from tourism for the State. What feasibility studies were undertaken to reach this figure? Also, what funds, if any, will be required from the State to generate that return? Finally, upon what basis was that figure of $23 million quantified and what period of time is anticipated will be required to see such a return from the implementation of the vision described in that booklet?

The Hon. BARBARA WIESE: I am not able to respond fully to the honourable member's question about this matter, but I shall certainly seek information from the committee that has been formed and from whom the estimates came.

The Hon. Diana Laidlaw: Was not the action group, the Keith Conlon committee, formed after the booklet was released?

The Hon. BARBARA WIESE: A working party was established following a tourism conference last year or a cultural tourism conference. The group met for quite a considerable time. In fact, from memory, it met for about one year before that document was released, and it was on the recommendations of that group that the committee dealing with the question of cultural tourism and North Terrace was formed. Keith Conlon was asked to become its Chair, and various plans are now proceeding. So, a group was already in existence, and the estimates upon which that figure is based have come as a result of the work by that group.

I am not sure exactly on what they base that estimate but I shall certainly make inquiries about it and I will bring back a report for the honourable member. As to future funds to be spent, that is also an issue that will need attention but, certainly, we want to generate as much private sector money as we can.

APPROPRIATION BILL

Adjourned debate on second reading.

(Continued from 17 October. Page 1101.)

The Hon. R.I. LUCAS (Leader of the Opposition): I support the second reading. Just before the last election, in a document called 'Securing the Future', Premier Bannon said:

> Small businesses are often lending-resourced, particularly in the early stages of development. The State Government's taxes and charges policy recognises the need to minimise business costs.

I stress 'the need to minimise business costs'. In that same document, before the election, Premier Bannon said:

> For its part, the Government recognises its prime task is to sustain a climate in which entrepreneurial drive, innovation and investment thrive. This demands an accessible Government working in partnership with business and the trade unions and a cost-effective public sector which efficiently delivers on key infrastructure.

The Appropriation Bill and the budget documents that this Council and another place have debated over recent weeks are a clear indication that Premier Bannon and his Government will not adhere to those key policy promises enunciated in that document 'Securing the Future' and other key promises it made before the last State election in an endeavour, successful as it was in the end, to be re-elected.

As members will be aware, this Appropriation Bill is based on a $233 million tax hike to cover the State's dubious reputation as the biggest spender in the election year of 1989. The percentage increase figures show a stark 10.4 per cent real increase in taxation levels included within this Appropriation Bill. It really can be seen as a joke that the Premier and the Government can talk about trying to minimise business costs and to delivering a cost-effective public sector while, at the same time, it can slam businesses and the tax-paying community of South Australia to the extent of $233 million and a 10.4 per cent real increase in taxation.

We have seen the Government, with its associated taxation Bills and with this Appropriation Bill, include significant increases in a whole range of business taxes and charges.

Next week we will debate payroll tax and financial institutions duty measures, and stamp duty, land tax and tobacco product tax increases. In all of these cases, the Bannon Government has been slugging business, but the bottom line is that it is not just business that suffers as a result of the increased taxes and charges. In the end, South Australian families suffer because those families will have to pay the increased prices of products being produced and sold by South Australian businesses.

South Australian businesses and indeed businesses anywhere, will not just accept, in the main, increased costs without passing those increased costs on to the consuming public. So a whole range of products will increase in price at a rate greater than the expected inflation rate of both the Commonwealth and State Governments and that will result in increased hardship for South Australian families.

As we have heard from questions and answers in this and the other place, this is at a time when the South Australian economy is already struggling. If one compares South Australia's unemployment rate with that of the other States one will see that the latest 8.2 per cent figure is much higher than all the other States except Tasmania and Western Australia. Employers, employer association representatives and leading union officials, such as John Lesses, have agreed in recent weeks that unemployment is already high in South Australia and that it will go higher as we end 1990 and move into 1991.

If one adds the problems we have in industry generally to the problems being experienced in the rural sector, as was so clearly pointed out by my colleague the Hon. Peter Dunn in his contribution to this debate last night, it is quite clear that South Australian businesses and the South Australian community cannot at this stage afford the easy way out that is being adopted by Premier Bannon and his Cabinet—and that easy way out, when there are budgetary problems, is to whack up taxes and not to look at the difficult area of public sector expenditure control. I want to quote from a recent article by one of Australia's most respected economic commentators, Mr Allan Wood. An article entitled 'In a State of Disrepair' in the *Weekend Australian* of 13 and 14 October this year highlighted the problems of the States. He had this to say about South Australia:

> This is a State that benefited more than most from the fat in the global borrowing limits in the '80s, effectively using it to establish a large merchant banking operation under the guise of the South Australian Government Financing Authority. South Australia has the dubious distinction of the largest increase in State taxes and charges in 1990-91 and its recurrent outlays are still growing comparatively strongly. For the time being it is under less pressure than Victoria or Western Australia—

governed by Labor Governments certainly in their death throes—

> but its problems are going to increase as the '90s unfold and its large buffer of cash reserves is depleted.

That article corresponds with the gloomy predictions being made by employer associations and senior union representatives such as Mr John Lesses from the United Trades and Labor Council.

The Government response to these problems, as I said, has been to adopt the easy way out. There is no evidence that the Bannon Government has rejected the option of using some of the surpluses that are currently accumulating within the South Australian Government Financing Authority in an interim way to try to get us through this difficult period of the next nine months—a period during which the supposed razor gang, headed by the Minister of Finance, will be looking at ways of reining in State Government expenditure.

The Leader of the Liberal Party, Mr Dale Baker, some weeks ago put down an alternative budget strategy, which had been developed after much consultation with respected people in the financial community, and in the private and public sectors. It was based on using some of SAFA's accumulated surpluses to get us through this difficult remaining nine months of the financial year. That alternative budget strategy was to use this financial year some of the $99 million retained surpluses of SAFA in the consolidated account, still leaving SAFA with $128 million in its general reserve account and $210 million in its asset revaluation reserve.

In no way can the Liberal Party be accused of wanting to suck the SAFA reserves completely dry. The proposal was to use a moderate proportion of those reserves to get us through to the end of the financial year while the Blevins committee looks at and initiates some proposals for the long-term reform of public sector expenditure. The sad fact of life is that the Bannon Government has tended to use SAFA as an election piggy bank. For some three or four years the Bannon Government saves its dollars and pokes them away in the SAFA piggy bank, and just prior to an election it pulls them out and spends them on election promises. Members will be aware that prior to the last election some $60 million was taken out of accumulated SAFA surpluses for just such a purpose.

Of course, here we are in the first year after an election and the Bannon Government, with some $99 million in retained surpluses, is not prepared to take $1 from that account to get the State through this difficult period. The simple fact is that the Bannon Government wants to use SAFA as its election piggy bank. It wants to build up those retained surpluses and other reserves over the next three years. I predict that in two or three years time, just prior to the next State election, the Bannon Government will again make a withdrawal from its election piggy bank and we will see a significant transfer of the retained surpluses from SAFA into consolidated account to finance a multi-million dollar election spending spree.

The Minister of Finance's razor gang is obviously a key imperative for anyone concerned about the future direction of our State budget, not only this year but in future years. There is certainly plenty of scope for the razor gang to rein in public sector expenditure. Again, before the last State election the Liberal Party, led by John Olsen, outlined a positive program of public sector expenditure reform over a four-year period to finance its series of election promises.

Without going into all the detail of that particular program, I point out that it would have created savings of $347 million in the four-year period of a Liberal Government from 1990 to 1994.

The Hon. R.R. Roberts: That's fairyland stuff.

The Hon. R.I. LUCAS: The Hon. Mr Roberts, well known for his expertise in accounting and financial matters, interjected that it was fairyland stuff. Mr Roberts might not know, but let me inform him, that his Government's own South Australian Government Financing Authority, an organisation of which I am sure he is quite proud—there is no response from the Hon. Mr Roberts, so I can only presume that he—

The Hon. T.G. Roberts: A good Government initiative, makes profits, returns money to the coffers.

The Hon. R.I. LUCAS: The Hon. Terry Roberts interjects on behalf of the Hon. Ron Roberts, because he might have been incapable, that it is a wonderful organisation. The Roberts plural in the Labor Party support the South Australian Government Financing Authority. The auditor for the South Australian Government Financing Authority is

the respected firm Deloitte Haskins and Sells. That firm is so independent and its reputation is so high that it was appointed by the organisation of which the Roberts plural in this Chamber are so proud—SAFA—to audit the books of that organisation. One can clearly say that Deloitte Haskins and Sells are not lackeys of the Liberal Party, given that they were appointed by the Bannon Government and the South Australian Government Financing Authority to audit—

The Hon. T. Crothers: Who's John Elliott's auditor?

The Hon. R.I. LUCAS: Who is his daughter?

An honourable member: No, his auditor.

The Hon. R.I. LUCAS: What do you want to know about John Elliott's daughter?

The Hon. T. Crothers: Auditor. Had I been talking about John Elliott's daughter, I would have said auditrix, not auditor.

The PRESIDENT: Order!

The Hon. R.I. LUCAS: Deloitte Haskins and Sells are not lackeys of the Liberal Party in any way. It is a respected firm. It provided to the Liberal Party a consultation on the program described by the Hon. Ron Roberts as fairyland stuff, the $347 million savings over a four-year term. That firm made the following statement:

> In many areas of this $347 million you have adopted a conservative approach to your savings to provide an estimate reasonably achievable.

Deloitte Haskins and Sells went on to indicate a number of areas where they believed the estimates have been very conservative. By way of interjection the Hon. Ron Roberts indicated that he thought the Liberal Opposition's proposal of a saving of $347 million in expenditure over four years was fairyland stuff, yet SAFA's auditors, who were employed by the Liberal Party as independent consultants, indicated that not only was the program conservative, it was reasonably achievable. It is certainly not fairyland stuff.

