HOUSE OF ASSEMBLY

Tuesday 17 November 1992

The SPEAKER (Hon. N.T. Peterson) took the Chair at 2 p.m. and read prayers.

PETITIONS

ADELAIDE AIRPORT

Petitions signed by 45 residents of South Australia requesting that the House urge the Government to maintain the curfew at Adelaide Airport were presented by Messrs Becker and Oswald.

Petitions received.

QUESTIONS

The SPEAKER: I direct that written answers to the following questions on the Notice Paper, as detailed in the schedule that I now table, be distributed and printed in *Hansard:* Nos 132, 143, 156 to 162, 166, 179, 184, 200, 207, 209, 215, 223 and 229; and I direct that the following answers to questions without notice be distributed and printed in *Hansard.*

STATE BANK

In reply to **Hon. JENNIFER CASHMORE (Coles)** 28 October.

The Hon. FRANK BLEVINS: A total of $2 300 million has been paid to the bank under the Indemnity. The $2 300 million advance was applied by the bank to offset the diminution in value of relevant assets and to protect and maintain the capital base of the bank. The cash inflow to the bank from the advance was used to repay debt, reduce the need for additional borrowings, and to improve liquidity. I am advised that no funds tied to the Indemnity are presently held by the bank on deposit with SAFA.

In reply to **Hon. DEAN BROWN (Leader of the Opposition)** 14 October.

The Hon. FRANK BLEVINS: The State Bank is precluded by the State Bank act from discussing the affairs of its customers without the specific consent of the customer. However, the bank has prepared a comprehensive briefing on the account which it can immediately make available upon receiving the consent of the Lovering family. The Group Managing Director of the bank has reviewed the conduct of the account and is satisfied that the bank has acted in a fair and equitable manner.

STAMP DUTIES

In reply to **Mr QUIRKE (Playford)** 29 October.

The Hon. FRANK BLEVINS: I have previously outlined for the House the reasons for the introduction of administrative procedures which have been put into place by the State Taxation Office to ensure that all stamp duty that should be paid has been paid on mortgages. I have also confirmed that at least in 80 per cent of the cases discharges lodged with the Commissioner of Stamps are cleared within 48 hours and that the level of unpaid duty detected from all market sectors has justified the need for the new procedures. The Commissioner has advised me that there are three main areas of underpayment:

.Commercial loans taken out over commercial property.

.Commercial loans taken out over residential property.

.Residential loans taken out over residential property. In this category it has been determined upon subsequent further investigation by the Commissioner that some loans which are being described by the financial institutions as being residential loans over residential property are in fact commercial loans over residential property.

In each of the above three sectors there have been significant numbers of mortgages where duty has been underpaid.

The Commissioner of Stamps has also advised me that since his last report the turn-around time for discharges in his office has been improved to the point that now 90 per cent are returned within 24 hours. His office is in constant contact with financial institutions and no major difficulties have been identified by these organisations. The Commissioner of Stamps has and will continue to give priority to urgent discharges so as to ensure that settlements are not delayed. The increased revenue being derived from the administrative procedures is being received both as direct payments to the State Taxation Office at the time of discharge of the mortgage and also by way of the weekly mortgage returns being lodged by financial institutions.

REMM-MYER

In reply to **Mr S.J. BAKER (Mitcham)** 28 October.

The Hon. FRANK BLEVINS: The total amount written off by the State Bank against the Remm-Myer project is $210 million. Additional provisions and losses of $226.4 million have been incurred taking the total loss of the bank to $436.4 million. This loss is fully reflected in the value at which the project is held in the accounts of the bank after provisioning. The bank commissioned an independent valuation of the Remm-Myer project as at 30 June 1992 which valued the project, on the basis of retention of the property in the medium term, at $290 million. Full provisioning has been made to write the value of the building down to this independent valuation. In relation to stamp duty, I am advised that an amount of $352.50 was paid on the various loan agreements and securities given by the Remm Group of Companies to State Bank and the syndicate of banks which funded the development of the Remm-Myer project.

The various debt facilities were structured through the Remm Group finance subsidiaries involved in the development and other Remm Group companies. These guarantees were supported by Specific securities including mortgages over the freehold and leasehold estates comprising the Myer Centre site. I am advised that the stamp duty paid at the time in respect of the original facilities was the correct amount of stamp duty legally payable in respect of the structure.

GOVERNMENT BORROWINGS

In reply to **Mr OLSEN (Kavel)** 29 October.

The Hon. FRANK BLEVINS: All borrowings in South Australia since the election in November 1989 and previously have been undertaken within global borrowing limits determined

by the Australian Loan Council. As the Member for ravel would be aware, in 1991/92 the Loan Council approved a special addition to South Australia's global borrowing limit in recognition of the need to provide substantial assistance to the State Bank of South Australia.

LUXCAR LEASING

In reply to **Mr S.J. BAKER (Mitcham)** 28 October.

The Hon. FRANK BLEVINS: The settlement by Beneficial Finance with the Australian Tax Office of $52.5 million cannot be detailed as it is the subject of a confidentiality agreement. The $52.5 million was a global settlement of all tax liabilities of Beneficial Finance up to 30 June 1992. The payment does not solely relate to Luxcar Leasing venture. The Government has been regularly briefed on progress by the Federal Police regarding Luxcar. Those inquiries are continuing and there has been no indication as to when the inquiries might conclude. One person currently employed by the State Bank was named in a search warrant issued by Federal Police in March 1991 but no further action has been taken.

OMBUDSMAN

In reply to **Hon. JENNIFER CASHMORE (Coles)** 7 October.

The Hon. FRANK BLEVINS: Detailed records of submissions and the Government's specific responses made by the Ombudsman in years gone past are not readily available. This has been checked with the Ombudsman's Office. The Government has always given consideration to the Ombudsman's budgetary requests and has on occasions provided additional resources.

A brief summary of recent budget adjustments is detailed below:

1989-90	Aboriginal Advisor to the Ombudsman at Port Augusta. Approval of an additional $7 000 for casual contract employment on an as needed basis to assist the Ombudsman deal with Aboriginal people using his service. Permanent approval for increased clerical/typing assistance in the Ombudsman's Office of $8 000.
1990-91	An additional Investigation Officer was transferred to the Office from the Attorney-General's Department at a cost of $48 000.
1991-92	Funds for the Twelfth Conference of Australasian and Pacific Ombudsman held in Adelaide-October 1991 of $10 000 and additional funding for a terminal leave payment of $8 000.
1992-93 and future years	Additional funding of $7 000 for salary and increments partially as a result of award future restructuring and goods and services cost years increases.

No reductions or cuts have been made to the Ombudsman's budget. The Ombudsman wrote to the Attorney-General in May of this year regarding his budgetary situation. As a result the Government provided an additional $18 000 to cover costs in 1991-92 and ongoing funding increases of $7 000 as detailed. It was the Attorney-General's understanding at the time that this addition to the budget would provide an appropriate base for the Office's budget and the Ombudsman was accordingly advised of the 1992-93 budget early in August 1992.

ASSENT TO BILLS

Her Excellency the Governor, by message, intimated her assent to the following Bills:

Animal and Plant Control (Agricultural Protection and Other Purposes) (Immunity from Liability) Amendment,

Appropriation,

Botanic Gardens (Miscellaneous) Amendment,

Commercial Arbitration (Uniform Provisions) Amendment,

Criminal Law Consolidation (Application of Criminal Law) Amendment,

Police (Police Aides) Amendment.

PAPERS TABLED

The following papers were laid on the table:

By the Minister of Environment and Land Management (Hon. M.K. Mayes)—

Commissioner for Consumer Affairs—Report 1991-92.

Department of Public and Consumer Affairs—Report, 1991-92.

South Australian Film Corporation—Report, 1991-92.

By the Minister of Business and Regional Development (Hon. M.D. Rann)—

Government Adviser on Deregulation—Report of Small Business Inquiry and Statutory Licence Review, 1992.

Random Breath Testing in South Australia—Report on the Operation and Effectiveness, 1989-91.

By the Minister of State Services (Hon. M.D. Rann)—

Freedom of Information Act 1991—Report on Administration of, 1991-92.

By the Minister of Health, Family and Community Services (Hon. M.7. Evans)—

Food Act 1985—Report on Administration of, 1991-92.

By the Minister of Primary Industries (Hon. T.R. Groom)—

Soil Conservation Boards—Reports, 1991-92.

South Australian Meat Corporation—Report, 1991-92.

EMPLOYMENT

The Hon. S.M. LENEHAN (Minister of Education, Employment and Training): I seek leave to make a ministerial statement.

Leave granted.

The Hon. S.M. LENEHAN: The Federal Government has reviewed the progress of expenditure of funds allocated to infrastructure projects announced in the One Nation statement and, while the majority of projects are proceeding satisfactorily, not all projects will require the total funding allocated for expenditure in 1992-93. Accordingly, in 1992-93, the Federal Government has decided to reallocate a total of $174 million to other infrastructure and labour market projects.

There are generous new provisions for large employers. In particular, the Federal Government is offering an

enhanced package of assistance to every major employer in this country willing to employ full-time at least an additional 100 persons who have been unemployed for at least six months or who qualify as young trainees. The same offer will apply to incorporated regional authorities proposing to employ full-time at least an additional 200 persons. For example, in the case of new employees aged 18 and over, who have been unemployed for six months or more, the standard subsidy will be $160 a week for 26 weeks or $4 160. Current arrangements are for 12 weeks.

There will be increased subsidisation for trainees between the ages of 15 and 19 years. The standard subsidy will continue at $3 000. The subsidy will increase to $5 000 for a trainee who has been unemployed for six months or more. These subsidies will be paid over 12 months. There will also be a parallel increase in the rate of subsidy paid for apprentices who have been out of work for six months or more. These increased subsidies will be available to all employers regardless of size.

Small business will also benefit directly. The subsidies for new trainees, including the new rate for those who have been out of work for six months or more, will apply for all employers, not just large employers. At the moment, 60 per cent of all trainees work in firms with 10 or fewer employees. This offers new opportunities for employers in South Australia and this Government is making arrangements to maximise the benefits to our State. Details of the programs will be announced early next month at public meetings in metropolitan and country regions. These meetings are to be linked with visits to South Australia by prominent Australian businessman, Mr Lindsay Fox, and the Secretary of the ACTU, Mr Bill Kelty, who are working with industry, local government and State Governments throughout Australia on employment and development projects. Details of these meetings will be announced shortly, and I encourage every member of this House to offer bipartisan support to these meetings to ensure that South Australia is able to maximise new employment opportunities to flow from these programs.

CONSTRUCTION INDUSTRY FUND

The Hon. R.J. GREGORY (Minister of Labour Relations and Occupational Health and Safety): I seek leave to make a ministerial statement.

Leave granted.

The Hon. R.J. GREGORY: It is with pleasure that I hereby table an actuarial assessment of the liabilities of the Construction Industry Fund and the Electrical and Metal Trades Fund as at 30 June 1992. Pursuant to section 24 of the Construction Industry Long Service Leave Act, I am required to table a report prepared by the Public Actuary. Such a report was sought but has not yet been provided, and it is not likely to be provided given the proposal to abolish the office of the Public Actuary. Accordingly, the Construction Industry Long Service Leave Board engaged the private actuarial firm, Mercer, Campbell, Cook and Knight, to conduct the review, and it is this firm's report which is hereby tabled.

Having regard to the current Construction Industry Fund surplus and long-term projections of the levy rate, the board has recommended a reduction in the levy rate from 1.5 to 1.25 per cent. This is the first reduction in the levy rate since 1 May 1986. It is important that the reduction and consequential savings be passed on to employers within the industry as soon as is practical. To this end, action will be taken to amend the regulations under the Act to effect the reduction from 1 January 1993.

SMALL BUSINESS

The Hon. M.D. RANN (Minister of Business and Regional Development): I seek leave to make a ministerial statement.

Leave granted.

The Hon. M.D. RANN: I know that there is a great deal of interest on both sides of the House in this matter. In December 1991, Cabinet agreed to a small business inquiry and a statutory licence review to assess the regulatory impact on businesses in South Australia. The Government commissioned its adviser on deregulation to conduct a small business inquiry, and submissions were invited from a wide cross-section of trade associations, industry and professional groups. In addition, a review was conducted concurrently by the Business Regulation Review Office to examine almost 400 State Government licences and assess their relevancy to modem business operations.

This review was in line with the Government's general regulatory review policies to streamline licensing procedures for small business in this State. The report states in its executive summary:

> Business people are concerned that they have little opportunity to influence regulations affecting their businesses and as a result the cost impacts of new regulations are not adequately considered.

To overcome this, the report stressed the need for uniform treatment of licensing matters and the provision of a 'one-stop shop' for licences—which members would know has been on the Government's agenda for some time—to be established immediately.

Members would be aware that last week I announced that a 'one-stop shop' business licensing information centre should be open by April next year. The centre will provide information on regulations required for small businesses as well as the necessary application forms and will be run by the South Australian Small Business Corporation. According to the report, this initiative 'would provide tangible benefits for the business sector in metropolitan Adelaide as well as in regional South Australia'. I also announced last week that the Government plans to abolish almost 50 State business licences for reasons of an anachronism, ineffectiveness or irrelevance. The licences, many of which duplicate other regulations, cover most Government agencies. Abolishing these licences is the first step towards reducing costs to the community and to Government agencies and to removing much of the red tape. The Government is also considering the abolition of a further 15 State business licences and negotiations are continuing with the relevant Government agencies.

Another recommendation in the report which is being considered by the Government is the implementation of a

master licence system which would enable businesses to apply for one licence to replace all others. Some small businesses need up to 20 licences to operate in this State, and a master licence system would be a master step forward in streamlining licensing procedures in South Australia. A pilot project for a master licence system is already in place in another State (New South Wales) and the Government is committed to assessing the feasibility of implementing a pilot scheme in South Australia.

The report covers four major areas: taxation, workplace regulation, licensing and the administration of regulation. However, before decisions are made on the bulk of the recommendations, the Government will seek responses from all interested groups and individuals on the matters raised in the report. For instance, there is division within the community over the deregulation of shopping hours, and the Government will be seeking a consensus approach to this and a number of other issues affecting small business in this State. The Arthur D. Little report highlighted the need for a more attractive business climate to be achieved through such measures as the streamlining of regulations. The report of the small business inquiry and statutory licence review makes similar recommendations, and the Government looks forward to the community's response. Copies of the report are available from the Business Regulation Review Office on the 8th floor of the Grenfell Centre in Grenfell Street. I table the report.

Members interjecting:

The SPEAKER: Order!

DISABLED PERSONS

The Hon. M.J. EVANS (Minister of Health, Family and Community Services): I seek leave to make a ministerial statement.

Leave granted.

The Hon. M.J. EVANS: I am pleased to inform the House of the creation of a new Disability Services Office within the State Government. This office will give the Government a new focus on the many and varied services we provide for South Australians with disabilities, with the ultimate aim of making those services part of the culture of Government. Australians have come a long way in their understanding and acceptance of people with disabilities. During the past 10 years, we have seen ground breaking social justice reforms in this area and, most importantly, a change in attitude about disabilities. These measures have no doubt improved the quality of life for people with disabilities, enhancing their opportunities to get job training, to find work, to live more independently and to participate in community life.

The moves we are making in South Australia mean the community of groups representing those people with disabilities will have a more mature relationship with the Government, and specifically with me, as Minister. They are the next logical step in the developing relationship we have and are particularly relevant, considering this is the final year in the United Nations Decade of Disabled Persons. Australia is recognised as a pacesetter in disability reform and South Australia is leading the way. The State Government spends $111 million a year through the South Australian Health Commission on specialist disability agencies to support individuals and groups in this field. We also provide funding for services through other agencies such as Domiciliary Care Services and the Royal District Nursing Society.

The new Disability Services Office will be responsible for the planning, policy development, coordination and administration for this area. The office will administer funding for disability services. These funds will be identified separately from those for other functions funded through the Health Commission. The Disability Services Office will have an Executive Director, who will have direct access to me as Minister, and this person will also be a member of the executive of the Health Commission. Ms Colleen Johnson, who is the Executive Director of the Community Services Division within the commission, will be appointed Executive Director of the DSO. It will also be staffed by people from the Community Services Division of the Health Commission and from the Office of the Disability Adviser in the Department of the Premier and Cabinet.

Working in tandem with the DSO will be an interim advisory committee, to be called the Disability Services Implementation Steering Committee. It will be established immediately and will advise on: the development of a framework for service delivery; the role and function of the DSO and its relation with other Government departments and agencies, such as the Intellectual Disability Services Council, the Julia Farr Centre, Strathmont, the Home and Community Care Program and non-government welfare organisations which provide services to people with disabilities; and the establishment of a Disability Services Council, which will report directly to me and advise on policy directions and strategic planning.

As was recommended in the disability directions project, the council will comprise people with a disability, carers, nominees of service providers, a nominee of the United Trades and Labor Council and others selected for their skills and expertise in the field of disability. I expect this council to be in place by 30 June 1993. Since I became Minister, I have spoken widely with community groups from the disability field and, in formulating this policy, I have taken into account their comments and suggestions. These changes take into account the recommendations of the disability directions project, which suggested a whole new arrangement for disability services in South Australia, including a broader role for the Government in administering change in this area. We remain as committed as ever to providing services for the disabled in South Australia, and I believe the changes we will make will result in better services better directed to the people we serve.

STATE BANK

The Hon. LYNN ARNOLD (Premier): By command, I lay on the table the first report of the Royal Commission into the State Bank of South Australia. I seek leave to make a ministerial statement and, in view of its length, I further seek leave for an extension of the normal time allowed for the statement until it is concluded.

Leave granted.

The Hon. LYNN ARNOLD: This report is the first of a series of documents providing a detailed analysis of the circumstances surrounding the financial problems of the State Bank of South Australia. What must be understood from the outset is that this report does not establish who was responsible for those losses. The Royal Commissioner, the Hon. S.J. Jacobs, himself accepts and acknowledges this: In his concluding commentary, he says:

> ...it is not part of the current inquiry on the first term of reference to assign blame or apportion responsibility for the disaster that overtook the bank.

In this report, the Commissioner examines the relationship between the bank and the Government. However, despite the extensive nature of the report, the full story of the problems of the State Bank will only be known when the Royal Commissioner has reported on his second and third terms of reference and the Auditor-General has reported on the causes of the failure, which may well involve conclusions with respect to the responsibility of the bank's officers. Notwithstanding this, the Commissioner legitimately comments:

> The saga of the State Bank is thus seen to be a story of inappropriate relationships and an unsatisfactory quality and level of communication between the Treasurer and Treasury; between the Treasurer and the bank; between Treasury (including SAFA) and the bank; between the board of the bank, its Chief Executive Officer and its management; between the Reserve Bank and the bank; and between the Reserve Bank and the Government.

He closes his report by concluding:

> All these players played a part in the ultimate tragedy.

The Government shares the view of the Commissioner and, doubtless, the people of South Australia that the story of the bank is a tragedy for this State.

And I want to make it absolutely clear that the Government accepts that there has been an unsatisfactory level of communication and cooperation between the Bank and the various arms of Government, within Government and between the Reserve Bank of Australia and the Government.

Even when the full picture has been revealed, disagreement is certain to remain over who was principally responsible and how the problems may have been avoided. The views of the Royal Commissioner and the Auditor-General will be there for all to judge, as will be those of the Government, the Opposition and the other interested parties. At this point, however, it is important to emphasise that we only have a part of the picture and it would be unfair and inappropriate for a final judgment to be made until all reports have been completed and made public.

But there is a more important imperative facing this Government and, indeed, the Parliament, the bank and the people of South Australia than a preoccupation with the history of the bank's problems. That is the need to use the lessons of the past to ensure that difficulties such as those experienced by the bank can never again happen in this State. The Government will not shrink from that task. On the day I became Premier less than three months ago, I pledged myself and my Government to rebuilding the economy of this State and making the difficult decisions needed to meet the challenges ahead.

This report intensifies the Government's resolve to meet that task. Much has been instigated to reform the relationship between the bank and the Government since the magnitude of the bank's problems became clear. As the Commissioner's report indicates, more will be required. Before turning to specific issues addressed in the Commissioner's report, it should be clearly understood that no corruption or impropriety is asserted against the Government or its employees. Unlike royal commissions in Western Australia and Queensland, there is no evidence demonstrating any systemic malpractice within Government. The notion of a sinister 'SA Inc.' is implicitly rejected.

Evidence before the Commission does not disclose any deliberate attempt by the former Treasurer or any other member of the Government to withhold the discovery of the bank's difficulties from the Parliament or the people of South Australia. This is in stark contrast to the Commissioner's view that from early 1989 the bank appears to have embarked on a process of misleading the Government about its financial position.

Mr Speaker, it will be clear to all who read this report that the former Treasurer has been strongly criticised for the general approach he adopted in dealing with the bank. He has been criticised for an 'arm's-length' approach which gave undue emphasis to the commercial independence of the bank and insufficient emphasis to the exposure of the Government through the statutory guarantee, while from time to time involving himself in particular issues and expressing support, despite inadequate knowledge, for decisions taken by the bank.

Put bluntly, while often severely criticising the bank management, board and Treasury, the first report also assigns to the former Treasurer responsibility for a failure to scrutinise and control the bank more closely. Of course, a more detailed and substantial consideration of the role of the board and management of the bank will ollow upon the completion of the Commissioner's second and third terms of reference, and the Auditor-General's inquiry.

While the Commissioner criticises the role of the former Treasurer, he accepts that, having regard to the way in which the bank was established and the circumstances in the early years of its operation, the former Treasurer's policy of dealing with the bank was justifiable until at least early 1989.

It is also clear there was a fundamental failure by those responsible for the bank to act competently and to bring to the Government's attention appropriate matters of concern. This latter omission was, of course, compounded by the bank's deliberate misleading of the former Treasurer. This fundamental failure made it all the more difficult for the former Treasurer to realise the need for a change of approach by him.

The Commissioner refers to a public comment by the former Treasurer that he was 'let down' by those in whom he placed his trust and confidence. The Commissioner concludes that that statement is undoubtedly valid with respect to the board and the bank's former Chief Executive Officer, Mr Tim Marcus Clark.

The former Treasurer made it clear when the bank's difficulties were discovered that the 'buck' stopped with him. The proper conventions of Government have been met and discharged by the resignation of the former Premier and Treasurer as the responsible Minister. There

has been no failing identified at a broader 'whole of Government' level or Cabinet level.

Mr Speaker, the report contains firm criticism of Treasury. The substance of the criticism is that while the role of Treasury of necessity was controlled by the policy established by the former Treasurer, the Commissioner nevertheless concludes that Treasury could have and should have seen, and in some cases did see, things which were a cause for concern, but either failed to bring them to the former Treasurer's attention or failed to do so with sufficient firmness. In general terms, at the stage where Treasury had concerns about the bank the Commissioner concludes that it should have clearly advised the former Treasurer of those concerns.

In relation to the broad findings, the Government accepts that there were deficiencies in the communications between the former Treasurer and Treasury. The Government would anticipate that the Commissioner in reporting on his second and third terms of reference would consider the practical difficulty of reconciling the commercial independence of the bank and close scrutiny by Treasury. Many of the Commissioner's findings and criticisms are predicated on his interpretation of the role, responsibilities, obligations and powers of the Government established by the State Bank of South Australia Act 1983.

Having considered those features of the Act as against the responsibilities of the board and management of the bank, the Commissioner concludes that the legislation permits a commercially-independent bank and a vigilant and well informed Government to co-exist.

If that view is correct, and to the extent this meant that the Government was justified in taking an even mildly interventionist or active role, then this Parliament—and by that I mean the Government and the Opposition—seriously misunderstood what they were enacting in 1983. The substance and tenor of debate in this House and in another place were directed at ensuring that the new bank would operate as a commercially-independent entity free from Government interference. At that time, any Government involvement in the affairs of the bank was seen as unwelcome and unwarranted intrusion. The Commissioner comments that the former Treasurer's 'hands-off' policy was a fair interpretation of the will of Parliament and, indeed, the will of the people.

Comments during debate on the State Bank Act by Liberal members in this House make clear their support for a 'hands-off' policy. For instance, the member for Light said it was 'not on' for a Government to seek to interfere unnecessarily into the affairs of the bank. He said such interference would not occur under a Liberal Government.

The existence of a Government guarantee did not serve to displace or mollify that view. Such a guarantee had operated with respect to the former institutions and, in particular, with respect to the former Savings Bank of South Australia the guarantee did not create a sense of active responsibility for close supervision. It is true that in the 1980s circumstances changed and in the light of those changes we now know that there are greater attendant risks associated with guarantees of this *ty*pe in a deregulated environment. This report, written as it is with the benefit of a historical perspective, will no doubt cement this view as part of the common wisdom. However, that was not the prevailing view at the time.

The Commissioner criticises the approach taken in selection and appointment of members of the board. While it is now possible to say without fear of contradiction that the board did not effectively manage the bank, the decisions taken at the time of selection were well within the bounds of reasonable action. As conceded by the Commissioner, the initial appointments were justifiable on the basis of maintaining continuity with the former institutions and recognising and preserving the bipartisan political support for the bank.

Later appointments were predicated on the generally accepted view that there should be no rapid turnover of memberships because of the 'long learning curve' for new appointees. While the Commissioner criticises the structure of the board following these appointments, he concedes these people brought with them significant personal qualities and skills.

Although the board obviously failed in its responsibilities, it would have been difficult to criticise most of the appointments at the time they were made. The inaugural directors were Professor Hancock (a Professor of Economics and Vice Chancellor of Flinders University), Mr Lew Barrett (a prominent businessman and Liberal appointee to the old Savings Bank), Mr W. Nankivell (a farmer, university graduate, former Liberal MP and Liberal appointee to the old State Bank), Mr R. Searcy (a chartered accountant and Liberal appointee to the old Savings Bank), the Hon. D. W. Simmons (a former Labor Minister with financial qualifications), Mr D. Simmons (a lawyer, director and consultant to several large private companies and a Liberal appointee to the old Savings Bank) and Mr K. Smith (the Director of State Development).

The other original director was the Chief Executive Officer, Mr Tim Marcus Clark, who was recommended for appointment by the Merger Advisory Group. This group involved Mr Barrett, Mr Adrian McEwin (a Liberal appointee to the old Savings Bank), Professor Hancock, Mr Maurice O'Loughlin (now a Justice of the Federal Court and a Liberal appointee to the old State Bank), the General Manager of the old Savings Bank (Mr Peter Simmons) and the General Manager of the State Bank (Mr Peter Byrnes), together with the Government representatives, Messrs Barnes, Guerin and Kowalick. This group engaged a firm of 'head hunters,' Spencer Stuart and Associates, who identified Mr Clark as a possible Managing Director.

It must now be obvious to all South Australians and is confirmed by this report that one of the major errors in this whole saga was the appointment of Mr Clark to the position of Managing Director. The former Treasurer had no involvement in this. Subsequent appointments to the board also were all justifiable at the time. They were Mr Bakewell (a former senior public servant and Ombudsman), Mr Rod Hartley (a businessman who became Director of State Development), Mr Tony Summers (a local businessman who was Deputy Chairman of the Adelaide Festival of Arts) and Mrs Molly Byrne (a former Labor MP who replaced Mr Don Simmons.

Later Mr David Simmons became Chairman and Mr Bert Prowse (the former Under Treasurer) was appointed

to the board. The role of these people will be further explored in term of reference 3. On the specific issue of the possible appointment of the Under Treasurer to the board, the Commissioner dismisses the former Treasurer's reasons relating to the perception that this would have impaired the bank's independent commercial status.