The Hon. R.R. Roberts: You couldn't convince the people of South Australia, though.

The Hon. R.I. LUCAS: Well, we convinced 52 per cent of them.

The Hon. R.R. Roberts: Not enough to win. That is reality.

The Hon. R.I. LUCAS: Well, that is the sad reality. However, sadly, elections for the Government of South Australia are conducted like many union ballots, where 52 per cent of the vote does not mean that a Party or a group of individuals wins a particular election.

The Hon. T. Crothers interjecting:

The PRESIDENT: Order! There are too many interjections.

The Hon. R.I. LUCAS: The Hon. Mr Crothers says that is fair, does he?

The Hon. T. Crothers: No.

The Hon. R.I. LUCAS: So the Hon. Mr Crothers says it was not fair.

The PRESIDENT: Order! The Hon. Mr Lucas will confine his remarks to the Bill before the Council.

The Hon. R.I. LUCAS: Thank you, Mr President. I am referring to expenditure on elections by the Electoral Commissioner, for which expenditure is appropriated in this Bill. The Hon. Mr Crothers indicated by his interjection that the results of the last election were not fair, and I am glad to have that on the record in this Chamber from a senior number cruncher from the Centre Left, a man of some substance in this Chamber.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: It is on the record, Mr President, from a member of your own faction, that it was not a fair result.

The Hon. T. Crothers interjecting:

The Hon. R.I. LUCAS: I will not be deflected.

The PRESIDENT: Order! I wish I could believe that.

Members interjecting:

The PRESIDENT: Order! The Council will come to order.

The Hon. R.I. LUCAS: I am happy to respond, Mr President.

The PRESIDENT: I realise that. I ask the honourable member to address his remarks to the Chair.

The Hon. R.I. LUCAS: I wanted to address a series of examples of Government wastage from my own portfolio areas of education and further education but, given the need to get through some other material, at this stage I do not intend to address all of those. However, I will address just one matter, and that is the appalling mess-up by the Minister of Education and the Education Department in relation to the payment of contract teachers and the recent court decision. As members are aware, as a result of a case brought by Mr Rossiter against the Education Department, the court's recent decision means that, in the words of the Education Minister (Hon. Greg Crafter) and his senior bureaucrats, it could result in an exposure by the Government of some $25 million to $30 million because of a gross error or a gross mistake by the Education Department in its handling of payment to contract teachers. For some reason back in 1983, when the Government came to power, it signed a contract—

The Hon. T. Crothers: Seven years ago.

The Hon. R.I. LUCAS: Seven long years ago. The Government signed a contract with the Institute of Teachers to the effect that, if a teacher worked part of a day, he or she would get paid for a full day. I am sure that pleases the heart of the former union reps in this Chamber. Even the painters and dockers would be gratified at being able to wring such an award out of employers, even in that particular industry.

The Hon. R.R. Roberts: Are you saying that the teachers are worse than the painters and dockers?

The PRESIDENT: Order!

The Hon. R.I. LUCAS: The Hon. Mr Roberts indicated that the teachers are worse than the painters and dockers.

The Hon. R.R. Roberts: I asked you whether you thought they were.

The Hon. R.I. LUCAS: Obviously the Hon. Mr Roberts does—the Hon. Mr Ron Roberts. I do not want to get my friend and colleague the Hon. Terry Roberts in trouble. Because he comes from the Iron Triangle, I assume that the Hon. Mr Ron Roberts has some experience with the painters and dockers. The unions would have been formerly represented by the Hon. Trevor Crothers and yourself, Mr President, for the Liquor Trades Union, the Hon. Ron Roberts—goodness knows what that was—

The Hon. T. Crothers: The Electrical Trades Union.

The Hon. R.I. LUCAS: The Electrical Trades Union, and the Hon. Terry Roberts for the Amalgamated Metal Workers Union. I am sure they would have been delighted to negotiate an award with employers which stated that, if an employee worked for an hour in the morning, he or she would get a full day's pay.

That was the award that the Education Department negotiated with the Institute of Teachers. The interesting thing is that it is probably true that the Institute of Teachers did not even realise that it had negotiated such an award until one of its own teachers (who became a lawyer) sought help from the Institute of Teachers and it it did not provide any

assistance. He fought the case himself, and he has brought the Education Department to heel. As I said, the exposure was $25 million to $30 million. Some criticism can be made of the department for having made such an error in the first place, so some criticism can be levelled back in 1983.

The worst part of this example is that in 1987 this teacher turned lawyer—and I am not sure whether he had made that conversion at that stage—told the Education Department of what the award said. He explained to it that if he worked for a couple of hours in the morning he was going to have to be paid a full day's pay. In 1989 his lawyers formally served papers on the Education Department advising of the major problem they had. One remembers that thousands of teachers are employed in contract teaching each and every year—particularly in the early part of the 1980s when, at various stages, 9 per cent of the teaching work force comprised contract teachers. This has now reduced to about 2 per cent and 3 per cent.

Thousands of teachers were in this position. It was grossly irresponsible of the Education Department, and the then Minister of Education to take no action at all in 1987 to reduce the potential exposure for a massive multimillion dollar pay-out. Had action been taken in 1987, as suggested by Mr Rossiter, the Education Department could have reduced its potential liability by some $10 million to $15 million.

In relation to the Hon. Mr Ron Robert's 'fairyland' type interjections, let him stand up in this Chamber and defend such behaviour—the refusal to take action, within departments such as the Education Department, even when advised back in 1987. This may well result in taxpayers having to pay out about $15 million extra.

As Steve Vizard would say 'we could banter on for hours' about examples of wastage of State Government expenditure, but time does not permit that. Again, at this stage I want to place on notice a series of questions to the Minister responsible for the Appropriation Bill debate, as members of this Council traditionally do. I shall do this during the Appropriation Bill second reading debate rather than in Committee because I realise the Government would wish the Appropriation Bill and the associated tax measures to be through by the end of next week. I want to give the Ministers and their officers sufficient time to provide the answers to my questions prior to the passage of this Bill through this Chamber next week. Otherwise, we would have to go through the long procedure of asking for ministerial or departmental officers to come to the Chamber and, as is the way the Estimates Committees are conducted, seek responses from the Minister in charge, and departmental officers, to a whole series of questions.

First, I refer to the whole area of school closures and reviews of the future of some schools. Last year in the Appropriation Bill debate, the Minister of Education provided me with a list of country schools which had been reviewed or which are soon to be reviewed. I seek from the Minister of Education a response as to what has happened to each of those reviews: *(a)* the clustering arrangements involving years 11 and 12 for Brown's Well area and the Loxton High School; *(b)* the review to be conducted of the East Murray and Tintinara Area Schools; *(c)* the review of the Minlaton Primary and High Schools; and *(d)* reviews to be conducted at the following rural schools: Appila, Caltowie, Comaum, Gulnare (and we are aware that that is to be closed), Mount Hill, Murraytown, Wunilla, Wharminda and Yacka Rural schools. I seek some information from the Minister as to what has happened in relation to those reviews.

Also last year, I asked the Minister to provide from the Education Department a summary of schools involved in discussions about closures, amalgamations or cooperative arrangements for the Adelaide, northern and southern areas. In response to that, the Minister of Education provided certain information. I would now seek in relation to the schools that I list an update as to what has been the result of the discussions about whether there will be closure, amalgamation or cooperative arrangement: the Adelaide area, Thebarton High School, Croydon Primary School and Junior Primary School. A review is to be conducted of the Plympton High School.

In the southern area there was to be a reconfiguration of Rapid Bay and Delamere rural schools, Blackwood Primary School and Junior Primary School and Forbes Primary School and Junior Primary School. In the northern area, there was to be possible amalgamations of Elizabeth Vale Primary School and Junior Primary School, which I understand from an answer this year are going ahead. In relation to the northern area, the only one that I would like a further response about is the Elizabeth West Primary School and Junior Primary School, which was listed as a possible amalgamation. I seek a response from the Minister as to what is proceeding or what has occurred in relation to that.

Under the heading of the Salisbury West post-compulsory restructuring project, the Minister has listed Parafield Gardens High School, Paralowie R to 12 school and Salisbury High School. I seek some information as to what has occurred in relation to that review as well. When asking the Minister last year as to which schools in the metropolitan area were being considered for review, why was there no mention at all of the 10 high Schools involved in the north-eastern area that are to be either restructured, closed, or still continue under their current arrangement? When we asked this question last year, most of those 10 north-eastern schools, which include Norwood High School, Morialta, and a whole range of others (I think the Minister did mention Strathmont and Gilles Plains, which is now the Windsor Gardens High School) were not mentioned, when we asked about possible reviews and closures. Yet, here we are 12 months later with quite advanced proposals being announced by the Government in relation to further school closures in the north-east. So, I seek from the Minister an explanation of why those schools were not listed last year.

For 12 months, the Liberal Party has been pursuing the Government and the Minister for information about Education Department committees. We asked a question about 38 central Education Department committees, and 12 months later received some information. I now request from the Minister the names of the persons who serve on those 38 central committees. In his response, the Minister has indicated the positions of the persons on those committees; for example, the Equal Opportunity Officer is a member of the senior executive, but we do not know who the Equal Opportunity Officer is. The Minister was asked to provide names and not just titles.

The Minister has replied further that one of the members of the Secondary Board of Education is the principal of a high school, an appointment following consultation with the South Australian High School Principals Association. This was not an onerous request, and the Minister has provided a fair amount of information on these 38 committees—he has given detail of the make-up of the committee—but there must be a list of names of its members. Certainly, it would not cost—as the Minister says in answer to another question—$10 000 for 200 person hours to compile this information, which ought to be readily available.