The Commissioner's comments are noted, but do not appear to address a principal consideration which taxed the then Treasurer's mind. The former Treasurer was concerned that the appointment of the Under Treasurer to the Board might compromise his independent advice to the Government. Put simply, the concern was that if appointed to the board the Under Treasurer would necessarily be involved in decisions on, for example, acquisition and profit plans, and then as Under Treasurer would be required to render advice on those issues. This clear conflict appears to receive little attention in the report and remains a dilemma to be resolved .

While the Commissioner did not ultimately agree with the view of the former Treasurer, it must be recognised that such a view was clearly within the range of appropriate responses and one that has received some approbation elsewhere. In this context, it is relevant to note that the view of the former Treasurer appears to be consistent with a recommendation of the Royal Commission into Commercial Activities of the Western Australian Government that an officer of a department administered by a Minister should not be on the board of a statutory authority answerable to that Minister.

Mr Speaker, the. underlying theme of the report is the failure by the management of the bank, especially the Chief Executive Officer, and the board to discharge their collective responsibilities. Each chapter of the report contains numerous instances of decisions made by management or the board on an inadequate basis or with inadequate consideration or which seem, making every appropriate allowance, to be plainly wrong.

As I mentioned earlier, there is also a significant finding that the bank appears to have misled the Government by withholding significant information, by not bringing to the attention of the Government matters of significant concern, and by giving to the Government inappropriate and unreasonable reassurance on matters of concern raised by the Government. It is in that context that the responsibility of the former Treasurer and Treasury for what ensued must be considered.

Mr Speaker, the reality is that there is a fundamental problem confronting Government when it establishes a statutory corporation to be governed by its own board and with its own management, particularly when that corporation is a substantial entity in its own right and conducting a business which requires particular skills and expertise. The ordinary workings of Government are premised on the principle that the responsible Minister and the relevant Government department must and will rely to a considerable degree on those who have direct responsibility for the operations of the statutory corporation to act competently and responsibly, and to draw to the attention of Government matters of concern.

This reliance is not total. Usually, there are other safeguards on which Government relies. In the case of the State Bank, these supervisory agents and institutions were the private, external auditors and the Reserve Bank. Regrettably, these safeguards also appear to have failed. The Auditor-General will examine the adequacy of the audits. Mr Speaker, the implications of the report extend beyond the State Bank. The report has ramifications for entities conducting business on behalf of the Government that expose the State to significant financial risks through a guarantee or other form of indemnity. It highlights the fact that, despite the existence of normal checks and balances, risks exist if those charged with the conduct of such business activities do not exercise those activities competently and in a responsible manner. The experience of the State Bank demonstrates that, whatever the difficulties may be, the Government cannot in the future allow the State to be exposed to a risk in this manner by an entity which has the commercial independence which the State Bank had.

The Government accepts that the report demonstrates that in the case of an entity the size of the bank, and one which exposes the State to risk to the degree that the bank did, there must be closer scrutiny whatever the cost may be. The Government accepts that in the light of the Commissioner's report this issue must be addressed as a matter of urgency.

Mr Speaker, it must not be forgotten that the Government already has taken major steps to reform the way the bank operates. Of fundamental importance in this regard is a significant reduction in the State's exposure to risk. The new State Bank has been given a clear mission statement. Its goal for the future is to become a commercially-based regional bank, offering major benefit to the people of South Australia and shunning the culture of unrestrained growth the Commissioner concludes it relentlessly pursued during the 1980s. Much progress has been made in achieving this goal.

In focusing on the bank's core activities, Myles Pearce, Day Cutten Pring Dean, Executor Trustee, Oceanic Capital Corporation Ltd and United Bank Ltd in New Zealand have been sold. International operations have been reduced, including closure of offices in Hong Kong, Chicago and Los Angeles. Primarily as a result of these reductions overseas and interstate, bank group staff numbers have been cut by 34 per cent, from 5787 at 30 June 1991 to 3827 at 30 June 1992. However, the bank remains a major employer in South Australia. Other reforms include:

- A restructuring of the State Bank Board and management.
- A significant upgrading of the bank's reporting requirements and the flow of information between the bank and the Government.
- The attendance of the Under Treasurer, or his representative, at all board meetings.
- The instigation of regular meetings between senior bank and Treasury officers.
- A move by the Government to take full control of the majority of the bank's non-performing assets, thereby putting the profitable core operations of the bank on a much sounder basis.
- A major restructuring of the bank's retail operations.
- The absorption into the bank of Beneficial Finance and Ayers Finniss.

Mr Speaker, criticisms in the report of the manner and circumstances in which capital was provided to the bank must, and will, be addressed. With respect to the capital

base of the bank, 1 can advise the House that whatever might have been the position in the past, the current capital structure has been considered in detail by the Reserve Bank, which accepts it as being in full compliance with its requirements.

As advised in the State Budget, the bank is in a position where it has substantial excess capital and before the end of the financial year the Government will carefully review the amount and form of that capital. Comments by the Royal Commissioner will be taken into account at this time. The Government Management Board currently is reviewing the operations of SAFA and to the extent that it sees fit will also comment on SAFA's relationship with the Government.

Mr Speaker, the experience of the State Bank has made it abundantly clear that there is a need for the Government to set clear objectives, priorities and performance criteria for its statutory authorities. These objectives must be well defined and understood so that boards and management can get on with the job of managing while also accepting responsibility for the performance of the statutory authority.

The Government will introduce into Parliament next week a Public Corporations Bill to ensure that the duties of directors of public corporations are clearly defined and that the objectives, authority and accountability of the parties involved with a statutory authority such as the State Bank are well understood. This will enhance the accountability of both directors of public corporations and the Government.

The Government also has adopted a number of initiatives to ensure that public officials and employees of statutory authorities discharge their duties in accordance with the highest standards and in a manner expected by the community. An important move has been the promulgation of a Code of Ethical Conduct for public employees. Among other requirements under this code, public employees are obliged to perform their duties with professionalism and integrity, and efficiently serve the Government of the day and the people of the State. The obligation to conduct themselves with professionalism requires all public employees to render proper independent advice.

Mr Speaker, under his second term of reference, the Commissioner will report on whether changes need to be made to the State Bank of South Australia Act. It is clear from this report that changes will be recommended. Indeed, the Government's own submissions to the Royal Commission on the second term of reference envisage amendments to the legislation. This stance, combined with the remedial action already taken and the Government's acceptance of its role in the events of the past, demonstrates the strong commitment this Government has to addressing in a meaningful and lasting way the issues raised by the bank's difficulties. That commitment is unequivocal.

Mr Speaker, the Government moved quickly to establish this Royal Commission and the inquiry of the Auditor-General. It did so because it wanted the fullest possible consideration given to both why the bank encountered the difficulties it did and how similar problems could be avoided in the future. The Government expects a vigorous public debate to surround the release of this report.

The people of South Australia deserve a debate which concentrates on the substantive issues it raises, and places them in the context of the important reports still to be received. My Government is committed to working in the interests of the people of this State to tackle those matters. I call on all in this Parliament to support that vital work.

The Hon. DEAN BROWN (Leader of the Opposition): I seek leave to make a statement, and I seek leave to conclude that statement.

The SPEAKER: It is unusual, but two requests have been made. Does the House give leave for that to occur?

Leave granted.

The Hon. DEAN BROWN: Based on the findings of the State Bank Royal Commissioner, this State Government is guilty: it is guilty of gross financial incompetence and negligence and of complicity in concealing this from the public; it is guilty of breaching the State Bank Act; it is guilty of manipulating the commercial operations of the bank with secret deals for the political gain of the Government; it is guilty of forcing the bank into high risk property developments such as Remm and the East End Market; and it is guilty of repeatedly misinforming this Parliament and treating it with contempt. It only remains for South Australians to carry out the final sentence.

With this report, this Government is dead. I stress: this Government is dead. This report is about the relationship between the bank and the Government. This is what the Royal Commissioner had to say about that relationship on page 366 of his report:

> ...The Government in general, and the Treasurer in particular, had from the outset, been myopic in their vision of an appropriate relationship with the bank.

In his concluding statement, the Royal Commissioner states:

> Both the Government and the bank lost sight of the bank's statutory charter and of their respective statutory obligations... From an early stage in its history, the bank had put stability at risk in pursuit of growth in the hope and expectation that in due course growth itself would ensure stability...The bank was encouraged in the course that it took by a Government that, according to circumstances, was either supportive or indifferent.

The Commissioner completes his report with these words:

> The saga of the State Bank is thus seen to be a story of inappropriate relationships and an unsatisfactory quality and level of communication between the Treasurer and Treasury; between the Treasurer and the bank; between Treasury (including SAFA) and the bank; between the board and the bank, its chief executive and its management; between the Reserve Bank and the bank; and between the Reserve Bank and the Government...All these players played a part in the ultimate tragedy.

That tragedy is that South Australians have lost $3 150 million. We, the community, are angry that we are now having to pay for that. It is the worst financial disaster recorded in the history of government in the whole of Australia. Every cutback in Government services, including our schools, hospitals, foster care, police services and public transport, can and will be directly attributable to this financial disaster and the Government's part in it.

Those responsible for this tragedy must be exposed and appropriately penalised. No-one, from the present Premier

down and including his predecessor, the member for Ross Smith, should be spared from that judgment and that penalty. Responsibility must be shared by all those Ministers who sat in silence for two years while the former Premier attempted to misinform this Parliament and the public about the performance and the problems of the State Bank. The Royal Commissioner's report clearly identifies that by early 1989 at the latest there was more than enough justification for the Government to act. It did not do so. Instead, it appealed to this Parliament to ignore the warnings of the Liberal Party. It appealed to the electorate in 1989 to give Labor another term, claiming that Labor should be trusted. It appealed to the Royal Commissioner, arguing that the board and the bank were to blame.

Now, this Government has lost all those appeals. This Government must accept the Royal Commissioner's report as a guilty verdict and take the consequences. This report on term of reference 1 is about responsibility for the bank's losses. The report on the remaining terms of reference will help this Parliament to identify what action is necessary to ensure new standards of public accountability and ministerial disclosure so that such massive losses are never repeated again. That is for the future. For the moment, this Parliament must reflect on the past to ensure that responsibility is no longer evaded.

On this first term of reference, the Royal Commissioner finds that, by the middle of 1988, the performance of the bank and its rate of growth raised serious questions about the bank's strategy and the quality of its assets. That was 4 1/2 years ago. Until today, this Government has attempted to deny any responsibility. When he resigned as Premier, the member for Ross Smith said:

> I do not accept that I or my Government created the bank's problems.

This report is full of examples which incriminate the Government and destroy its defence. First, the Government is guilty of gross financial incompetence and negligence and complicity with the bank in concealing this from the public. The Royal Commissioner has found that the Treasury did not take any effective steps to monitor or control the growth of the bank in the face of a general decline in the national economy and the performance of the bank. He finds:

> ...the failure of the Treasurer and Treasury to consider any measures to protect the Government's liability under the guarantee is a reflection of their general perception of the bank, at least from 1985, as a source of funds (a cash cow) only. There was a blinkered failure to review the Government's position in the face of flashing warning lights.

He has found that from early in 1989 it was or should have been apparent to the Treasury that the financial difficulties facing the bank called for action more decisive than an*y* such action that was taken either then or thereafter. Finally, on this point, the Royal Commissioner identifies that the 1988-89 so-called record profit of the bank was inappropriately inflated.

Secondly, the Government is guilty of breaching the State Bank Act. The Royal Commissioner has found that the arrangements the Government forced upon the bank for the payment of dividends from profits were inconsistent, that is, under section 22 of the Act. On the third important accusation, the Government is guilty of manipulating the commercial operations of the bank, with secret deals for the political gain of the Government. The Royal Commissioner has found that the Government's intervention in the setting of the bank's home loan interest rates before the 1985 and 1989 State elections and the 1987 Federal election was politically motivated. He refers to the 1989 $2 million secret subsidy as 'surreptitious'.

The fourth accusation that can be levelled against the Government is that the Government is guilty of forcing the bank into high risk property developments such as the Remm project and the East End Market. In relation to the Remm project, the Royal Commissioner has accused Treasury and SAFA of failing to approach the project with any caution and choosing not to analyse it in depth, 'partly because they had little opportunity to do so and partly because they also perceived that the Government was anxious for the project to proceed'. According to the Royal Commissioner, the former Premier lived 'in splendid indifference to other evidence that the bank's commercial judgment was questionable and very likely flawed'. He is equally critical of the Government's role in the East End Market exposure.

On the fifth point of accusation against this Government, the Government is guilty of repeatedly misinforming this Parliament—something of the highest seriousness that one could level against any Government, let alone any Minister. The evidence to this royal commission and now the report have identified well over a dozen major cases where Parliament has been misinformed. The Liberal Party will deal with these cases at a later time. It is now up to the Government to accept its guilt.

The evidence to this royal commission, and now the report, have identified well over a dozen major cases where Parliament has been misinformed. The Liberal Party will deal with these cases at a later time. It is now up to the Government to accept its guilt.

Next to the member for Ross Smith, the present Premier knew more than his other Cabinet colleagues about emerging problems within the bank. In late 1988 the present Premier was told that the bank had to stop its rapid growth, but subsequently the bank more than doubled its assets from $11 billion to $23 billion, and the Royal Commissioner found that the Government encouraged the bank in this course of risking stability in the pursuit of growth. The present Premier was told that the board had to be strengthened, and the royal commission has found that the composition of the board was 'unsatisfactory in terms of business and banking acumen'.

The present Premier was told that the board could not control Mr Marcus Clark, but for more than two years the present Premier did absolutely nothing. He sat in silence in Parliament when he knew that the former Premier was giving misleading answers about what was going on within the bank. He colluded in the misinformation given to this Parliament. Equally, he sat mute in Cabinet and did not insist on an independent investigation of the State Bank. It is beyond comprehension that the Cabinet did not extensively and repeatedly discuss the State Bank's problems as they were exposed by the Liberal Party and the media to the public of South Australia.

As well as the former Premier and the current Premier, we have the Minister of Labour Relations who, from early 1989, chaired a committee which was well aware of the blowout in the costs of the Remm project for which the bank stood guarantor. We have the present Treasurer, who interfered in some commercial decisions of the bank, as highlighted by the royal commission report. We have the present Minister of Tourism, who in April 1989 made a speech in Parliament condemning the Liberal Party's questions about the bank, which the Royal Commissioner has described as—and these are the words that the Royal Commissioner has heaped on the Minister of Tourism—'so praiseworthy indeed [of the bank] as perhaps to cause the State Bank Centre to blush to a deeper shade of pink.'

This report raises the most serious questions about Government accountability to this Parliament and, through this Parliament, to the people of South Australia. For two years before the first bail-out was announced, the Liberal Party, through persistent questioning, attempted to force this Government to act. We supported the establishment of the new State Bank in 1983. We accepted the provisions of the Act which gave the Government powers of general oversight to ensure the prudential operation of the bank in light of the Government guarantee. We emphasised a distinction between Government oversight of the bank's performance and Government intrusion in particular loan decisions of the bank, which we strongly opposed.

The Government has always attempted to deliberately confuse the two to claim that the Liberal Party is responsible for preventing the Government's taking more action than it did to find out about the bank's performance. I am interested to see that the Premier's statement today carried on exactly with that line, even though it is not in the Royal Commissioner's report. Implicit in our questioning since February 1989 was a grave concern about the bank's performance, its rapid growth and the risk it was taking with taxpayers' money because we were guaranteeing it. The Liberal Party stands completely vindicated today. In particular, I mention the member for Kavel, under whose leadership our legitimate questioning began; the member for Victoria, who continued the probing throughout 1990 until the Government was forced to admit that our concerns were justified; and the members for Coles and Mitcham who, throughout this period and in the face of constant Government attacks, used this Parliament responsibly to urge this Government to act, but it did not do so.

The nation's attention will be focused on this report today. It is one reason why the Prime Minister has postponed the pre-Christmas Federal poll. We have a Labor system of government exposed for what it is—a system of government which pays no attention to the public interest and the role of Parliament in holding governments accountable to the public. In terms of its costs to individuals, the South Australian State Bank debacle is far worse than WA Inc and Victoria Inc.

This report now presents the supreme test to this Parliament. Having been treated with contempt by a Government which refused to be accountable, will this Parliament now use the ultimate sanction it has against such a Government? The people of South Australia, who face the burden of repaying the $3 150 million loss caused by this debacle and the Government's negligence and dereliction of duty, will rightly demand that a high price be paid. It is time this Parliament spoke for them on this matter. It is time this Government heard their anger. It is time this Government resigned.

SITTINGS AND BUSINESS

The Hon. FRANK BLEVINS (Deputy Premier): I move:

That for this week Standing and Sessional Orders be so far suspended as to enable private members' business set down for tomorrow to be taken into consideration on Thursday and have precedence from 10.30 a.m. to 1 p.m. and for one hour after grievances.

Motion carried.

LEGISLATIVE REVIEW COMMITTEE

The Hon. FRANK BLEVINS (Deputy Premier): I move:

That the committee have leave to sit during the sitting of the House today.

Motion carried.

SELECT COMMITTEE ON BUSHFIRE PROTECTION AND SUPPRESSION MEASURES

The Hon. FRANK BLEVINS (Deputy Premier): I move:

That the committee have leave to sit during the sittings of the House for the remainder of the year.

Motion carried.

QUESTION TIME

STATE BANK

The Hon. DEAN BROWN (Leader of the Opposition): My question is directed to the Premier. Based on the evidence of the Royal Commissioner and the fact that the Government is guilty of incompetence, negligence, gross financial mismanagement and political interference with interest rates—

The SPEAKER: Order! There is a point of order by the member for Walsh. The honourable member will resume his seat.

The Hon. J.P. TRAINER: Mr Speaker, I rise on a point of order. The Leader of the Opposition is making allegations and charges by way of question. Allegations and charges can be made only by way of substantive motion.

The SPEAKER: I uphold the point of order. Standing Orders are very clear that one cannot make any allegation of impropriety in the House, except by way of substantive motion. The honourable Leader.

The Hon. DEAN BROWN: Mr Speaker, I rise on a point of order. I am not accusing the Government of

misleading the Parliament, which is the basis on which you have made your ruling. I have carefully adhered to your ruling and I have not made that allegation that the Parliament has been misled. Contrary to the suggestion that in a question we cannot raise points about negligence or gross financial mismanagement, as highlighted from outside this Parliament, from a royal commission report, I believe it is quite within the right of a member to ask this question of the Premier, and I would argue that it is entirely within the Standing Orders of the House to do so.

The SPEAKER: Order! You have made a point of order. I uphold the point of order raised by the member for Walsh. If you wish to take action against a decision of the Chair, the procedure is clearly laid down by Standing Orders.

The Hon. DEAN BROWN: In light of your ruling, Mr Speaker, I will rephrase the question. Based on the evidence before the Royal Commissioner and the statement and allegations I have made to the House this afternoon in my statement, will the Government tender its resignation to the Governor at the first available opportunity?

Members interjecting:

The SPEAKER: Order! The Premier.

The Hon. LYNN ARNOLD: Mr Speaker, the short answer is clearly 'No', because of the very statement I have made today identifying the Government's response to the Commissioner's report on term of reference 1, which deals with quite specific areas. We still have terms of reference 2 and 3 to be reported on (I made significant reference to that earlier), and we also have yet to receive the report from the Auditor-General.

The key point about that is that the Leader was not able to put into his question, quite rightly because it was out of order, certain statements about mismanagement, incompetence or other things. I ask the Leader to go to the key findings of the royal commission report and the summary at the end of it, which represents the actual findings or conclusions as such that the report comes to, and he will not find his statements or his attempts at putting those statements in *Hansard* substantiated by that report.

The situation is that there are issues that have had to be dealt with and this Government, as my ministerial statement indicated, has dealt with them. There are still more issues to be dealt with and, again as I indicated in my ministerial statement, this Government is committed to undertaking the actions required to bring about an appropriate set of arrangements between the Government and the State Bank in the context of the 1990s.

WORKCOVER

The Hon. J.P. TRAINER (Walsh): Can the Minister of Labour Relations and Occupational Health and Safety inform the House what WorkCover's estimated average levy rate will be once the amendment Bill has passed? The Opposition has stated that actuarial advice it claims to have commissioned indicates that the present levy rate will be reduced only from 3.5 per cent to 3.25 per cent.

The Hon. R.J. GREGORY: I thank the honourable member for his question. The advice I have from WorkCover is that, if the Bill which the member for Semaphore insisted on amending and which left this House is passed in the Upper House and is enacted, the average levy rate will drop to 2.8 per cent. I noted with some interest the statement in the press attributed to the header of the Opposition in which he said that the rate would drop to only 3.25 per cent. When questioned about that he claimed that he had that advice from an actuarial report.

I would like to know from where he got that advice, because he refused to show a copy of that report to the *Advertiser* journalist; he just refused to do it. He claimed that he had the report and he refused to provide it. Perhaps it is like the Cawthorne report: it is locked away somewhere. He does not want anyone to see it. I question the accuracy of this report because the actuaries who work for and are engaged by WorkCover spent over six weeks, I understand, in preparing an actuarial report for WorkCover at the end of the last financial year. That information was used to make the adjustments to the proposed amendments to the Bill. All I am saying to the Leader of the Opposition is that perhaps he ought to put up or shut up in relation to this matter, because in respect of all other things he has said in this place he has not put up.

STATE BANK

The Hon. DEAN BROWN (Leader of the Opposition): I direct my question to the Premier. As the State Bank Royal Commissioner has totally rejected the Government's final submission on the first term of reference, why is the Government refusing to accept any responsibility for the bank's losses? The Government's final submission on the first term of reference made the following points in its conclusion: that the Government did its best to give the bank a strong board; that the Government did not seek or receive inappropriate payments under section 23, which relates to profit; that the Government gave appropriate attention to the affairs of the bank; and that the Government did not know and could not have known of the management and systems failures which led to the bank's financial problems.

This submission recognised collective responsibility for these decisions and actions by referring to the Government rather than to the former Premier. The Royal Commissioner has now rejected all of these key Government submissions. Yet, this afternoon in his ministerial statement, the Premier went back and simply tried to repeat the Government's original, final and now rejected submission to the royal commission.

The Hon. LYNN ARNOLD: The Leader says that the Government has not accepted any blame for the events. Again, he obviously was not listening; he was too busy getting ready to give his own statement without actually paying any attention to what I was saying on that matter. I can only suggest that he rereads it very carefully. What firmer evidence would there need to be of the acceptance of a share of the blame for the problem that was faced as a result of the State Bank situation than the fact that the

member for Ross Smith made the political decision to resign as Premier of this State? He—

Members interjecting:

The SPEAKER: Order!

The Hon. LYNN ARNOLD: That was a major act of acceptance of a share of the blame. The fact is that this is the first of a number of reports that are still to come. I suggest that, before the Leader starts getting too excited about the roles of different people or the share of the blame of different people and organisations, he waits for all those reports to come in and sees all of those recommendations together. The other point that the Leader goes on to talk about is that somehow the Government should have known things. It is all very easy in hindsight to make some comments, as the Leader is now suggesting, but I—

Members interjecting:

The Hon. LYNN ARNOLD: I draw attention to the member for Victoria's comments at the time that the then Premier announced the first losses of the State Bank. The member for Victoria, as the then Leader of the Opposition, went on air saying that even he was amazed at the magnitude; even he had no idea they would be of that order. What he was saying at the time—

Members interjecting:

The SPEAKER: Order!

The Hon. LYNN ARNOLD: —was not unreasonable—that he could not crystal ball gaze. He was asking lots of questions, but he could not crystal ball gaze.

Members interjecting:

The SPEAKER: Order! I understand that tomorrow will be given over totally to debating this report and all members will have more than adequate time to contribute anything they wish. This is Question Time and interjections are out of order. The Premier.

The Hon. LYNN ARNOLD: The other point referred to by the Leader was criticism of the Government in that sense. He would do well to look carefully and thoroughly at the report and see exactly those references to the Government. Most of the references are to the Treasurer and Treasury, but where there are references to the Government they are in the generic sense that they still more often refer to the Treasurer and Treasury, because in every case—

An honourable member interjecting:

The Hon. LYNN ARNOLD: I suggest that the honourable member reads the report. In almost every case such criticism is directed at perceived failings, omissions, actions or deficiencies of the Treasurer or Treasury, and the text almost always makes that point clear by contemporaneous or contextual reference or by necessary implication to one or other or both of those bodies and on occasion it refers as well to the then Under Treasurer. Mr Speaker, if you read the findings very closely—I know that you will be doing so and I suggest that other members do so—you can see the context in which the term 'Government' is used there. Quite clearly, the Leader has missed the point.

The Hon. Dean Brown: For two years you did nothing.

The SPEAKER: Order! The Leader is out of order. If the Leader wishes to be here tomorrow, I suggest that he abide by the Standing Orders. The member for Stuart.

TEACHERS

Mrs HUTCHISON (Stuart): Can the Minister of Education, Employment and Training indicate whether she supports South Australian teachers being offered opportunities to teach overseas through the International Teacher Exchange Program?

The Hon. S.M. LENEHAN: Yes, I most certainly do support the teacher exchange program. I remind the honourable member that last week I announced that 21 teacher exchange places would be made available in South Australia from January next year. That, indeed, brings the number of exchange teachers operating for this year and next year to more than 60. It is important to note that there are now thousands of students, in both South Australia and overseas, who are having the quality of their education enhanced by the experience of teachers who are part of this exchange program. It is also important to note that the exchanges are enhancing the teaching of languages in South Australian and overseas schools. Language teachers are gaining practical language skills in other countries and bringing them back to Australia. For example, currently two teachers (one in Greece and the other Spain) are undertaking this form of training.

South Australia has a highly successful program of exchanging teachers with Italy. In fact, last week I met the Italian Director-General of Education, Professor Augenti, and we agreed that the number of exchange teachers would be increased and that for the first time in this country primary school teachers would be included. I pay tribute to my predecessor (Hon. G.J. Crafter) who in January this year set this program in place with the Italian Director-General of Education. It is interesting to note that currently Italian is taught in about 54 primary schools and 15 secondary schools in South Australia, and there are 10 new programs planned for primary schools in 1993. This is a vitally important program for not only the professionalism and continuing education of teachers but the experience it offers to students within South Australia and in overseas schools where our teachers are able to contribute their skills and expertise.

STATE BANK

Mr OLSEN (Kavel): My question is directed to the Premier. Why is the Government attempting to wash its hands of the appointment of Mr Marcus Clark as Managing Director of the State Bank? On page 11 of his ministerial statement, the Premier said that the former Premier had no involvement in the appointment of Mr Marcus Clark. The evidence and the report of the royal commission do not support this. Mr Clark made it a condition of his appointment that he also be made a member of the board. Only the Government can appoint him to the board. At page 33 of the Royal Commissioner's report, he clearly states that the Treasurer 'was not prepared to approve the appointment without having met him. This was duly arranged on 30 November 1983.'

Members interjecting:

The SPEAKER: Order! The Premier.

The Hon. LYNN ARNOLD: I identified in my ministerial statement how Mr Clark was appointed as Chief Executive Officer, but now the member for Kavel is drawing a very long bow indeed by suggesting that the real problem was not his appointment as Chief Executive Officer of the State Bank of South Australia—that, seemingly, was not the problem: the real problem was that he was then appointed to the State Bank Board. Somehow or other the member for Kavel is suggesting that, if he had not been a member of the State Bank Board but had still been the Chief Executive Officer appointed by the process that I identified in my ministerial statement and that is not disputed; that is actually what happened—somehow or other Mr Marcus Clark would not have been the problem for the bank that clearly he turned out to be.

The facts are that Tim Marcus Clark has been a major problem for South Australians by virtue of the way in which he ran that bank. However, the reality is that he was not selected to be the Chief Executive Officer by some whim of the then Premier or of the Government: he was selected by a rigorous process that involved internationally known headhunters that then reported to a merger advisory committee—

Members interjecting:

The SPEAKER: Order!