That was last year's question, and I have a similar question for this year. The Minister said that it would cost $10 000 to provide all the information that the Opposition wanted. I doubt that. I seek the names of the persons on the 169 committees. Again, the Minister has provided some information about functions, and the frequency of meetings, and the estimated cost of these committees is given in some detail. However, I request the names of members so that we will know the personnel who have been appointed. I believe that this response would be available within the Education Department at very little cost.

My next question relates to what are known as focus schools, schools of excellence or hub schools. A variety of names for these schools is used by the Education Department. For example, there are focus schools in maths and science, with centres of excellence for environmental education—about 40 schools—that receive funding. I request a list of all such schools designated as focus schools, centres of excellence or hub schools, and an indication of the additional funding that each of those schools might receive, if any, for a particular focus or for being a centre of excellence in a particular area.

For many years, the Education Department has provided information on class sizes, yet, this year, the Minister indicated in response to a question asked during the Estimates Committees that the department no longer keeps information on individual class sizes because the curriculum guarantee agreement has been implemented. Recently, claims were made about class sizes by the Australian Teachers Federation in all States, so I seek a reply from the Minister as to what information, if any, the Australian Teachers Federation has access to that is not available to the Education Department and, therefore, by way of questioning to members of Parliament during the Estimates Committees and in the debate on the Appropriation Bill in this Council.

Last year, I asked a question about the number of country schools that were not able to offer eight publicly-examined subjects (PES) and eight school assessed subjects (SAS) at year 12 level in 1989. The Minister provided a list of such schools, and I now seek a comparative list for the year 1990.

I refer to the original 1986-87 back to school budget strategy. At the time of its establishment, the Minister of Education indicated that 67 positions had been identified within the department as surplus to requirements and that many of these senior officers would wend their way back to schools, with a consequent reduction in the number of Education Department bureaucrats.

This year, I asked for details of what had happened to each of those 67 positions designated and the people holding them in 1986-87, and the Minister has responded with an overall summary. It indicates that 20 officers have retired or resigned; 34 have been reassigned to vacancies in the Education Department; seven have been reassigned to vacancies in other agencies; and six have taken up positions in schools. Although it was intended that a good number of the 67 bureaucrats would go back to schools, in fact only six have done so.

I seek a detailed response to the document that was produced by the then Director-General of Education—of which I still have a copy, as, I am sure, the Minister does—identifying the 67 specific positions in the Education Department that were surplus to requirements. I want to know what has happened to each of those positions and to the 67 persons who held them. As I said, the Minister has indicated in general terms that 34 of those people were reassigned to other vacancies in the Education Department, so, those positions might have disappeared. We are not sure of that, so I ask the question: have they been redesignated in some other way and are still employed by the Education Department? I want to know what positions those officers now hold so that we can make an overall assessment of the success or otherwise of the 1986-87 back to school budget strategy.

I would prefer to obtain the information from the Minister in this way because the Director of Resources for the Education Department (Ms Helga Kolbe) indicated during the Estimates Committee that this information was available. She indicated clearly to members in the Estimates Committee that that information was available and could be provided. However, when the response was received, no detailed information was provided by the Education Department as a result of that question.

The other matter I raise relates to a question about surplus officers. In the Estimates Committee last year, the Director of Resources (Ms Helga Kolbe), indicated that 21 officers identified as surplus to requirement in 1986-87 were still being paid by the Education Department last year. This year, the Minister was asked what had happened to those 21 persons and how many of the 21 were still employed by the Education Department this year. The question by Mr Baker was as follows:

> Last year the Committee was kindly provided with information by Ms Kolbe about 21 positions being surplus to requirement. I know that the Minister will provide information on what has happened to the 67 positions that are surplus to requirement. I note from page 164 of the Program Estimates that the number of executive, professional, technical, and administrative and clerical support staff, including the surplus to requirement figure, actually increased last year. Is the figure of surplus to requirement positions readily available?

Ms Kolbe replied:

> The group of 67 officers, relating to a reduction in the budget of 50 average full-time equivalents, has been tracked and it would be possible at this point in time to identify how many officers are still in that category. I would like to emphasise (and the Minister has already mentioned) that there is not a budget burden as they remain in the organisation and do very valuable work, because they are funded from within the budget and we are holding open other positions to pay for them.

That is one of the questions which we want answered and which I put again to the Minister. Mr Baker then continued:

> I am pleased that that information will be provided, but there were 21 left last year. How many of those 21 are left this year?

Ms Kolbe replied:

> I do not have that information here, but I can certainly identify it. It would be a lesser number, but I am not quite certain at this point in time how many there are.

So, the information is available. Ms Kolbe thought that it might be fewer than 21 now, but the information is available. It was promised by the Director of Resources and it ought to be provided by the Minister. Ms Kolbe indicated that some 21 positions were surplus, but the Minister's response indicates that 34 positions of the 67 original positions have been reassigned into other vacancies within the Education Department. From my reading, that indicates that the 21 from last year has in some way grown to 34 this year, or perhaps the figure of 21 last year was incorrect. It is incumbent upon the Minister of Education to make clear whether that figure provided last year was correct or whether the figure of 34 provided this year is correct, and whether or not the two figures are comparable.

The last matter I raise relates to Technical and Further Education. A question was put to the Minister of Employment and Further Education (Hon. Mr Rann) concerning the unmet demand for TAFE subjects and courses. In response to a question last year about the unmet demand for TAFE courses and subjects, the Hon. Mr Mayes provided figures for 1988 and 1989 as follows: unmet demand for courses in 1988 was 9 004, and the unmet demand for

subjects was 5 866, giving a total of 14 870. In 1989, unmet demand for courses was 9 489 and 5 853 for subjects, giving a total of 15 342. A pretty simple question was put to the Minister during the Estimates Committee: what is the exactly comparable figure for unmet demand for courses and subjects in 1990? The Minister has provided a lot of information, but it is not clear whether he is providing information in a directly comparable form to that provided by the Minister for 1988 and 1989.

This year, the Minister is suggesting that the unmet demand for courses for all streams is only 5 373, compared with 9 489 in the previous year. If he suggests that those figures are comparable, this means that there has been a reduction of approximately 4 000 in the unmet demand for courses. Given that there has been no significant increase in funding for TAFE, that seems a hard figure to swallow.

In relation to the figure for the unmet demand for subjects for all streams, the Minister's figure for 1990 was 5 113 compared with 5 853 in 1989, again a relatively significant reduction of about 700. I seek an assurance from the Minister that those figures are directly comparable with the figures supplied to previous Estimates Committees by former Ministers of Technical and Further Education. If they are not comparable, again I seek from the Minister a directly comparable figure to those previously provided for 1988 and 1989. We want to be able to make a judgment as to whether the unmet demand for TAFE subjects and courses in 1990 is approximately the same, or whether it has increased or decreased, perhaps significantly, if we are to believe the figures that have been provided this year by the Minister for Employment and Further Education.

I have taken some time to place these questions on the record during the second reading debate to try to expedite proceedings during the Committee stage of the Bill. I know that the Hon. Ms Wiese will be diligent in seeking that information from both the Minister of Education and the Minister of Employment and Further Education. If that information can be provided in the second reading response, it will mean that we will not have prolonged sittings during the latter part of next week in the Committee stage with officers from the Education Department having to respond in detail to the sorts of questions that I would wish to put to them. I hope that the Ministers will be cooperative with the Minister of Tourism, as they have been on occasions in the past, so that we can ensure the early passage of the Appropriation Bill through this Council. With those words, I indicate my support for the second reading.

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

EVIDENCE ACT AMENDMENT BILL

In Committee

Clauses 1 to 3 passed.

Clause 4—'Modification of best evidence rule.'

The Hon. K.T. GRIFFIN: I want to raise a few questions with the Attorney-General. He may not have the answers now but I would appreciate it if he would get the information for me. It is about SGIC's proposed computer copying of its dockets. I wonder if the Attorney-General could give me answers to the following questions: when does SGIC intend to begin this process? How long is it likely to take for SGIC to complete that work? What brand of equipment does SGIC intend to use? What are the costs of that equipment to undertake this program of putting all of its dockets on computers? What are the costs involved and what sort of cost savings does it envisage as a result of adopting that process?

The Hon. C.J. SUMNER: I do not have that information, but I am happy to obtain the information from SGIC and provide it to the honourable member by letter.

The Hon. K.T. GRIFFIN: Was the equipment obtained by tender or by direct purchase without tender?

The Hon. C.J. SUMNER: Yes.

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

Page 2, lines 26 to 27—Leave out 'approved by the Attorney-General by notice in the *Gazette*' and insert 'prescribed by regulation for the purposes of this subsection'.

I appreciate the fact that the Attorney-General gave comprehensive answers to questions which have been raised both by and with me about the application of new section 45c. There are probably a number of issues one could debate on it but I am content to allow the matter to be worked out in practice.

The only area of concern I have is that in subsection (4), where a reproduction of a document is made by an approved process, it will be presumed that it accurately reproduces the contents of the document purportedly reproduced unless the contrary is established.

I can understand the need for that; it will save an examination by the court of each process by which a copy is made, and it should, generally speaking, short-circuit the proceedings in the court. However, the consequence is that there should have been a very careful examination process and an assessment made of it to ensure that it does provide accurate reproductions of documents.

In new subsection (5) the approved process is a reference to a process approved by the Attorney-General by notice in the *Gazette*. The Attorney-General in his reply said that that already happens in other States. But the concern I have about it is that it is nowhere subject to examination either by the Parliament or by the court except of course that a party can produce detailed evidence that it does not respond and perform as it is envisaged it would by the actual notice of approval.

What I want to do is to provide that the approved process is prescribed by regulation, and that means that some specification has to be included in subordinate legislation laid before the Parliament, and that can be examined by the Joint Standing Committee on Subordinate Legislation, whereas the notice given by the Attorney-General in the *Gazette* is not, generally speaking, subject to that sort of review. So, my preference is regulation rather than by notice because regulation enables that process to be subject to some form of public scrutiny after it has been approved by regulation but before it passes completely out of the control of the Parliament.

The Hon. C.J. SUMNER: The Government will not object to the amendment.

Amendment carried; clause as amended passed.

Remaining clauses (5 to 7) passed.

New clause 8—'Insertion of Part IX.'

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

Page 3, after line 7—Insert new clause as follows:

Insertion of Part IX

8. The following Part is inserted after Part VIII of the principal Act:

PART IX

Miscellaneous

Regulations

73. The Governor may make such regulations as are necessary or expedient for the purposes of, or as are contemplated by, this Act.

This new clause is consequential. It empowers the making of regulations to implement the amendment that we have just approved.

New clause inserted.
Title passed.
Bill read a third time and passed.

LANDLORD AND TENANT ACT AMENDMENT BILL

In Committee.
(Continued from 17 October. Page 1105.)

Clause 6—'Insertion of ss. 61a and 61b.'

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

Page 3, lines 18 to 24—Leave out subsection (1) and insert new subsection as follows:

(1) Subject to this section, the terms of a commercial tenancy agreement must be embodied in a lease in registrable form.

Both the Minister and I have put on record our respective arguments for and against the amendment. Briefly, mine were that by providing that the terms of a commercial tenancy agreement subject to the provisions of this section must be embodied in a lease in a registrable form, it eliminates some of the uncertainty that I believe is presently in the section and puts beyond doubt that the commercial tenancy agreement must be in registrable form. That will not cost any more and it will simplify the arrangements between landlord and tenant.

The Hon. BARBARA WIESE: The Government opposes the amendment. I do so for all the reasons that I outlined in my second reading response and also in the additional remarks I made last night. It seems to me that the objections that the honourable member has to the Government's proposals are not well founded; there is not the uncertainty in the Government's proposal that the Hon. Mr Griffin claims. I have indicated that an amendment has already been made to the original draft of this Bill that requires tenants who want a lease in registrable form to make that request prior to the lease being prepared. I think that that does give ample time for this issue to be resolved in negotiation.

A number of the issues that were raised by the Hon. Mr Griffin as being problems in negotiating a lease are simply a reflection of the sort of thing that we want to encourage here. The reason for the Bill and the provision we have included in it is that currently in too many cases tenants simply feel pressured to agree to leases which are drafted by landlords, or by lawyers on behalf of landlords, in their own interests and which, in many cases, do not adequately reflect the interests of tenants or provide a reasonable balance. Tenants who have to pay the costs for such things feel that they really cannot afford their own independent legal advice or that it is not in their interests to seek it if they are to maintain a reasonable relationship with their landlords.

That situation is not satisfactory, but the Bill seeks to make provision for leases in registrable form, which means that they are enforceable. It strikes a reasonable balance on the question of costs and who ought to pay in particular circumstances. In general, it provides protections and choice for people in the relationship of landlord and tenant. I believe that the Government's proposition should be supported by the Committee.

The Hon. I. GILFILLAN: I have taken advice, which is only appropriate because it is not an area in which I have any direct experience. It seems to me that the actual issue, although important, is not critical to the intention of the Bill. Because the people I have discussed it with have represented tenants and they prefer the Government's position, it is my intention to oppose the amendment and support the Government.

The Hon. K.T. GRIFFIN: I am disappointed to hear that. I would have thought that my amendment was not unreasonable to both landlords and tenants. However, rather than prolong the debate, I indicate that, if I lose the amendment on the voices, I will not divide.

Amendment negatived.

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

Page 3—
Line 25—Leave out 'if'.
Line 26—After '*(a)*' insert 'if'.

These amendments are related. They are drafting matters which, in a sense, are consequential on a more substantive measure which appears later. At this stage I will not move my amendment after line 26. Changing the placing of the word 'if' is necessary to cope with a later amendment, which appears on page 3 of my list of amendments, to enable other exceptions to be prescribed. That is the position. I will deal with the amendments *in toto* and then work through them.

Subsection (1) does not apply if the term of the tenancy is to be for a period of one year or less. I will seek to insert an exception if the tenant is the landlord's spouse, parent, grandparent, step-parent, child, grandchild, stepchild, brother or sister, or the spouse of the landlord's child, grandchild, stepchild, brother or sister. That tends to bring the provision in line with provisions which the Government is proposing in the Land Agents, Brokers and Valuers Act Amendment Bill in relation to prescribed statements. It is reasonable to provide that, where the landlord and tenant are related by blood or marriage, one need not necessarily require the procedures which are set out in section 61a to apply.

Similarly, in paragraph *(ac)*, which I will also seek to insert, the provisions of subsection (1) need not apply if the landlord is a body corporate and the tenant or tenants have a controlling interest in the body corporate, or the landlord and the tenant are both bodies corporate and the same person or persons have a controlling interest in both bodies corporate. That picks up a provision which the Government has in the Land Agents, Brokers and Valuers Act Amendment Bill because it does not seem to me that it ought to be necessary to have these technical provisions about who can request a lease to be in registrable form and who pays the cost where the landlord and the tenant are, as bodies corporate, related.

If one takes the matter further, there may be other exceptions which the Government wishes to exclude from the operation of this section. At the end of subsection (2), I will seek to insert another paragraph which provides for exceptions in any other case of a prescribed kind. There are a number of issues. If that last issue is likely to be accepted, it seems to me that my amendments in line 25 and in line 26 should be accepted as merely a drafting matter. Then the Committee can deal with the substantive questions of the two new paragraphs after line 26.

The Hon. BARBARA WIESE: I will speak to the amendment that relates to the two paragraphs to be inserted after line 26 in conjunction with the two amendments moved by the honourable member. The Government opposes that amendment because it is unnecessary to have such a provision in the Bill, given that the Committee has supported the Government in the question of registrable leases. It is only if it were making it compulsory for registrable leases that one would need to make provision like the one suggested by the Hon. Mr Griffin to give close relatives an 'out' in these circumstances.

The Committee has decided that there will be no compulsion and that only those people who request a registrable lease will have that take place. My argument is that people who are in a close relationship will make their own decisions

about whether they want it in a registrable form or whether they trust each other in this relationship and will not require that form. What the honourable member seeks to achieve will take place by normal negotiation between relatives, anyway, if that is their desire. I can see no reason for such a provision to be included in the legislation when registrable form leases are not compulsory.

The Hon. I. GILFILLAN: The Democrats are persuaded by the Government's arguments.

The Hon. K.T. GRIFFIN: I understand the argument, and I am not unsympathetic to it. It seems to me that it would not hurt to put this provision in. I tend to agree that there is not much to be lost if I do not succeed with my amendment. On the other hand, what the Minister has not addressed is the additional paragraph *(d)* on page 3 of my amendments, 'in any other case of a prescribed kind'.

It seems to me that that ought to go in. It does not prejudice the operation of the section, and it gives the Government of the day an opportunity to prescribe out of the obligations which may be triggered under section 61a in certain circumstances. It is a useful provision to insert. Could the Minister state what reaction she might have to that?

The Hon. BARBARA WIESE: It would be helpful for me in determining my position on this question if the honourable member could provide examples of the sorts of things that he would expect to be included under such a provision.

The Hon. K.T. GRIFFIN: I am not able to immediately identify any. However, this provision does not apply if the term of tenancy is to be for one year or less. It may be that there are some special arrangements in relation to subtenancies. It may be, I suppose, that if there are matters which come to light as a result of the experience derived from the implementation of this Bill which need some attention, I am quite comfortable about a regulation-making power to exempt. I am not comfortable about a regulation-making power to add to obligations or to broaden the ambit of the legislation. I would have thought it perfectly reasonable. Notwithstanding my inability to give detailed examples, I hope that the Minister might be persuaded that, as a matter of caution in practice, it is reasonable to accept it.

The Hon. BARBARA WIESE: I believe that the sort of thing that the honourable member has in mind would be covered by the general regulation-making power in any case. However, I do not want to make a strong point of this. I see the point that the Hon. Mr Griffin is making, and I accept that amendment.

Amendments carried.

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

Page 3, after line 26—Insert new paragraphs as follows:

(ab) if the tenant is the landlord's spouse, parent, grandparent, step-parent, child, grandchild, step-child, brother or sister, or the spouse of the landlord's child, grandchild, step-child, brother or sister;

(ac) if—

(i) the landlord is a body corporate and the tenant or tenants have a controlling interest in the body corporate;

or

(ii) the landlord and the tenant are both bodies corporate and the same person or persons have a controlling interest in both bodies corporate.

Because the honourable member Mr Gilfillan has indicated that he will support the Government, I do not intend to divide if I lose on the voices.

Amendment negatived.

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

Page 3—

Line 27—After '*(b)*' insert 'if'.

Line 29—Leave out 'or'.

Line 30—After '*(c)*' insert 'if'.

After line 31—Insert:

or

(d) in any other case of a prescribed kind.

Amendments carried.

The Hon. K.T. GRIFFIN: The amendment on file, after line 34, is consequential on amendments that I have lost and so in view of that I do not intend to proceed with it; likewise with my amendment to insert new section 61b. This was tailored to fit in with my proposed section 61a (1), which I lost. The principle is still good, but I do not think it is sufficiently compatible now with existing section 61a. Therefore, I do not propose to proceed with this amendment.

Clause as amended passed.

Clause 7—'Provisions relating to written agreements prepared by or on behalf of landlords.'

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

Page 4, line 25—Leave out 'by him or her'.