The Hon. LYNN ARNOLD: —and that committee was made up of a number of board members who were appointed by the former Government at the time when the previous banks existed as separate entities. To suggest now that the real problem lies not in his having been made CEO but in his having been made a member of the board is a ridiculous assertion, and certainly it is far too long a bow to draw.

FAMILY AND COMMUNITY SERVICES

Mr De LAINE (Price): Will the Minister of Health, Family and Community Services investigate the possibility of having staff who work in the front line of contact with the public wear an easily seen number, similar to that for police officers? Quite often, constituents contact me in relation to problems or misunderstandings with staff whom they contact and deal with. Obviously, it is important that the officer's name be kept confidential, but a number would make it much easier for an office to follow up queries on behalf of a constituent.

The Hon. M.J. EVANS: I thank the honourable member for his suggestion and for his continuing interest in this area. Most customer contact with Family and Community Services officers occurs either in a FACS office or on a home visit. A number of officers have initiated the use of first name tags in the office situation to ensure not only the understanding of the customer with whom they are dealing but a more friendly atmosphere and a more reasonable association between the client and the staff.

Home visits usually occur on the basis of an appointment or an investigation to follow up a particular report, such as a child protection report. In that case, the officer carries an identity card, which incorporates a photograph, name and number and which is shown on arrival. Recently, some middle management personnel in the department were delegated to undertake projects in relation to the responsiveness of the department to clients—

Members interjecting:

The SPEAKER: Order! The honourable Minister.

The Hon. M.J. EVANS: I appreciate the response to my question. As I indicated, middle management staff have been delegated to examine ways in which the department can be more responsive to its clients throughout the level of service which they provide and, once these results have been obtained, they will be used throughout the Family and Community Services organisation. As the member for Price correctly identifies, a number of industrial and security matters are associated with this area but, other than that, certainly the department is keen to be more responsive to clients and indeed to identify with them on a much more personal basis in that context.

STATE BANK

Mr INGERSON (Deputy Leader of the Opposition): My question is directed to the Premier. As the member for Ross Smith, on the day of his resignation as Premier, said that he did not accept that he or his Government created the bank's problems, who should South Australians, who must pay the $3 100 million loss, blame?

The Hon. LYNN ARNOLD: I think we ought to wait for terms of reference 2 and 3 by the Royal Commissioner—

Members interjecting:

The Hon. LYNN ARNOLD: Well, the member for Mitcham mocks at that; is he suggesting that the Royal Commissioner will not have substantive things to say on terms of reference 2 and 3? They deal with very important matters. Will he also suggest that the Auditor-General's report, which deals with the bank's operations, is also not to be awaited with great interest by all South Australians? The reality is that, of course, they should be awaited with great interest, because they will provide an enormous amount of information to the body of information available about what consideration should finally be given.

The Deputy Leader refers to the member for Ross Smith making the comment that he did not create the bank's problems. Listen to the words: 'did not create the bank's problems'. That is entirely correct. Certainly, fair criticism can be made of the way in which management of problems as they were perceived later might have been dealt with. But let us look at some of the things that happened. One of the reasons why the State Bank got into enormous troubles clearly was an expansionist philosophy that was chasing various growth motives that clearly were not sustainable. That is certainly true. The decisions to make those investments, the decisions to go down that track were being made by the board and by the management of the bank.

The facts are that, when some of those investments were made which we may well say, in reasonable hindsight, were very bad investments indeed, nevertheless

there were also some other investments which, in the ordinary course of events, people would accept were reasonable investments to be made, but they are still loss-making investments; they are still investments that have been added to the accumulated problems of the State Bank. Why did they go wrong? Apparently, the member for Ross Smith created the downturn in real estate values in this country that lead to even the good investments going sour in the State Bank. Again, that is an incredibly long bow to draw.

The former Premier has accepted the responsibility he should wear for this problem by his very act of resignation. He has accepted the fact that the recommendations in here contain criticisms of many of the ways in which he responded to the issues of the time. But the Royal Commissioner himself, in his concluding words, makes the point about all the players who had a part in this tragedy. The Leader himself read out those words—I had read them out myself but, obviously, he was not going to be diverted, so he read them out again—with regard to how many players were involved in this whole situation. The member for Ross Smith, as former Premier, has accepted his share of that. There are others to accept their share of that.

Members interjecting:

The SPEAKER: Order! The Premier will resume his seat. The member for Mitcham is out of order. Every time there is an interjection, I will stop the answer and take the point of order with the interjector.

The Hon. LYNN ARNOLD: We will know, after we hear the reports from terms of reference 2 and 3 and the Auditor-General's report, the extent to which others—

Mr Ingerson: What a joke!

The Hon. LYNN ARNOLD: Well, the Deputy Leader says, 'What a joke!' He is about to say that it is irrelevant, that we should not wait for terms of reference 2 and 3, that we should not wait for the Auditor-General's report, that apparently those things are of no account, and that, just because they now have one very important document, that is sufficient. Yet the Commissioner himself, in his own first report, indicates the need to take into account all the reports he is about to come out with over the months ahead.

Mr Matthew interjecting:

The SPEAKER: Order! The member for Bright is out of order.

Mrs Kotz: You're a poor excuse for a Government.

The SPEAKER: Order! The member for Newland is out of order.

SKIN CANCER

Mr HOLLOWAY (Mitchell): Will to the Minister of Labour Relations and Occupation Health and Safety advise the House what the Government is doing to reduce the risk of skin cancer among South Australian workers?

The Hon. R.J. GREGORY: Our country has the highest rate of skin cancer in the world. It is estimated that, each year, 1 000 Australians will die from it. In fact, two out of three Australians will contract some form of skin cancer during their lifetime. In November 1989, this Government launched an ongoing information campaign to reduce the risk of South Australian workers developing skin cancer. This summer, the campaign will focus on providing information directly to individual employees, and 68 000 sets of brochures will be distributed to South Australian workers.

All Government workers in administrative units will receive a set of three wallet-sized, fold out brochures which provide information on cancer identification, personal protection and work practices. Copies will also be sent to the South Australian Chamber of Commerce, the South Australian Employers Federation and the United Trades and Labor Council of South Australia for them to distribute to their members. In addition, Australia Post, SANTOS, the Electricity Trust of South Australia and the Local Government Workers Compensation Office have agreed also to distribute these brochures to their employees. The campaign is organised by the Department of Labour and the Anti-Cancer Foundation, and is a simple, cost effective way of encouraging employees to limit their exposure to ultraviolet rays and to detect skin cancer at an early stage. At a cost of 4c a copy each, it is an inexpensive way of providing important information on how workers can protect themselves from skin cancer.

STATE BANK

Mr OLSEN (Kavel): My question is directed to the Premier. Prior to the tabling of the report in the House today, apart from Cabinet, who received the findings of the State Bank Royal Commissioner, and when?

The Hon. LYNN ARNOLD: The Governor received the report from the Royal Commissioner himself on Friday morning. I cannot give an exact time on that, but I understand it was about 11 or 11.30. The media could; they saw the event happen. Then it was delivered to the Government and during the day it was delivered to all members of Cabinet. Copies that were in my office were then given to the Under Treasurer, the Crown Solicitor, the Solicitor-General, the head of the Department of the Premier and Cabinet—

Mr Olsen interjecting:

The Hon. LYNN ARNOLD: Well, it is not unreasonable that that should have happened, because there are a number of legal and financial questions—

The Hon. Frank Blevins interjecting:

The Hon. LYNN ARNOLD: It is a report to Government, and it is not unreasonable, therefore, that Government would choose to say to its senior officers, 'What is your reaction to this report?' I do not know who else it might have gone to. Of course, a copy went to the member for Ross Smith, and again that is hardly unreasonable; it is entirely appropriate in the circumstances.

Members interjecting:

The Hon. LYNN ARNOLD: I do not know if the Chief Justice would have received one. I will find out ho else received a copy.

BARTON ROAD

Mr ATKINSON (Spence): Will the Minister of Environment and Land Management advise the House whether he has yet received from Adelaide City Council,

in the correct form, its proposal under the Roads (Opening and Closing) Act to close Barton Road, North Adelaide, permanently? In November 1987 the Adelaide City Council closed Barton Road without lawful warrant. Residents of Ovingham, Bowden, Brompton, West Hindmarsh, Flinders Park and the western suburbs generally were forced to take one of two lengthy detours to obtain access to Calvary Hospital, the Mary Potter Hospice, the Red Cross and St Dominic's Priory School, just to name a few destinations.

In July 1990, Mr Justice Duggan, sitting as a single judge of the Supreme Court, ruled the closure unlawful and said that motorists were free to use the bus lane in the closure. Motorists are still free to use the bus lane until such time as the Minister ratifies the closure under the Act. On 28 September 1992, almost five years after the original closure and more than two years after Mr Justice Duggan's judgment, the Adelaide City Council voted in a split decision to close the road pursuant to the Act. Under the Act, the council decision and all relevant papers must be lodged with the Surveyor-General within three months of the decision to close the road, otherwise the decision lapses and the Minister may not confirm it.

The Hon. M.K. MAYES: I am not sure if I want to thank the honourable member for this question, but I will have to respond. I have been accused of being preoccupied with my own electorate, but I think the member for Spencer is rapidly catching up with me. The brief answer to the honourable member's question is 'No'. As he is fully aware, and for the information of the House, the Roads (Opening and Closing) Act 1991 and the attached regulations came into operation on 1 November 1991 following extensive review of the old Act.

In general, the Act provides local government with an efficient procedure to alter the road pattern in the State and at the same time protect the rights and interests of individuals and the public generally. That is the outline of the provisions of the Act and regulations. As the honourable member has said, this matter first arose in November 1987 when the Corporation of the City of Adelaide closed off portion of Barton Road, North Adelaide, at its junction with Mildred Road to prevent non-residential traffic, except for buses, from travelling that section of the road. As a consequence of a Supreme Court ruling that followed, the proper procedure for closing roads, either under the Roads (Opening and Closing) Act or the temporary closure proceedings contained in section 359 of the Local Government Act, was found to be at fault.

Consequently, on 21 May 1992 the corporation commenced proceedings under the Roads (Opening and Closing) Act 1991 to formalise the situation. The proposal was duly advertised by the corporation in the *Government Gazette* and the *City Messenger* and attracted considerable response from parties either objecting to or supporting the proposal. I understand there were many objections and many in favour, so it has become quite a contentious issue.

At a meeting on 28 September 1992, as the member for Spence has indicated on many occasions, the Adelaide City Council resolved to proceed with the proposal. Formal documentation is now being prepared for lodgement with the Surveyor-General. I understand at this stage that that documentation has not reached the Surveyor-General. However, as a consequence the Surveyor-General will be required to undertake a survey and provide a submission to me. I must indicate to the House that one of the objecting parties to the proposal is the adjoining corporation, the town of Hindmarsh, which has made a submission on behalf of its constituents, particularly concerning the public's right to convenient access to and from the range of retail, service and medical establishments in North Adelaide and in the city itself.

The documents had not been lodged with the Surveyor-General, I am informed, as of lunch-time today. Obviously, the process commences with the Surveyor-General, with the report coming to me.

STATE BANK

Mr S.J. BAKER (Mitcham): My question is directed to the Premier. After being told by a State Bank director, Mr Rod Hartley, who I understand was also his own director, on 2 October 1990 that Mr Marcus Clark was 'acting in a dangerous way' and should be dismissed or stripped of his powers, why did he take no action, and why did he sit in silence while the former Premier told this House on 13 December 1990 that he had full and unqualified confidence in Mr Clark, and that the Managing Director and the board were doing their best in difficult circumstances?

An honourable member: How will you deal with that one?

The Hon. LYNN ARNOLD: Very easily. I suggest that the honourable member actually refer back to the evidence given by Mr Hartley himself before the royal commission, as well as my own evidence before the royal commission, but I accept the fact he may be too jaundiced and too cynical to peruse my own evidence. Mr Hartley's evidence states quite clearly what transpired at that meeting in 1990, which is referred to in the Royal Commissioner's report, indicating that Mr Hartley was wanting a meeting with the then Premier. That was not able to take place. He had conversations with Barbara Reed, and he then wanted to talk to me. At that meeting it was clear that he was expressing very great concerns. I might say that he did not have actual substantiation for those concerns beyond what had recently taken place as a result of a visit he had undertaken on behalf of the bank to New Zealand.

It was the events in New Zealand that had particularly alarmed him and caused him to want to speak to me. At that meeting we discussed his concerns and he was clearly very agitated and concerned about the role of Marcus Clark, but the key point is what then transpired.

Twice during that meeting I said to him, 'Do you want me to raise this matter with the Premier?' On each occasion he said, 'No', he would do it. That is the key. I raised it at the first part of the meeting and then towards the end of the meeting.

Members interjecting:

The SPEAKER: Order!

The Hon. LYNN ARNOLD: The very fact that I—

Members interjecting:

The SPEAKER: The member for Mitcham and the Deputy Leader are out of order.

The Hon. LYNN ARNOLD: The very fact that I asked the question twice was because I wanted to make absolutely sure that I was following the course of action that he wanted me to follow.

Members interjecting:

The SPEAKER: Order! The member for Adelaide is out of order.

The Hon. LYNN ARNOLD: I already knew, as a result of what he told me at that lunch, which is sustained by the royal commission report itself, that he had already made contact with the then Premier's office, he had already communicated concerns to them and, in his own words, he was personally going to communicate concerns to the then Premier himself.

As my own evidence before the royal commission goes on to say, that matter was then left at that, and some time later I asked whether or not the then Premier had received information about Rod Hartley's concerns, and the answer to that question was 'Yes'.

Members interjecting:

The Hon. LYNN ARNOLD: I followed that up. Let us come to the point about collective responsibility, because that is the key point that the honourable member is getting to. In a number of references in the report it is made clear that statutory and indeed 'ultimate responsibility for Government proposals or advice to the bank' was to rest with the Treasurer. That appears in the first paragraph on page 43, and the report also indicates that 'ultimate responsibility for the relationship between the Treasury and the bank rested on the Treasurer'. That appears on page 282, in paragraph 7. However, it is fair to say that the report really makes no attempt to describe or analyse the 'collective responsibility of Government or of the Cabinet in respect of any of those events it describes or criticises'. While referring from time to time to 'the Government' the report concentrates in its analysis almost exclusively on the roles of the Treasurer, Treasury and the Under Treasurer.