Clause 7 deals with provisions relating to written agreements prepared by or on behalf of landlords. It seems to me that there are a number of grammatical, technical or drafting matters involved, although there are some matters of substance. The words 'by him or her' are not necessary because the preceding words are: 'Where a document to which this section applies is presented to a tenant for execution...', and it seems to me 'by him or her' is redundant. While it is not necessary to refer to 'it', for those who are not familiar with the Acts Interpretation Act as they read this Bill, those out in the workplace might say, 'Well, why doesn't it extend to companies?' Whilst the Acts Interpretation Act does apply this to companies, I think to avoid confusion it is best to take out the words 'by him or her'.

The Hon. BARBARA WIESE: The Government supports the amendment.

Amendment carried.

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

Page 5—

Line 1—Leave out 'copy' and insert 'photocopy'.

Line 2—Leave out 'copy' and insert 'photocopy'.

Under proposed subsection (4), when a tenant executes a document to which this section applies, a copy of the document, together with the copy of a statement provided under subsection (2) *(b)*, must be given immediately to the tenant. The difficulty with that, I would suggest in practice, is that if it was executed by the tenant, it would then have to go to the landlord for execution. Then, after being executed by a landlord and tenant, it would go to the Stamp Duties Office and then, if it is in a registrable form, to the Lands Titles Office.

Instead of having three documents signed it may be appropriate to have four, and leave one of them with the tenant. But it seems to me that no hardship or injustice is created if we provide that, when the tenant has executed the document, the tenant immediately gets a photocopy of the document, remembering that the tenant is going to get a registered copy which would have been signed, with the original signatures of both parties on it, after it has been registered at the Lands Titles Office. Hopefully, the amendment will clarify this and provide for it to be a more practicable solution to the issue of documents being given to the tenant immediately after execution by the tenant.

The Hon. BARBARA WIESE: The Government supports the amendments.

Amendments carried.

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

Page 4, line 5—Leave out 'himself or herself'.

I have already explained the reason for this amendment.

The Hon. BARBARA WIESE: The Government supports the amendment.

Amendment carried.

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

Page 5, line 6—Leave out 'as expeditiously as possible' and insert 'as soon as is reasonably practicable'.

Subsection (5) provides that:

The landlord must, upon execution of the document by the tenant, if the landlord has not already done so, execute the document himself or herself.

Subsection (6) provides that:

The landlord must comply with subsection (5) as expeditiously as possible.

My amendment seeks to leave out 'as expeditiously as possible' and to insert 'as soon as is reasonably practicable'. The argument which has been presented to me, and with which I agree, is that the words 'as expeditiously as possible', if strictly interpreted, may not allow for a hiccup. For instance, the landlord may be out of town or there may be some difficulty which could be encompassed by the words 'as soon as is reasonably practicable' when the landlord got back to Adelaide, rather than by the words 'as expeditiously as possible', which seems to put a more objective and onerous obligation upon the landlord. I do not think it prejudices the tenant, but it ensures that for some technical reason, if the landlord has not signed the document immediately, the jurisdiction of the Commercial Tribunal is not brought into play immediately.

The Hon. BARBARA WIESE: I support this amendment.

Amendment carried.

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

Page 5—

Line 11—Leave out 'it is registered and a copy' and insert 'a copy is'.

Line 12—After 'General Registry Office' insert 'following registration'.

As I said in my second reading speech, there are some technical difficulties in the way that this provision has been drafted. I want not to prejudice the rights of tenants but to ensure that when a lease is to be registered the tenant is given a copy of that lease within 28 days after a copy is made available for collection from the Lands Titles Registration Office or the General Registry Office following registration. There are difficulties, I suggest, with this being done 28 days after the lease is registered. Technically, the time of registration is the date of lodgment of the document.

Although the formalities might not be completed by the Lands Title Office at that point, the endorsement on the title of the date and time of registration is the date of lodgment. However, before the formalities are completed and it is endorsed formally on the title, it may be sent out for correction, or there may be delays in the Lands Title Office. In some instances, delays of up to six weeks occur and it would be unfortunate if the landlord was prejudiced by such delays.

If my amendments are adopted, the tenant will still be protected but it will be recognised that the period of 28 days runs from the time when a copy of the lease is released by the Lands Title Office after registration. I think that is what was intended by the Bill, but it is open to a contrary interpretation, which may place an unnecessary and unreasonable burden on a landlord in circumstances beyond his control.

The Hon. BARBARA WIESE: The Government supports these amendments.

Amendments carried.

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

Page 5, line 31—After 'order' insert ', to such extent as may be appropriate and fair in the circumstances'.

This amendment is intended to put beyond doubt that when the tribunal is deliberating on any issue arising under section 62 it may make its orders to avoid the commercial tenancy agreement in whole or in part; vary the commercial tenancy agreement; direct the landlord to refund money paid under the commercial tenancy agreement; require the landlord to pay compensation to the tenant; and deal with any ancillary or incidental matter.

The Minister has made a number of comments about my attitude towards the tribunal, suggesting that certain of my assertions were insulting. They are not intended to insult the tribunal. We must recognise that, whilst one might be perfectly comfortable with the present incumbent of the Commercial Tribunal, we are making legislation to apply in a range of circumstances for a long period into the future. One can never assess the way in which the tribunal may be persuaded to act by parties appearing before it, so I want to put beyond doubt that in making the orders to which I have referred it may do so to such extent as may be appropriate and fair in the circumstances. I hope that the Minister will accept this amendment as not unreasonable and putting the power of the tribunal into a balanced and reasonable context.

The Hon. BARBARA WIESE: I think it is casting aspersions on the tribunal for the honourable member to want to place these words into the Act, because the tribunal attempts always to make orders that are appropriate and fair in the circumstances. However, I will not make an issue of it. If the honourable member feels that it is important—although I do not share his lack of trust in the present or future members of the tribunal—I will accept his amendment.

The Hon. K.T. GRIFFIN: I do think it is necessary. It does not indicate a lack of trust in the tribunal; it seeks to put into context the orders that the tribunal can make, remembering that it will have very wide jurisdiction. The Minister does not necessarily agree with me, but I want to ensure that the matter is beyond doubt. I appreciate the fact that the Minister does not oppose my amendment in these circumstances.

Amendment carried; clause as amended passed.

Clauses 8 and 9 passed.

Clause 10—'Provision for five-year terms.'

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

Page 7, line 12—Leave out 'five' and insert 'three'.

This amendment refers to the five-year term. In her reply, the Minister said that I was wrong to assert that there was effectively a guarantee of a five-year term for tenants. I suggest that I am not wrong and that, although she has indicated the sorts of considerations which she believes the tribunal will take into consideration in making a decision whether a five-year term was appropriate, there is a genuine concern that the tribunal may not adopt what the Minister believes is a fair and reasonable approach. For those reasons I want to move a number of amendments which provide some protection against the way in which the tribunal may act (I am not saying 'will' act) and which will put some degree of certainty back into the relationship between landlords and tenants, recognising, of course, that with the concept embodied in clause 10 there is no longer the certainty that presently prevails about when the term of the tenancy is to expire.

Whilst one can argue whether the period ought to be three years or five years, I am of the view that three years is an appropriate period. It does not matter so much if a later amendment of mine is adopted which allows a tenant who takes independent legal advice from a legal practitioner who gives a certificate in the prescribed form, notwithstanding

the provisions of this clause, to accept a lesser period. That subsequent amendment will really pick up provisions in the Land Agents, Brokers and Valuers Act Amendment Bill which the Minister has introduced and which allows purchasers to opt out of the obligation to allow the landlord to be exempted from the obligations which are there for the protection of the tenant in circumstances where independent legal advice is obtained by the purchaser. It is for those reasons, and those which I indicated in my second reading speech, that I prefer three years rather than five years.

The Hon. BARBARA WIESE: The Government opposes these amendments very strongly. This has been one of the key issues that has formed part of the debate over a long period of time in the framing of this legislation. I believe that there is now very general acceptance, if not agreement, that a five-year term is a reasonable provision to be included in this Bill. It is in keeping with legislation introduced in the middle 1980s in other States of Australia. It is in accordance with the suggestions made in the BOMA draft code of practice from New South Wales.

Although I recognise that many landlords' organisations, by first preference, would not agree to five-year terms, nevertheless there has been general acceptance by them of the legislation that exists in other places and the fact that it is likely to be introduced in South Australia. I believe that they are prepared to live with that and work with it in a reasonable way. It seems to me that the Hon. Mr Griffin is not only out of step with what is happening in other parts of Australia on this question, but is also out of step with the views of other members of his Party, as have been expressed in other places and at other times. I certainly hope that the Committee will support the Government's position on this question because it is a view which is generally held by the many organisations that are involved in this issue, particularly the organisations representing tenants. It is also accepted by landlords' organisations that this will be the outcome.

The Hon. I. GILFILLAN: I oppose the amendment.

The Hon. K.T. GRIFFIN: In the light of that indication, if I lose it on the voices, I will not divide.

Amendment negatived.

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

Page 7, lines 19 to 22—Leave out paragraph *(a)* and insert new paragraphs as follows:

(a) if the term of the tenancy is six months or less:

(ab) if the tenant has before entering into the agreement sought and received independent advice from a legal practitioner and the legal practitioner has signed a certificate in the prescribed form as to the giving of that advice;.

Paragraph *(a)* provides that the section relating to five-year terms does not apply if the tenancy is for a term of two months or less and the tenant has, before entering into the agreement, sought and received independent legal advice, and the legal practitioner has signed a certificate in the prescribed form as to the giving of that advice. Two months or less does not pick up the sorts of tenancies which are for a very short term. I do not see any reason why, if a shop is vacant and, for instance, the Charity Christmas Card people want to go in there for a few months (but longer than two months) prior to Christmas, they should necessarily have to acquire a five-year tenancy if they are there for only 2½ months. It seems to me that the period of six months picks up the minimum tenancy which would be exempted from the operation of this five-year minimum term.

I do not share the Minister's view that, if the parties are negotiating, say, a three or four-month term, and the tenant subsequently wants longer, the Commercial Tribunal will necessarily support the agreement that has been entered into between the parties. On the other hand, if a tenant wishes to take independent legal advice and waive the entitlement to a five-year term, it may suit the tenant to do that. For that reason, if independent legal advice is obtained, it is reasonable that that ought to be recognised.

The Hon. BARBARA WIESE: The Government opposes this amendment. My concern here is that we should not make any provision that would allow a loophole for an unscrupulous landlord to set up a series of short-term tenancies and thereby negate the protections that we are attempting to provide with the passing of this legislation. The genuine cases to which the honourable member has referred, providing for short stop-gap tenancies where renovations are due on a building, where there is a proposed demolition or where the Charity Card Shop wishes to occupy premises only for a short time, will be allowed with the provisions that are contained in the Bill.

I have faith that the tribunal will be reasonable in these circumstances and will pick up genuine arguments that are put before it by landlords and tenants in these circumstances. My view is that the provisions of the Bill are perfectly adequate to deal with the cases to which the honourable member has referred during the course of the debate on this Bill, and that his amendments are unnecessary and undesirable.

The Hon. K.T. GRIFFIN: It does not provide a loophole for unscrupulous landlords. There is a six months tenancy offering, and it is only people who want to go in there for six months who will take it up. They will not be those who want to get in there and perhaps exploit the system. We are protecting against the potential for unscrupulous tenants rather than unscrupulous landlords. I should have thought that the proposition I am putting is quite reasonable. It will not create a loophole but will provide for tenants, as well as for landlords, reasonable and adequate protection.

The Hon. BARBARA WIESE: The honourable member seems to have lost sight of the purpose of this Bill. We started drafting a Bill of this kind because we recognised there was not equality of strength in the position of tenants and landlords. I believe that there is scope with an amendment such as the honourable member's for a landlord to pressure a tenant into accepting short-term leases over a long period of time, which provides absolutely no stability or protection for a tenant in his or her tenancy arrangement. The cases in which the honourable member wishes to provide for short-term tenancies are adequately provided for in the Bill as drafted, and I believe the Committee should support it.

The Hon. I. GILFILLAN: I oppose the amendment.

The Hon. K.T. GRIFFIN: I will not divide if I lose it on the voices.

Amendment negatived.

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

Page 7, line 25—After 'child' insert ', grandchild, stepchild, brother or sister'.

One of the exceptions provided is if a tenant is the landlord's, spouse, parent, grandparent, step-parent, child, grandchild, step-child, brother or sister or the spouse of a landlord's child. I want to extend that to spouse of the landlord's grandchild, step-child, brother or sister, which seems to be a reasonable extension and still maintains the spirit of the provision in the Bill.

The Hon. BARBARA WIESE: The Government agrees to this amendment.

Amendment carried.

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

Page 7—

Line 26—Leave out 'or'.

After line 33—Insert new paragraphs as follows:

(d) if—
(i) the tenant is a subtenant;
and
(ii) the term of the tenancy (including any potential extension or renewal of the tenancy provided under the agreement) is equal to, or differs by not more than one month from, the term of the tenancy of the tenant's immediate landlord (the term of that tenancy having been determined by genuine negotiation and agreement between the relevant parties);
(e) if the term of the tenancy has been set to expire on a day from which the landlord genuinely requires the premises for the landlord's own use;
or
(f) if the term of the tenancy has been set to expire on a day from which work is to begin—
(i) to demolish the premises;
or
(ii) to substantially repair, renovate or reconstruct the premises (it not being reasonably practicable to carry out the repair, renovation or reconstruction without vacant possession).

The first amendment is really consequential; the substance comes in the new paragraphs *(d)*, *(e)* and *(f)* and I am seeking to provide that there are certain exceptions. The first is where the tenant is a subtenant and the term of the tenancy is equal to or differs by not more than one month from the term of the tenancy of the tenant's immediate landlord.

That is designed to cope with the situation where, for example, there may only be three years left on a head lease and the subtenancy is, generally speaking, for the term 'less a day'. It is impossible for the landlord to grant a five year term and, provided, of course, that the subtenancy is for almost the whole of the period of the tenancy of the head lease, it seems to me that we are protecting against potential hardship, certainly on the part of the landlord where the landlord just cannot legally give anything more than the term of the tenancy.

The second exception is if the tenancy has been set to expire on a day from which the landlord genuinely requires the premises for the landlord's own use. That is relevant in the respect that, for example, with city office blocks—even in the suburbs—there are tenants of premises who acquire a tenancy of additional space and do not want to use it for two, three or four years but, generally, they are on longer-term tenancies of 10 or 15 years. They want to have the space to protect their own expansion in the future so they sublet for a period of time, which might be two years, after which they want it for their own use. What I want to do is to protect that situation; otherwise we will have a lot of vacant space around Adelaide where, in the circumstances which I have described, subtenants just will not be able to gain occupancy.

The third exception is if the term of the tenancy has been set to expire on a day from which work has to begin to demolish premises or to substantially repair, renovate or reconstruct the premises, it not being reasonably practicable to carry out the repair, renovation or reconstruction without vacant possession. The last two exceptions to which I have referred do, in fact, reflect similar provisions in the Victorian Retail Tenancies Act and, if they are not included here, I would suggest that they are likely to create some difficulty in the specific circumstances outlined in the exceptions.

The Hon. BARBARA WIESE: The Government opposes this amendment. I point out that the situation in Victoria is very different from that which will apply in South Australia because Victoria does not have the flexible arrangements that the Commercial Tribunal will have when operating in South Australia. As I pointed out in my second reading response, a provision of this kind provides the capacity for a loophole for unscrupulous landlords to use to avoid the provisions of this legislation. There is the capacity, with an amendment of this kind, for a landlord to grant a lease for a desired term plus one day, and then the intermediate lessee would take it up and grant a sublease to a shopkeeper for the desired period of time. In this case the intermediate lessee would in fact be the agent of the landlord, and a provision of this kind will provide a way of circumventing the intention of the legislation. For that reason, I oppose the amendment.

In relation to proposed new paragraphs *(e)* and *(f)*, my position on these paragraphs was made clear when we debated a previous amendment. I believe that these are issues that can already be taken into account by the Commercial Tribunal. If there are genuine reasons for a shorter-term tenancy, I believe the tribunal will take those arguments into account, will be reasonable and flexible in hearing them and will act appropriately. I think that the honourable member's proposed new paragraphs are unnecessary, and I would oppose them as well.

The Hon. I. GILFILLAN: The Minister's admirable grasp of the intricacies of the issue has, to a degree, allayed my fears. I think the issues that the Hon. Trevor Griffin raised were of concern to me, and may still be of concern to me. I am taking the Minister's explanation as indicating that the tribunal does have the capacity to sympathetically acknowledge these stresses which could occur on a landlord, and make adjustments accordingly. On that understanding I oppose the amendment.

The Hon. K.T. GRIFFIN: The tribunal does have that power, but it is after the tenancy agreements have been executed. There is no power for any application to be made to the tribunal, as I understand it, by a landlord who says, 'I want to be able to enter into leases which terminate in three years time because I want the premises available for redevelopment.' The difficulty is that, in the absence of that sort of provision, the landlord has to deal with each one, and each one goes to the tribunal if the tenants want the five-year term, and in each instance the landlord will have to convince the tribunal that it is reasonable not to extend it beyond 31 December 1993 because the landlord wants the premises for redevelopment. If I am right that the tribunal does not have that power before tenancy agreements are entered into and if I am to be defeated, as it appears I am on this, we ought to consider at a later stage inserting power for applications to be made prior to the tenancy agreements actually being entered into.

The Hon. BARBARA WIESE: If a landlord and a tenant want to have an agreement shorter than a five-year period they are at liberty to enter into such an agreement. It is only in the case of a tenant not agreeing to a five-year term that the matter would go to the tribunal.

The Hon. K.T. GRIFFIN: That is not so. In 18 months time the tenant can go to the tribunal and say, 'I want five years.'

The Hon. BARBARA WIESE: I refer the honourable member to section 73 of the Act, and invite him to read it. I think he will find that it supports the claim I am making. I also point out that under the amendments that are being moved to this Bill, the issues that the tribunal is obliged to consider when considering these matters are specified in the legislation. So, it is not a matter of discretion or of having to rely on the goodwill of the tribunal to take it into account; the legislation specifies that it must take into account such things as the plans of a landlord for the future use or development of the premises and other matters that could very well lead to a shorter than five-year lease term.

The Hon. K.T. GRIFFIN: If I lose on the voices, I will not divide.

Amendments negatived.

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

Page 7, after line 33—Insert new paragraphs as follow:

(d) if—

(i) the tenant is a sub-tenant;
and

(ii) the term of the tenancy (including any potential extension or renewal of the tenancy provided under the agreement) is equal to, or differs by not more than one month from, the term of the tenancy of the tenant's immediate landlord (the term of that tenancy having been determined by genuine negotiation and agreement between the relevant parties);

(e) if the term of the tenancy has been set to expire on a day from which the landlord genuinely requires the premises for the landlord's own use;

or

(f) if the term of the tenancy has been set to expire on a day from which work is to begin—

(i) to demolish the premises;
or

(ii) to substantially repair, renovate or reconstruct the premises (it not being reasonably practicable to carry out the repair, renovation or reconstruction without vacant possession).

Amendment negatived.

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

Page 8, line 9—Leave out 'six' and insert 'twelve'.

This subsection provides that the landlord under a commercial tenancy agreement to which this section applies may serve on the tenant if the tenancy is for a term of six months or less on or before the commencement of the tenancy and, in any other case, not earlier than six months, and not later than three months before the expiration of the term of the tenancy a notice requiring the tenant to decide whether or not the tenant will make an application under this section. It seems to me that 12 months is a much more manageable and reasonable period than six months.