MEDICARE

Mr HAMILTON (Albert Park): Can the Minister of Health, Family and Community Services advise what discussions are taking place or have taken place between the Health Commission and South Australian hospital administrators to determine the allocation of recent Medicare agreement funds to reduce hospital waiting lists; and, specifically, can the Minister advise when my constituents can anticipate that a proportion of these funds will flow on to the Queen Elizabeth Hospital to reduce waiting lists in the western suburbs?

The Hon. M.J. EVANS: I appreciate the question in relation to this important initiative because, of course, the ongoing Medicare discussions have made available to South Australia the sum of $4 million in the first year and over $2 million in the second year as part of the ongoing two-year initiative to reduce booking list waiting times.

The honourable member requests information about steps that have been taken to secure these projects, and I have to advise him that as yet no individual project has been funded, because the commission is seeking initiatives from each of the major hospitals to allow a competitive process to determine the best projects to come forward which will allow the most advantageous strategy to be adopted in relation to patient care.

We would expect that a meeting of CEOs from major metropolitan hospitals will be held shortly so that successful projects can be announced early in December 1992. One would assume that the bulk of those early projects will be concluded by early 1993—perhaps in March or April of that year—which will allow a significant amount of money to go straight into the short-term measures which will assist patients in reducing waiting lists. Therefore, I can advise the honourable member that in relation to his hospital, as with others, those initiatives will become available shortly and will take place over the next two or three months and ultimately will follow a more long-term process in which other initiatives will be selected to have an impact on the waiting list question over a much longer period and to address some structural issues identified in the Hunter report, which should allow us to tackle this matter on a long-term basis.

Members interjecting:

The Hon. M.J. EVANS: I refer to those aspects of the Hunter report relevant to this issue.

STATE BANK

Mr OLSEN (Kavel): Does the Premier agree with his predecessor, who said on 10 September in this House that the Government has never entered into secret pre-election deals with the State Bank?

Members interjecting:

The SPEAKER: Order!

The Hon. LYNN ARNOLD: Mr Speaker—

Dr Armitage interjecting:

The SPEAKER: Order! The member for Adelaide is out of order. The Deputy Leader is out of order.

The Hon. LYNN ARNOLD: I take it that the honourable member actually wants a reply to the question, so it is probably relevant to come up with some points. The matter that I guess the honourable member is referring to is the situation with respect to interest rates in 1989, and that appears at the top of page 296 of the report. I just make the point that there are two dot points at the top of page 296 that should be looked at. As to the second dot point, in terms of the compensation to the bank, the report states:

> The way in which it was paid can only be described as surreptitious.

It goes on to say:

> The bank itself had stipulated no publicity and the manner in which the payment was made was such as to minimise the risk, whether or not intentional, of public disclosure of the arrangement.

Another dot point appears before that, and that situation needs to be clarified, because that dot point says:

> There is clear evidence before the commission that, in media statements and electoral advertisements and 'propaganda' prior to the election, it was the Government who claimed credit for holding down interest rates.

What I believe the Commissioner is referring to there is the HomeSafe campaign.

Members interjecting:

The SPEAKER: Order!

Mr D.S. Baker interjecting:

The SPEAKER: Order!

The Hon. LYNN ARNOLD: I find that statement outrageous and I suggest that the member for Victoria questions another member on. his own back bench who made that accusation some years ago and then had the integrity to go and check it out. He then had the guts to come back to me and say that he admitted that it was an incorrect statement. I suggest that the member for Victoria be careful in what he says, because I have never been guilty of that.

Members interjecting:

The SPEAKER: The Leader is out of order. The Premier.

The Hon. LYNN ARNOLD: Before the last election there was a HomeSure campaign as part of the Government's election campaign.

Members interjecting:

The Hon. LYNN ARNOLD: Are you saying it was not there?

Members interjecting:

The Hon. LYNN ARNOLD: Now you are saying it was there. What was the essence of that campaign? The essence of that campaign was to say that we would cap the effect of the home loan interest rate costs to householders in South Australia, those who had fallen victim to the deregulation of interest rates. So that in fact was holding down interest rates.

Members interjecting:

The Hon. LYNN ARNOLD: At the time, the Liberals actually claimed that it was a copy of theirs. They now seem to want to forget about that, but there is no doubt that that was in the public arena. As to the matter of the interest rate subsidy arrangement, I can only draw attention to the Commissioner's finding on page 296, and that is a matter about which I have answered previous questions.

Members interjecting:

The SPEAKER: The Leader is out of order. The member for Kavel is out of order. The member for Peake.

ADULT EDUCATION

Mr HERON (Peake): Will the Minister of Education, Employment and Training provide the House with an update on the adult re-entry programs in our South Australian schools?

The Hon. S.M. LENEHAN: I thank the honourable member for his continuing interest in the question of adult re-entry. In November 1989 my predecessors in my portfolio, that is, the former Minister of Education and the former Minister of Employment, Technology and Further Education, jointly announced that they would look—

Members interjecting:

The SPEAKER: Order!

The Hon. S.M. LENEHAN: —at the delineation of functions and future direction of cooperation between oth the Department of Education and the Department of Employment and Technical and Further Education to facilitate adult re-entry programs. Since that time nine senior colleges and campuses have been specifically set up to cater for re-entry students. In February of this year 3 296 full-time equivalent adult students were enrolled in South Australian secondary schools, and of these some 82 per cent were enrolled in secondary colleges or senior campuses. The mandate is to provide for adult students who are genuinely returning to complete their school studies and those who require bridging programs to enable this objective to be achieved.

It is important to note that there are regular meetings between the campuses and that the principals of these adult re-entry schools meet about seven times a year, as do the campus managers. The work of the colleges and campuses is coordinated and policy issues such as enrolment, counselling, composition of the school council and so on are addressed. It would certainly appear from the figures that I have quoted that the adult re-entry program is viewed very positively, particularly by the students who are involved in this program but also by the general public. I should like to pay tribute to those mature age students who have gone back and taken the opportunity for a second chance. It is important for students who miss out the first time to have this opportunity. It would seem that we really are getting it right in South Australia with respect to mature age students.

STATE BANK

Mr S.J. BAKER (Mitcham): I direct my question to the Treasurer. In view of the criticism in the royal commissioner's report about the performance of State Treasury, does the Under Treasurer Mr Emery still have his full confidence?

The Hon. FRANK BLEVINS: The question of Mr Emery is interesting. I just want to point out that the Under Treasurer, to whom almost all the remarks of the Royal Commissioner are directed, was Mr Prowse, who is of course no longer the Under Treasurer. Since Mr Emery has been Under Treasurer he has worked tirelessly and successfully to put the bank on a sound footing. I think what has been achieved by Mr Emery over the past 21 months has been absolutely outstanding. I concede that there was considerable criticism of the former Under Treasurer and of Treasury itself. Whether that was all entirely warranted some would argue 'No' and some would argue 'Yes.' As regards Mr Emery's position, that is something that I suppose as we digest the report and take into account various views on it in a number of areas it will become clearer in time.

ARCKARINGA COALFIELD

Mrs HUTCHISON (Stuart): Can the Minister of Public Infrastructure advise what impact a proposal to develop the Arckaringa coalfields in the State's far north for power generation would have on the Leigh Creek coalfields? In the Business section of the *Advertiser* dated Saturday 14 November (page 48) it was stated:

The Electricity Trust of South Australia is considering a new proposal to develop the Arckaringa coalfields in the State's far north for power generation. Under the proposal, the higher quality coal would replace Leigh Creek coal for the Northern Power Station at Port Augusta.

The Hon. J.H.C. KLUNDER: I well imagine that the general tenor of the article in the *Advertiser* last Saturday might have caused some concern at Leigh Creek. Certainly, if one reads the quote in the article—and I presume it is attributed to Arthur, the Managing Director of Meekatharra—which states that if the proposal were accepted it would take about a year to gain the necessary mining approvals and a further two years to develop and mine, one sees that it tends to put this into a much different time scale from what the actual situation is and has been for some considerable time. Indeed, one might argue that over the past 20 years very considerable effort has been put into this area by both private industry and by the Government to evaluate and assess the State's low grade coal deposits and try to get the cheapest energy available for the generation of electricity for this State.

For some years Meekatharra Minerals has been indicating that it believed that its deposits in the Wintinna/Arkaroola area, including the latest Westfield deposits, are of reasonable quality, and it was asked to put in a preliminary proposal. It submitted such a proposal on 9 September this year to the Electricity Trust for the supply of 3 million tonnes *per annum* of coal from the Westfield deposit to the Northern Power Station at Port Augusta. The Westfield deposit, which is situated close to the Tarcoola/Alice Springs railway line, forms part of the Arckaringa coalfield in the State's far north. The proposal envisages a fly-in fly-out underground mine, supplying the existing 250 megawatt units as well as a possible third unit at the Northern Power Station. Of course, members who are aware of the proposal for a national electricity grid council would know that that introduces a complicating factor into this.

The Meekatharra Minerals Ltd proposal is, of course, confidential and I cannot discuss the details of it here, but it is a very preliminary proposal which offers a range of prices for the coal depending on the assumptions, sensitivities and coal schedule used. Initial indicators are that the prices that are put on the table by Meekatharra appear higher than those for Leigh Creek, which suggests, of course, that it would make sound economic sense for ETSA to continue mining Leigh Creek coal and using it at the Northern Power Station at Port Augusta. ETSA, together with the Department of Mines and Energy, is currently making a brief appraisal of the proposal in terms of its assumptions, sensitivities and coal schedules with a view to being able to compare the prices on an equal basis with the costs of mining Leigh Creek coal, and it expects to finish that brief appraisal by the end of this calendar year.

STATE BANK

Mr S.J. BAKER (Mitcham): In view of the Treasurer's statement in response to my previous—

The SPEAKER: Order! A question is a question; an explanation is an explanation. There will be no comments.

Mr S.J. BAKER: In view of the criticism by the State Bank Royal Commissioner of the performance of State Treasury while Mr Drowse was Under Treasurer—

The SPEAKER: To whom is the question directed?

Mr S.J. BAKER: My question is directed to the Premier. In view of the criticism by the State Bank Royal Commissioner of the performance of State Treasury while Mr Prowse was Under Treasurer, why is Mr Prowse still a member of the boards of the bank and SGIC?

The Hon. FRANK BLEVINS: The report was tabled an hour and forty minutes ago. I have not been—

Members interjecting:

The SPEAKER: Order!

The Hon. FRANK BLEVINS: Are you suggesting that I should have given a copy to Mr Prowse on Friday?

Members interjecting:

The Hon. FRANK BLEVINS: Is that what you are suggesting?

The SPEAKER: Order! Interjections are out of order. The Treasurer will direct his remarks through the Chair.

The Hon. FRANK BLEVINS: I apologise, Mr Speaker; you are quite correct. The report has been tabled for less than two hours and, as I said, as the report is digested, what events follow after some proper reflection—

Mr S.J. Baker interjecting:

The SPEAKER: Order!

The Hon. FRANK BLEVINS: That was an extraordinary interjection from the member for Mitcham, who said that I sat through the royal commission. I never went anywhere near the royal commission. However, as I said, the report has been tabled for less than two hours. When it has been considered in a mature way, decisions as regards Mr Prowse's position and so on will be taken and will be announced.

HOUSING TRUST SUBCONTRACTORS

The Hon. T.H. HEMMINGS (Napier): I direct my question to the Minister of Housing, Urban Development and Local Government Relations. What savings have accrued as a result of the introduction of zone tendered maintenance in the Housing Trust? The Minister and the House will be well aware that many subcontractors who work on South Australian Housing Trust maintenance projects live and work in the Elizabeth and Munno Para area. I recently received a deputation of subcontractors seeking assurances that any changes to the tendering process would not be detrimental to their livelihood but. would improve it.

The Hon. G.J. CRAFTER: I thank the honourable member for his question and acknowledge his interest in matters relating to public housing not only during his period as Minister but in his work within his electorate which contains so many Housing Trust properties. I can advise the House that most maintenance on Trust dwellings has in the past been let by selected contract. Current policy is to let future maintenance contracts on a competitive tender basis. In line with common commercial practice, the Trust has introduced a

competitive tendering process, including zone maintenance contracts for day-to-day or breakdown maintenance work. Detailed consultative processes with all the key interest groups, including representatives of industry, contractors and unions, have preceded the implementation of this new tendering process. Four specific trade areas—plumbing, electrical, carpentry and internal painting—are considered appropriate for this tendering arrangement.

Based on pilot outcomes, Statewide zone tenders for the plumbing trade were offered to existing contractors in May 1992. Contracts reflecting savings in excess of $1 million were awarded in July 1992. In July 1989 interior painting costs were reduced by 20 per cent as a result of the tender process established at that time. Interior painting has been retendered twice with the cost savings maintained.

Separate consultative meetings with electrical contractors have been initiated, and tenders closed in October of this year. Consultative meetings for the carpentry trade are continuing. The Trust anticipates the letting of tenders for this trade in early 1993. Some 1 400 contractors work with the Housing Trust throughout the State and 400 to 500 of those contractors work almost exclusively on Housing Trust work. In excess of $40 million per annum is expended by the Trust on its extensive maintenance program.

STATE BANK

Mr D.S. BAKER (Victoria): Following the findings of the State Bank Royal Commissioner, will the Treasurer now withdraw the statement that he made on 1 September 1992, immediately after the resignation of the member for Ross Smith as Premier, that 'The bastards in the bank got him' and, if not, why not?