The Hon. BARBARA WIESE: The Government opposes this amendment. I suspect that it is consequential upon an amendment which has already been debated and opposed.

The Hon. I. GILFILLAN: The Democrats oppose the amendment.

Amendment negatived.

The Hon. K.T. GRIFFIN: Mr Chairman, I draw your attention to the state of the Committee.

A quorum having been formed:

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

Page 9, line 7—Leave out 'in the shopping complex'.

Proposed section 66ab deals with the ability of a landlord to move a tenant to other premises where the term of a tenancy is extended by the Commercial Tribunal under section 66a and the premises form part of a shopping complex. The landlord is entitled, subject to that section, to require the tenant to move his or her business to other premises in the complex. It might be that the whole shopping complex, which might only be six shops or 10 shops, might be due for demolition or substantial renovation and, in the circumstances, it might be appropriate to move, not necessarily to other shops in the complex, but to some other premises. It seems to me that it will still be subject to review by the Commercial Tribunal, and I think that flexibility ought to be sufficiently wide to be able to encompass a move outside the shopping complex, particularly where the premises will be necessary for development purposes.

The Hon. BARBARA WIESE: In the context of the Bill as it has been drafted, the honourable member's amendment allows for action that the Government would not want to support. If this amendment were carried and if for some reason there was an aggrieved landlord in a shopping complex or in a series of shopping complexes—say, Westfield Marion—that landlord would have the power to require a tenant to move to Tea Tree Gully or Kilkenny. That would be totally unreasonable and undesirable. I am not inclined to support the honourable member's amendment.

The Hon. I. GILFILLAN: The Democrats oppose the amendment.

Amendment negatived.

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

Page 9, after line 27—Insert new subsection as follows:

(4a) The tribunal should in considering an application under subsection (3), take into account the interests of the landlord, the tenant, and the other tenants that have premises in the shopping complex.

I want to ensure that, in the context of the tribunal exercising jurisdiction in respect of a landlord's requirement for a tenant to move to other premises within the shopping complex, not only does the tribunal take into account the rights or the interests of the landlord and tenant but those of other tenants with premises in the shopping complex. This is relevant to big shopping complexes, particularly. As I understand it, this Bill will apply to and give rights to the owners of kiosks. If the term of the kiosk is extended under section 66a, it may be appropriate to place the kiosk in some other location if it is interfering with the interests of tenants who occupy shops around it. It seems to me that this amendment provides for the tribunal to take into account a number of interests which are not already recognised in this section.

The Hon. BARBARA WIESE: The Government supports the amendment.

Amendment carried; clause as amended passed.

Clause 11—'Abandoned goods.'

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

Page 9, lines 41 to 44—Leave out subsection (2) and insert:

(2) Where a commercial tenancy agreement is terminated, the landlord must store in a safe place and manner for a period of not less than 60 days any goods left on the premises that were subject to the agreement and not removed for destruction or disposal under subsection (1).

This is a drafting amendment.

Amendment carried.

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

Page 10, lines 28 to 33—Leave out subsection (7) and insert new subsections as follow:

(7) Where goods are sold under this section, the landlord must pay—

(a) to the tenant; or

(b) if the landlord does not know the whereabouts of the tenant—to the tribunal,

the balance of the proceeds of sale remaining after deduction of the amounts that the landlord is entitled to retain under subsection (6).

(7a) The landlord must, when making a payment to the tribunal under subsection (7), furnish the tribunal with a notice containing the prescribed information.

It is curious that, if the landlord knows where the tenant's goods have been left on the premises and even though the landlord knows where the tenant is, the tenant has been given notice of the sale after notice to remove the goods, and the goods are sold, then the landlord must pay the proceeds to the tribunal, which then pays out. It is reasonable that, if a tenant's whereabouts are known, the landlord is entitled to pay the proceeds directly to the tenant and avoid unnecessary red tape.

The Hon. BARBARA WIESE: The point that the honourable member makes is a very reasonable one. He has probably expressed it in a more elegant way than the Bill as originally drafted.

Amendment carried.

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

Page 10, after line 45—Insert new subsection as follows:

(12) This section operates to the extent to which a commercial tenancy agreement does not provide for the removal,

destruction, or disposal of goods that are left on the premises that were subject to the agreement (and the resolution of any dispute that may arise in respect of such goods) and, notwithstanding any other provision of this Part, in the event of an inconsistency between a provision of a commercial tenancy agreement and a provision of this section, the provision of the commercial tenancy agreement will, to the extent of the inconsistency, prevail.

This is to provide that, where a commercial tenancy agreement provides a procedure by which abandoned goods may be dealt with, the provisions of the tenancy agreement apply. If there are no provisions negotiated between landlord and tenant, the procedures of the Bill will be followed. I understand that there are many commercial tenancy agreements that provide a procedure whereby goods abandoned by a tenant who has quit premises can be removed, destroyed or disposed of. In those circumstances, it seems that the provisions of the tenancy agreement ought to prevail.

The Hon. BARBARA WIESE: The Government opposes the amendment. The provisions in the legislation are designed to introduce an element of fairness in dealing with abandoned goods that currently just does not exist in some cases. Currently there is not the opportunity for a balanced and fair treatment of the question at all and I have had pointed out to me a number of leasing agreements which do indicate that. I will not read from the provisions of the lease agreements but, even among those that are suggested by some landlords to be reasonable, there are some pretty draconian measures incorporated in leases and the Government is seeking to introduce an element of fairness. The amendment would again take that element of fairness out and the Government does not approve of that approach.

The Hon. I. GILFILLAN: It is a little hard to follow, but I think the Minister made a persuasive argument, so I oppose the amendment.

Amendment negatived; clause as amended passed.

Clause 12—'Power of tribunal to act in any matter.'

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

Page 11, lines 22 and 23—Leave out paragraph *(da)*.

Clause 12 amends section 68 of the principal Act, which sets out the power of the tribunal. One of my concerns about paragraph *(da)* is that in my view and on the advice of others it gives the tribunal power to rewrite the tenancy agreement. If the paragraph is deleted, it will not prejudice the opportunity for the tribunal to make an order which relates to any matter within its jurisdiction, but it will at least remove the reasonable fear that it could ultimately involve the rewriting of the tenancy agreement.

The Hon. BARBARA WIESE: I do not think the tribunal would be the least bit interested in rewriting the terms of an agreement. This provision is a normal one that is granted in circumstances where a tribunal has exclusive power. The jurisdiction of the tribunal appears in specific sections of the legislation, so I do not think its power is not clear or that it is unreasonable. Therefore, I oppose this amendment.

The Hon. I. GILFILLAN: I oppose the amendment.

Amendment negatived; clause passed.

Clause 13 passed.

Clause 14—'Summary proceedings.'

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

Page 11, lines 40 and 41—Leave out 'two years' and insert 'one year'.

This clause deals with summary proceedings. The Minister indicated in her second reading speech that offences must be commenced within six months of the date of the offence, and she seeks to extend this period to two years. I prefer a period of one year at the most. I have an aversion to giving administrators and investigators lengthy opportunities to delay the investigation of alleged offences. I think they ought to be dealt with quickly, so my preference is that proceedings must be taken within one year of the commission of an offence.

The Hon. BARBARA WIESE: The Government opposes this amendment. As I pointed out in my second reading reply, it does so because the existing powers in the Act mean, effectively, that offences are not prosecuted because they usually come to the attention of the Commissioner for Consumer Affairs much later than six months. So, we want to extend that time limit so that tenants will have the opportunity to bring cases to the attention of the Commissioner for Consumer Affairs.

It may be helpful if I give some examples of the sorts of reported offences that have occurred in the past. It is very fortunate that there has been only a handful of examples to which I can refer. In one case a security bond was paid by a tenant on 1 February 1988, at the time the agreement was entered into. The landlord's failure to pay the bond into the tribunal came to the attention of the department only in January 1989, when the tenant lodged an application for orders of the tribunal. The application disclosed that the landlord takes several months to refund bonds, which is a major reason for requiring landlords to pay bonds into the tribunal.

In another case, a security bond was paid when an agreement was entered into in September 1986. The landlord's failure to pay the bond into the tribunal came to light only in March 1988 when the landlord applied for orders for compensation for losses flowing from the tenant's abandonment of the premises in November 1987.

These examples show that very often the situation will not come to light until a dispute arises between the landlord and tenant. It can often be one or two years down the track after an agreement has been entered into that a problem comes to light, and this is an issue that should be taken up by the Commissioner for Consumer Affairs and a prosecution pursued. So, it is reasonable for the time limit to be extended to allow people to be brought to justice, where that is appropriate.

The Hon. I. GILFILLAN: I oppose the amendment.

Amendment negatived; clause passed.

Clauses 15 and 16 passed.

Clause 17—'Amendment to the Commercial Tribunal Act 1982.'

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

Page 12, line 11—After 'amended' insert:

(a) by striking out subsection (2) of section 20 and substituting the following subsection:

(2) The appeal lies as of right if—

(a) it involves a question of law;

(b) it relates to a decision or order of the Tribunal in proceedings under Part IV of the Landlord and Tenant Act 1936;

or

(c) it arises from proceedings related to contempt of the Tribunal,

but otherwise lies only by leave of the Tribunal or the Supreme Court.;

and

(b) [The remainder of clause 17 becomes paragraph *(b)*].

This clause deals with regulations, and the section in the principal Act that it amends deals with rights of appeal. I move this amendment because there is such a widening of the jurisdiction of the Commercial Tribunal to make decisions that can have some very significant impacts on landlords and tenants to give a right of appeal as of right to landlords and tenants from a decision of the tribunal. Accordingly, my amendment seeks to give a right of appeal on matters of law and fact from any decision of the tribunal in relation to landlord and tenant matters.