The Hon. FRANK BLEVINS: Nobody in this Parliament looks forward more than I do to the subsequent reports of the Royal Commissioner. I assume that after those two, which deal more fully with the question of the board and the management of the bank, we will have the *piece de resistance*—the Auditor-General's Report. I expect that the Royal Commissioner and the Auditor-General will name them for me. I am reluctant to name people in Parliament, but I will give the House a clue: they were all Liberals.

Members interjecting:

The SPEAKER: Order! The Leader is out of order. The member for Adelaide is out of order for the third time, and the next time he will be warned.

HOME OWNERSHIP

Mr FERGUSON (Henley Beach): Can the Minister of Housing, Urban Development and Local Government Relations advise the House what steps he is taking to ensure that the Australian dream of home ownership is made available to and secured for as many South Australians as possible, and particularly for those South Australians on low incomes? It was reported to me the other day that a recent item on the SBS *Dateline* program revealed a frightening situation in Britain, where some housing values have slumped dramatically, leaving many families with mortgage debts significantly greater than the current market value of their home. I understand that similar situations have occurred in other predominantly English-speaking countries, including Canada and Ireland.

Of most concern is that this slump in property values may hit ordinary families with modest homes as well as the inflated mansions of the rich. What concerns my constituents and should concern every member of this House is that the housing policies of South Australia do not permit this sort of occurrence here or, at the very least, we are aware of the potential for it to occur and are taking action to minimise any impact on this State.

The Hon. G.J. CRAFTER: I thank the honourable member for his question. I am sure that all members will agree that it is a long-felt and sought after assurance to have safe, secure and affordable housing available for all Australians. It is part of the so-called great Australian dream. In fact, we have been spectacularly successful in this country, and particularly in South Australia where almost 70 per cent of all South Australians have achieved this or are in the process of doing so. Where this is not possible, South Australia provides a comprehensive range of other housing options to meet that need through private rental, the public and community housing sectors, which are growing, and, if all else fails, through emergency and supported accommodation programs to assist in providing that safe and secure accommodation. I believe it is fair to say that as a result of the combined efforts of both the public and private sectors, South Australians are among the best served people in the world in terms of having their housing needs met.

The member for Henley Beach is absolutely right in drawing the attention of the House to the plight of families when forced into debt or the sale of their home, whether through collapsing house values or rising interest rates. I would take this opportunity, if I may, to caution South Australians who are considering buying their home at this welcome time of low interest rates to be careful not to overstretch themselves in their borrowing strategies. While I am not prophesying any imminent rises in interest rates, it would be wise for borrowers to allow for some movement upwards in rates in the coming years to ensure that they can still meet their repayments.

For example, take a family on $25 000 per year who borrows $70 000 at an initial rate of 8 per cent. This family will be paying $518 per month in mortgage repayments, or 25 per cent of their income. Once the fixed interest rate period was over, after, say, 12 months, the rate then moves to the variable rate of around 10 per cent. Repayments on the same loan would then be $614, or nearly $100 extra per month. Should interest rates go up to, say, 13 per cent, as we have experienced in recent times, the same family would be paying approximately $778 per month, or 37.5 per cent of their household income. This is almost 50 per cent more than the amount that was being repaid at the beginning of the loan. I know that some of the figures can vary slightly, depending on the length of borrowing time for the mortgage and such; however, my main point remains the same, and that is for borrowers not to be seduced by banks and other lending institutions in this time of low interest rates who do not show proper regard for the welfare of the families

borrowing the mortgage by ensuring that they can meet some movement upwards in rates should that happen.

GRIEVANCE DEBATE

The SPEAKER: The proposal before the Chair is that the House note grievances.

The Hon. J.C. BANNON (Ross Smith): I should like to make some brief initial responses to the first report of the Royal Commission into the State Bank of South Australia. The report is a valuable first step in the process of fully understanding what went wrong and why. It must be remembered that this is the first of four reports: the Commissioner's report on terms of references 2 and 3 and the Auditor-General's Report on the internal workings of the bank are still to come. Only then can the questions be answered.

The Commissioner has identified the crucial issues of the Government/bank relationship and the essential dilemma of reconciling commercially independent operation and State exposure. He has been extremely critical of me in my role as Treasurer in not seeking adequate information or establishing appropriate monitoring procedures.

While I accept some of that criticism and could reasonably expect it, I was not prepared for the harsh way in which it was expressed. The format, which rarely puts my arguments or explanations as part of the discussion, does not allow the reader to understand the basis on which the commission draws some of its conclusions. Having addressed all the issues in my evidence at considerably more length than any other witness, including the Managing Director and Chairman, the Commissioner, I regret, did not see fit to record more of my arguments. Although the commission attempted to avoid hindsight, there is insufficient weight given to the climate in which the bank was established and began operating.

The report of the Royal Commission into the Western Australian Government's Commercial Activities has confirmed that the conscious attempts to avoid what I perceived as dangerous interference in general commercial matters were well justified. Ironically, this did not save the bank from disaster. There are numerous instances of the bank providing misleading or wrong information or, in many other cases, simply failing to provide information at all. The commission points out the way in which the bank sought to give the most favourable impression of its operations to me and to Treasury.

Reasonable reliance on the prudential supervision of the Reserve Bank and the audited accounts was misplaced because of the failure of either the Reserve Bank or the State Bank to inform me of the concerns which were being expressed. Similarly, it appears that we could not rely on the integrity and accuracy of the independently audited accounts. I was deliberately kept in the dark about many matters.

Members interjecting:

The SPEAKER: Order!

The Hon. J.C. BANNON: Notwithstanding this, the commission believes that I and Treasury should have been more rigorous and demanding of the bank, particularly in the latter stages. He refers to my misplaced faith in the board and Mr Clark, in particular.

Members interjecting:

The SPEAKER: Order!

The Hon. J.C. BANNON: I can only say that I believe that attitude was reasonable and proper in the circumstances. It was consistent with the principle that a managing director and board should have responsibility for the conduct of an organisation's affairs. My attitude to Mr Clark is not so strange, as the Commissioner calls it, when it is remembered that I was not aware of many of the problems and the board's concerns were never clearly or strongly produced.

The weight given to Mr Hartley's views, which I would argue were nowhere near as clearly conveyed as he suggests, also needs to be matched by my knowledge that he was not a regular attendee at meetings prior to the end of 1989 when I specifically asked him to play a more active role in the board. I had a right to rely on the Chairman's advice in this matter which did not reflect Mr Hartley's views. A board which extended Mr Clark's contract in August 1988 telling me how delighted they were to have his services for a further period and which in February 1990 provided him with a major salary bonus was surely not expressing great concerns.

Members interjecting:

The SPEAKER: Order! The member for Coles will come to order.

The Hon. J.C. BANNON: Many elements of his findings touch on a basic issue of public administration which greatly concerns me. It is one thing to be held to account for action taken by me in response to recommendations of Treasury or the bank board: it is *very* unfair to be held accountable for their state of mind.

Members interjecting:

The SPEAKER: Order!

The Hon. J.C. BANNON: For a Minister, oblique advice, as was provided to me on occasions, is simply impossible to deal with.

The Hon. Jennifer Cashmore interjecting:

The SPEAKER: I warn the member for Coles.

The Hon. J.C. BANNON: Roth a board charged and empowered by Parliament to run a bank with protection against arbitrary removal and a permanent Public Service are surely required to provide direct and clear advice. The Commissioner cites many instances where this did not happen but seems to suggest that the responsibility for this lay with me to a large extent. I find that difficult to accept.

What I have found personally devastating has been the language the Commissioner has used which, by its strength and colour, seemed to damn me beyond the report's findings. Phrases such as 'the Treasurer himself preferred not to look at the picture too carefully', 'blind indifference to a potential significance', 'dazzled by Mr Clark', 'living in splendid indifference', 'his eyrie of blissful ignorance', and 'the Treasury was the faithful courtesan to the Treasurer's expectations' are extremely hurtful and unfair, in my view. On the other hand, I am prepared to accept that I was more like Leonidas than Horatio, particularly in view of the outcome. The

Commissioner has had the advantage of access to all relevant material—

Members interjecting:

The SPEAKER: Order! The member for Kavel is out of order.

The Hon. J.C. BANNON: —over a long period of time (18 months) and a team of experts—a task I was not able to accomplish on the spot as events unfolded. I would expect the following reports to supply a broader picture.

The SPEAKER: Order! The honourable member's time has expired. The member for Mitcham.

Members interjecting:

The SPEAKER: It is your time.

Mr S.J. BAKER (Mitcham): It is to the ultimate shame of this Parliament that we have had to listen to the pathetic explanation by the former Premier of this State, the member for Ross Smith. If ever I have heard an apology for losing the State $3 150 million, which he tends to forget, having cheated his way into government, this is it. For him to stand in this Parliament making an explanation which he expects the people of South Australia to accept is quite unforgivable. That is on top of 20 pages of whitewash delivered by the Premier today. One would never believe that this Government had made a mistake—never believe it!

The Premier, the member for Ross Smith and most of the frontbenchers have run away, but at least some of the backbenchers will sit and listen. When I looked at those 22 strained faces today, I was not sure whether they were feeling guilt for the problems that have been caused by their own inaction or whether they were feeling the strain of having the truth come out. That is what has happened: the truth has come out. I believed that this Parliament would be treated to a real apology by the Government, but all we have had is 20 pages of whitewash by the Premier. There was no acknowledgment of guilt at all: it was a pathetic apology on behalf of a Government that has caused grave difficulty to this State.

Let us see what the record states. We have 400 odd pages of the report of the royal commission. I hope that members on the back bench read it. Members of the Cabinet have had three or four days to make up their excuses, but not the members of the backbench; they will have to explain to their constituents why they cannot have their roads fixed and why they are on waiting lists for hospitals. They are the important members, but they are not the ones who are ultimately responsible; they were not part of the 10 who made the decisions at that time.

Let us see what the report states. It states that the bank was the centrepiece of the greatest economic disaster this State has had visited upon it. In relation to the Government, the report states that there was a complete failure to comply with the State Bank Act. That is the first conclusion one could draw from this report. There was a failure to heed warnings when they appeared from 1988 onwards. Read the report! There was a failure to ask questions when questions cried out to be asked. Read the report! How many times was this issue raised? The Government and all Ministers associated with it failed to act responsibly and to accept responsibility. It is not just the poor member for Ross Smith, who should resign from this Parliament immediately, but the whole frontbench: it is the whole Government that should resign. There is a complete failure to accept accountability.

Members should go through the 400 pages of the report. They are a damning indictment of the lack of action taken on behalf of the Government when it was vital that we did so. The Government appointed the bank board: it was no-one else but the Government. The Government received the financial reports of the board.

An honourable member interjecting:

Mr S.J. BAKER: The honourable member picks out one member, but they were appointed by the Premier and Treasurer of this State. He is ultimately responsible, as is the Government of this State. It is quite clear that the Government was well aware of the problems with Mr Marcus Clark but took no action. The Government is 3 150 million times responsible for the disaster that has been visited on this State. The Government took the credit for the bank's illusory profits. I ask members to read the report. The profits were propped up so that the Premier could go to the election with a very large bank balance. The former premier of this State stands condemned but, more importantly, each member on the front bench opposite who did not take action is condemned, and this Government should resign.

Mr HAMILTON (Albert Park): A couple of years ago, a petition was presented to the Parliament regarding whether or not a person could protect oneself in one's own home or on one's own property. Subsequently, a select committee was set up by this Parliament, and a codification was brought before this House. That has been well received in the community, in fact so well that I constantly receive requests through my electorate office for a leaflet published by the Crime Prevention Unit of the Attorney-General's Department and the police.

That leaflet spells out clearly what people can or cannot do in relation to whether they have reasonable belief that they will be assaulted or attacked. I raise this issue because there has been recent publicity—and it is rife in the community—as to how far a person can go if he or she wants to punish their child. It is not uncommon to hear parents say, 'I am not allowed, by law, to smack my child.' That is arrant nonsense. It is the sort of thing that is peddled by conservative forces in this State—that one is not allowed to discipline one's own child.

Members interjecting:

Mr HAMILTON: What I say to parents or to people who raise this issue with me is, 'You cannot assault your child; you cannot beat your child, but you can use reasonable chastisement,' as the member for Spence says. I raise this matter because of an article which I picked up interstate and which stated:

> The child punishment laws should be questioned.

In part, it goes on to say:

> Parents should be given clear legal guidelines on how far they can go in spanking or otherwise punishing their child, according to a prominent South Australian children's advocate.

The article continues:

> Sally Castell-McGregor, Director of the South Australian Children's Interests Bureau, said there should be a clear definition enshrined in law between the 'safe smack' and a vindictive act causing harm.

Whilst I am not prepared to spank a child, because I have some reservations about that, I believe that an occasional smack would not hurt a child. The Parliament, or the Minister, should consider this matter so that people know exactly where they stand in bringing up their child. It is my very strong conviction that, right from the time a child is born—from the cradle, through the formative years and into puberty—a child is taught the difference between right and wrong. They are the years during which a child's mind is most impressionable.

The Parliament should look at the issue of exactly how far a parent can go in disciplining their child, because people want to know exactly how far they can go. Above all, they should be made aware that they can discipline their child, that they can give their child a reasonable smack. They should not be able to assault their child, and I enjoin the Minister responsible to have a look at this issue, because it is one of those issues, such as the protection of one's property and one's self, in relation to which a leaflet should provide information, giving a telephone number from which one can get information.

Mr OLSEN (Kavel): I listened with interest to the member for Ross Smith, who said he was hurt by the language of the Royal Commissioner, hurt by the damning indictment of his period as Premier and Minister in this State. The only question I pose to the member for Ross Smith is, 'How does he think South Australians feel; how does he think they will hurt as a result of his incompetence, his inaction, over a number of years?' Vindication of any politician is rare, particularly in the circumstances that we now see before this House. It is clear from the Royal Commissioner's report that not the Government but the Opposition has been vindicated. The tragedy and the loss in this inexcusable disaster for which our children and their children will pay overrides any sense of vindication. There is no room in this Chamber today for, 'I told you so,' for it can find no place amongst the outrage and the anger which South Australians now rightfully feel towards this Government.