The Hon. BARBARA WIESE: The Government agrees with the Hon. Mr Griffin's position on this issue, and I will support this amendment.

Amendment carried; clause as amended passed.

Clause 18—'Transitional provisions.'

The Hon. K.T. GRIFFIN: I will take a little liberty, if I may, because there is one matter that I forgot to raise with the Minister in the very early stages. I do not want the Minister to give an answer now. In her reply, the Minister referred to some detailed and carefully argued submissions as to the possible consequences of overlap in relation to hotel licences—between the Licensing Act and this legislation. Would the Minister consider making available to me, at an appropriate time, details of the matters that are being considered in relation to that overlap? I do not need a considered reply now, but will the Minister consider the matter and give me a reply at a later stage?

The Hon. BARBARA WIESE: These are matters that are currently being identified and thought about. Certainly, once we have a clearer idea of the issues that may be appropriate to be exempted, I will be very happy to provide information to the honourable member for his consideration.

Clause passed.

Schedule and title passed.

Bill read a third time and passed.

STAMP DUTIES ACT AMENDMENT BILL (No. 4)

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

The Hon. BARBARA WIESE (Minister of Tourism): I move:

That this Bill be now read a second time.

At present, insurance companies pay an annual licence fee at the end of February which is calculated as a percentage of net premiums collected in the previous calendar year. The rate for general insurers is 8 per cent and the rate for life offices is 1.5 per cent. It has been the usual practice when these rates have been increased to introduce the necessary legislation in the budget session of Parliament. As a result, the changes have become law around October-November. The licence fee payable in the following February has been calculated at the higher rate and applied to all premiums collected in the previous year. The insurance companies have complained strenuously that this practice gives them insufficient opportunity to recover the higher licence fee from their clients.

It is clear that the system of levying tax once a year, while administratively convenient both for the State Taxation Office and the insurance companies, is inequitable when rates of duty change. The system works to the disadvantage of insurance companies when rates rise. However, were rates to fall (or be removed) it would be very difficult for the Government to ensure that duty collected by companies at the higher rate in anticipation of their February licence fee payments was returned to clients. In the extreme case there is no legal power to collect duty from a company which closes its doors on 31 December and declines to take out a licence for the following calendar year.

In May 1989 the Premier wrote to the Insurance Council of Australia (ICA) and the Life Insurance Federation of Australia (LIFA) suggesting a change to a monthly system of paying licence fees. After negotiations with both groups the Under Treasurer wrote in January 1990 suggesting an arrangement whereby:

- annual licence fees based on 1989 premium income would be payable on 28 February 1990;
- monthly returns would be introduced from 1 July 1990 with the first payment due on 15 August 1990 calculated on July premiums.

The ICA which represents companies paying over 90 per cent of the duty has accepted this proposal. The LIFA has not accepted the proposal. Therefore, from the 1991 licensing year, it is proposed that general insurance companies pay their licence fees by monthly instalments while life insurance companies continue to pay on an annual basis. For 1991 the general insurers will be required to pay only eleven monthly instalments but thereafter will pay twelve instalments each year.

Discussions will continue with the life insurers on the proposal to shift to a monthly licensing system and on several associated matters. In calculating their licence fees general insurers are at present permitted to deduct from gross premiums any commission or discount and any portion of those premiums paid by way of reinsurance. Duty is payable on the net amount. In other States only amounts paid by way of reinsurance are deductible. Many of the general insurers operating in this State are national companies and their systems are operated on a national basis.

If the basis of the tax on general insurers in this State were changed to gross premiums (less reinsurances) there would be uniformity throughout Australia and the national systems operated by these companies would reflect the legal position here as well as in other States. The Government has agreed to change the method of levying tax in this State in the interests of harmonising collection procedures. The extra duty payable may be as much as $4 million in a full year.

The rate of duty payable on compulsory third party insurance policies is presently only .5 per cent. The State Government Insurance Commission has a monopoly of such insurance. The rate payable on other forms of insurance (except life insurance) is 8 per cent. To forestall any possible criticism that the Government is favouring a statutory authority over its private sector competitors, the rate of duty on compulsory third party policies will be raised to 8 per cent with effect from the same date as is fixed for the changeover to monthly returns. With the new monthly licensing system the change is expected to produce an extra $11 million of revenue in 1990-91 and $12 million in a full year.

In 1968 the Liberal Government of the day introduced a stamp duty of $2 on certificates of compulsory third party insurance lodged with the Registrar of Motor Vehicles. The proceeds were paid into the Hospitals Fund and used to help defray the costs of public and subsidised hospitals. In 1974 the duty was increased to $3 per policy and has not altered since. It is proposed to increase the duty to $15 with effect from 1 January 1991. The proceeds will continue to be paid into the Hospitals Fund. This measure is expected to raise an extra $4.5 million in 1990-91 and $9 million in a full year. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal.

Clause 2 provides for the commencement of the measure. The provisions of the measure relating to insurance businesses are given retrospective effect to 1 July 1990. The provision adjusting the amount of duty on the insurance

component of a motor vehicle registration application is to have a commencement date of 1 January 1991.

Clause 4 amends section 32 of the principal Act which contains definitions of terms used in the provisions relating to insurance business. The clause adds new definitions of 'general insurance business' and 'life insurance policy'. 'General insurance business' is defined as any assurance or insurance business not relating to life insurance policies. 'Life insurance policy' is defined so as to make it clear that the term does not include a policy covering personal accident or workers compensation or a policy complying with Part IV of the Motor Vehicles Act 1959, that is, a compulsory third party policy.

Clause 5 replaces sections 33 to 42 of the principal Act which relates to annual licences for insurance business and the duty on such licences. New provisions are inserted, dealing with annual licences but also providing for monthly returns for general insurance business and the payment of duty on such returns. New provisions are also inserted providing for the keeping of records, default assessments, penalty duty and refunds of overpaid duty in respect of insurance business.

Proposed new section 33 prohibits the carrying on of any assurance or insurance business in South Australia without an annual licence. The maximum penalty for such an offence is increased to $10 000 from the current penalty of $100 for each month or part of a month for which default continues.

Proposed new section 34 provides for applications for an annual licence. Applications are to be made in a manner and form determined by the Commissioner and are to be verified by statutory declaration. Duty payable on an annual licence is to be paid to the Commissioner at the time of lodging of the application.

Proposed new section 35 authorises the Commissioner to issue an annual licence on payment of the duty (if any) payable on it and provides that any such licence comes into force on the date specified in the licence (which may be a date earlier than the date of its issue) and remains in force until 31 December of the year in which it is issued.

Proposed new section 36 requires monthly returns to be lodged with the Commissioner in respect of general insurance business. The date for lodging such returns is fixed as the fifteenth day of each month. The returns are to be verified by statutory declaration and to be accompanied by payment of the duty (if any) payable on the returns (for which, see clause 5).

Proposed new section 37 requires duty paid on an annual licence or monthly return to be denoted by cash register imprint.

Proposed new section 38 corresponds to existing section 34a and aprovides that a company, person or firm taking over some other insurance business is liable for any unpaid duty in respect of premium income received by the former business after the period in respect of which such duty was last paid by the former business.

Proposed new section 39 requires any company, person or firm that is or has been required to hold an annual licence to keep for five years all books and records required for the accurate calculation of duty in respect of insurance business.

Proposed new section 40 provides for the assessment and recovery of unpaid duty (together with penalty duty) where there is default in the payment of duty or non-compliance with the requirement to take out an annual licence or lodge a monthly return.

Proposed new section 41 provides for penalty duty where there is late payment of duty on an annual licence or monthly return. This penalty duty is fixed at the same rate as applies under section 20 of the principal Act—$50 or an amount equal to 10 per cent per month up to the amount unpaid, whichever is the greater. The new section also provides for a penalty of further duty equal to any amount that is required to be paid as a result of a default assessment. The Commissioner is authorised to remit the whole or part of any penalty duty under the section.

Proposed new section 42 provides for a refund of overpaid duty.

Clause 5 amends the second schedule to the principal Act which sets out the various instruments subject to duty and the amounts or rates of duty on those instruments. The clause amends the item relating to annual licences so that the current level of duty of $1.50 for every $100 or fractional part of $100 of premium income from life insurance policies remains payable on an annual licence. In the case of policies for general insurance (that is, policies other than life insurance policies), the clause provides for duty to be payable on the monthly returns rather than the annual licence and at the rate of $8 for every $100 or fractional part of $100 of premium income. Accordingly, the duty in respect of these policies becomes payable monthly but at the current rate for all general insurance other than compulsory third party which is increased from 50c to $8 for every $100 or fractional part of $100 of premium income. The clause further amends the schedule in this area by removing, for general insurance only, the current provision for deduction of commissions and discounts in calculating the premium income that is dutiable. The clause also increases the compulsory third party insurance component of the duty on applications for motor vehicle registration from $3 to $15 where the registration is for 12 months, and from $1.50 to $8 where the registration is for six months.

Clause 6 provides for the repeal of the third schedule to the principal Act which sets out the form of annual licences. The form of annual licences is, by an amendment made by clause 4, left to be determined by the Commissioner.

Clause 7 contains transitional provisions. The clause makes it clear that although the amendments providing for monthly returns are brought into force from 1 July 1990, the first return required is for general insurance business carried on in July 1990. The clause also provides that the returns required in respect of the period before the enactment of the measure are not required to be lodged until the fifteenth day of the month commencing after the enactment of the measure.

The Hon. J.C. IRWIN secured the adjournment of the debate.

ADJOURNMENT

At 5.58 p.m. the Council adjourned until Tuesday 23 October at 2.15 p.m.