When we on this side of the House first raised this issue, it was not only the Government that derided and dismissed our questions but also sections of the media and some in the business community who criticised our approach. The fourth estate was far from fearless and intrepid in its reporting. It did not want to believe that the bank or this Labor Government could get it so wrong and said that we were just point scoring, that we were simply doing this for the sake of developing political points against the Government and being negative for the sake of being negative—that is what was said.

I admit that I did not expect this Government to so debase the Westminster system of accountability and responsibility to this Parliament. Sure, we had the guise of commercial confidentiality on many deals to avoid explanation, scrutiny and assessment. What clearly stands out now is the need to re-establish accountability to Parliament, for what we are dealing with here is simply, and importantly, nothing less than the welfare of South Australian citizens. No Government takes office without having the State's best interests at heart. For it to do less than its best usually leads to defeat at the next election, and no Government sets out with that goal.

Accepting, then, what John Bannon set out to achieve for South Australians, it seems incomprehensible that the procedures of the Government could be so wrong and leave us with a mountain of debt and so many wasted years. The then Premier bunkered himself behind minders, who pushed the packaging and the style of the 1980s—all hype, all gloss, all headlines, and no substance. When problems arose, he simply closed the door and waited for the problems to go away. That was his style of operation. What we witnessed was an abdication of responsibility in the office of Premier. The member for Ross Smith and his Ministers were warned, but they do did not heed the warnings and, to that extent, all Ministers are culpable for this disaster.

On page 11 of his report today, the Premier referred to the fact that the member for Ross Smith was not involved with the appointment of Mr Tim Marcus Clark. Tomorrow I will take it one step further when there was a file and a briefing clearly for the member for Ross Smith prior to the appointment of Mr Tim Marcus Clark; he was well warned, and he did the same thing then as he has done through the whole period of his premiership, namely, 'If you've got a problem, ignore it. Wait for it to go away.' This State can no longer afford either the emperor or his palace: it must settle instead for first amongst equals, a Premier for South Australia who will serve South Australians, and that is not what we have had in recent times.

I note that the report refers to Minister Rann and a motion debated in the House on 13 April 1989—a motion designed for political survival, a motion which ignored the warning signs, a motion which said—

The SPEAKER: Order! The honourable member's time has expired.

Mr ATKINSON (Spence): There is an old saying that, when the cat is away, the mice do play—and, in this case, the mouse. For two years in this House I have taken up the matter of the unlawful closure of Barton Road, North Adelaide by the Adelaide City Council. The member for Adelaide, who is financially interested in this matter, has failed—

Dr Armitage: So are you.

The SPEAKER: Order! I have had to speak before to the member for Adelaide.

Mr ATKINSON: —to join issue with me. Indeed, the member for Adelaide has been conspicuously silent on this matter until just recently when a bout of sinusitis laid me low in my bed at home. When I was absent from this Chamber, the member for Adelaide finally had something coherent to say about the question of Barton Road. He took exception to an update which I issued to about 600 people, more than 100 of them in the electorate of the member for Adelaide, about the progress of the fight to reopen the road. He took exception to the following paragraph:

> Liberal Party spokesman Dr Michael Armitage believes we the residents of Spence ought to make do with access via Jeffcott Road, and he is on record in *Hansard* as saying this.

The member for Adelaide said, 'That is wrong; that is incorrect. I did not say they had to make do with access via Jeffcott Road. I said they had to make do with Jeffcott Road as an exit.' Mr Speaker, I put it to you that, on this issue, there is no difference at all. The member

for Adelaide is saying that people who live in the western suburbs should be allowed to enter his hallowed territory only through Jeffcott Road. He tells us that Jeffcott Road is an access to the west. If the member for Adelaide thinks that Jeffcott Road has a westerly alignment, I suggest that he has grave difficulties with his own alignment and ought to see a doctor about it. If you stand on Jeffcott Road with a compass, you will see that it is clearly a northerly exit. In fact, there is no—

Mr Brindal interjecting:

The SPEAKER: Order! The member for Hayward is out of order.

Mr ATKINSON: There is no connection to the west between the town of Hindmarsh and North Adelaide. There is only Jeffcott Road, which has a northerly alignment. The member for Adelaide and, indeed, the whole Liberal party want everyone in the western suburbs to take a very long detour to get into North Adelaide, because the Liberal party sees people of the western suburbs as second-class citizens. Indeed, the Liberal party has preselected its candidate for Spence, Mr Danny McGuire, who has to wear the Liberal Party snobbery in the Spence electorate. He has to go out to those people and tell them that Liberal Party policy is to keep Barton Road closed in perpetuity. I do not think he will have very much success.

The member for Adelaide says that not only has he a conflict of interest; not only does he stand to make thousands of dollars if Barton Road can be kept closed, but the member for Spence also has a conflict of interest. Why does he say that? He says that because the member for Spence—me—made an application for an easement to be able to travel through the bus lane on Barton Road if the closure stayed in place. It is true: I did that, and so did about a dozen residents on park Terrace. I live more than a mile from the Barton Road closure. If I were to be granted that easement—which I will not be—it would be entered on my certificate of title, and I put it to the member for Adelaide that that would add not one cent of value to my property, because I do not drive. The only value to me of that easement is as a pedestrian or cyclist.

The idea that I have some conflict of interest is nonsense. However, the member for Adelaide stands to make thousands—indeed, tens of thousands—of dollars if he can use the Liberal party to keep that road closed permanently. At the next election in the electorate of Spence, the big issue will be: what will happen with the road? If you vote Liberal in Spence, you are voting to close the road permanently.

Mr D.S. BAKER (Victoria): When I moved in this parliament for the setting up of the State Bank Royal Commission, we wanted to find out, first, what went wrong; and, secondly, who was responsible. Further, as I said on many occasions publicly, most importantly, legislation should be enacted so that this never happened again. We are at the end of phase one. We know what went wrong and we now know who is responsible.

The member for Ross Smith told this parliament today that he did not like the strong language used by the Royal Commissioner in describing his actions, but he forgot to tell us one other thing that the Royal Commissioner said. The Royal Commissioner said that he had tampered with three elections in South Australia by holding down interest rates, to the point of illegality and cheating the public of South Australia. For the member for Ross Smith to come in and complain about that finding of the Royal Commissioner is a blight on this parliament.

In his report, the Royal Commissioner said—not about the first two elections in which the member for Ross Smith and his Government interfered but about the 1989 election:

> That prompted the Treasurer to remark that such a move [to let interest rates go up] would be very bad in the December quarter. It is difficult to identify any factor other than the prospect of an election during that period which would have prompted that remark.

Mr Prowse understood that the Treasurer was seeking to discourage an interest rate rise in the December quarter—that is, leading up to the 1989 election which the Government bought with 48 per cent of the vote.

The next member I wanted to deal with is the premier and his gutless performance today. He tried to blame the Liberal Party for the problems, because we forced the royal commission to be set up, I suppose. He had the temerity to say that in January the then Leader of the Opposition (myself, as the member for Victoria) said that he was staggered by the extent of the losses—some $900 million. We had predicted in December that those losses would be $400 million to $600 million, and we were ridiculed in the press—they said it was scandalous.

I want to pay tribute to three people, two of whom were on my staff, who did the work with respect to the financial arrangements on that royal commission. I refer to Kim Bills and Richard Yeeles, and one other person who does not want to be named, a former State manager of one of the major banks. They toiled for three months to ascertain the problems in the State Bank. The Treasury, SAFA and the premier's advisers, some 200 people, toiled for three years to hide them. I pay tribute to those three people and the work they did. If it had not been for their persistence under severe criticism that we were receiving in this parliament, this charade would never have been exposed to the public of South Australia.

I will finish by referring to the hapless member for Briggs, who skulked out of the Chamber before anyone else after Question Time today, and we can well understand why. We all know the motion he moved in this House, and we know what the Royal Commissioner said about even the State Bank blushing. In the time I have left, I will read a few lines of what the member for Briggs had to say:

> It is a course of action designed to place Party before State, and to put headlines before facts.

In talking about the Liberal Party and the State Bank, he said:

> In every sense of the word, this campaign amounts to the grossest economic vandalism this Parliament has seen in recent memory. Every member opposite can hardly deny that the State Bank is one of South Australia's greatest success stories.

He goes on to say:

> So why has the Opposition in South Australia, at the behest of its Leader, set about to undermine one of the greatest success stories in the economy of this State?

These are comments by the member for Briggs with respect to his motion. He went on to say:

It is a fact that the new home borrowers have generally enjoyed lower rates in South Australia than in any other State.

That is because it was a fraud.

The SPEAKER: The honourable member's time has expired.

THE FLINDERS UNIVERSITY OF SOUTH AUSTRALIA (MISCELLANEOUS) AMENDMENT BILL

The Hon. S.M. LENEHAN (Minister of Education, Employment and Training) obtained leave and introduced a Bill for an Act to amend the Flinders University of South Australia Act 1966. Read a first time.

The Hon. S.M. LENEHAN: I move:

That this Bill be now read a second time.

I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

The amendments proposed by this Bill are concerned with internal administrative matters at the university.

Certain changes to definitions in the Act are proposed which will—

affect who can vote in University Council elections. The existing provisions disenfranchise part-time general staff.

change the anachronistic definition of "University Grounds". The current definition means that the University lay-Laws only apply to lands in the Mitcham or Marion Council areas.

Several senior academic positions are created. Changes are proposed to the size of the Council's quorum and to voting procedures.

The most significant amendment is to address the possibility of a deadlock between the Council and the Convocation of the University over the University's statutes and regulations. The term "Convocation" means all Flinders graduates and such graduates of any other University as the Flinders Council may decide to admit to the Convocation. Council has decided that all graduate members of staff will be members of the Convocation.

The Flinders Act currently states that the Convocation has the power of veto in relation to any statute or regulation made by the Council. Flinders Council believes that it and the University of Adelaide are the only two Universities in Australia where a body such as Convocation has the power to veto legislation referred to it by the Council.

Flinders Council is given full responsibility for the day to day management of the University under the current Act, and it is therefore not conducive to the efficient running of the University's affairs for there to be no provision in the Act for the breaking of deadlocks between Council and Convocation over University statutes and regulations.

It should be stressed that the decision on the part of the Government to make this amendment is not related to the current dispute between Council and Convocation over the administrative structure most suitable for the internal administration of Flinders. This matter is for Flinders itself to decide. However, this dispute has brought to the Government's attention the fact that in the event of a disagreement between council and Convocation there is no means to resolve the deadlock and, hence, disputes over statutes could continue for extended periods of time in a damaging fashion before a satisfactory solution is found.

The Government therefore believes that for the proper management of the University the Council must be given the power to make a final decision on the matters related to the management of the University which it will recommend to the Governor for approval.

It should be stressed that interested parties within the University community are generally given ample opportunity to influence decision making on most matters before they go to Council for approval. The various constituent parts of the University community are all represented on the University Council.

The structure of the Convocation is such that it is very difficult for the Council or the University's administration to bargain with it or to reach a compromise which can be guaranteed to be final. Convocation votes on matters referred to it at meetings called by the placing of newspaper advertisements and the like. Questions must be voted on in this way because there are over 20 000 members of Convocation and it is too impractical and expensive to carry out a postal vote which would require the University to send large sets of papers to all potential voters, most of whom would not be interested in the matter.

Therefore, in practice, Convocation consists on any particular occasion of whoever happens to be present at the meeting. Meetings are generally poorly attended, which means that small groups of members could block decision-making indefinitely by getting comparatively small numbers of people to turn up to a meeting to vote in a particular way. Convocation has a quorum of only 20 people out of over 20 000 members.

The President of Convocation has advised me that a review of Convocation's role and functions is underway and I look forward to receiving that report.

Clause 1: Short title is formal.

Clause 2: Amendment of s. 2—Interpretation. This clause amends the definitions of students and staff so as to allow the Council of the University to define the parameters of the four individual categories. These definitions have particular relevance to Council elections. The definition of "University grounds" is substituted with one that caters for land that is owned or leased by the University or that is under its care, control and management. This definition has relevance to the University's by-law making powers.

Clause 3: Amendment of s. 5—The Council. This clause changes the composition of the Council by providing for the appointment by the Council of not more than two of its Pro-Vice-Chancellors and Deputy Vice-Chancellors. Such an appointment to the Council will be on the nomination of the Vice-Chancellor.

Clause 4: Insertion of s. 9A. This clause provides that a Pro-Vice-Chancellor or Deputy Vice-Chancellor who is appointed to the Council will hold office for two years and will be eligible for reappointment on the expiration of a term of office.

Clause 5: Amendment of s. 14—Vacancies in membership. This clause is a consequential amendment.

Clause 6: Amendment of s. 16—Appointment of Chancellor, Vice-Chancellor, etc. This clause recasts the provision dealing with appointment of Pro-Chancellors and Pro-Vice-Chancellors. There will still only be two Pro-Chancellors, but the Council may appoint any number of Pro-Vice-Chancellors and Deputy Vice-Chancellors as the Council thinks fit.

Clause 7: Amendment of s. 18—Conduct of business in Council and Convocation. This clause provides that a majority decision of the Council or the Convocation will be of the votes

actually cast at the meeting, thus allowing for abstentions. The quorum for Council meetings is increased from six to twelve. The quorum for the Convocation remains at twenty.

Clause 8: Amendment of s. 20—Power to make statutes, regulations, etc. This clause removes the Convocation's current power of veto of statutes and regulations made by the university's Council. The new provision provides for a negotiation process between Council and Convocation over a disputed statute or regulation. If agreement is not reached within the stated time limits, the Council may proceed to have the statute or regulation promulgated.

The Hon. D.C. WOTTON secured the adjournment of the debate.

CONSTRUCTION INDUSTRY LONG SERVICE LEAVE (MISCELLANEOUS) AMENDMENT BILL

Consideration in Committee of the Legislative Council's amendments:

No. 1. Page 2 (clause 3)—After line 2 insert new paragraph as follows:

'(ca) by striking out from subsection (1) the definition of

"electrical or metal trades work" and substituting the following definition:—

(a) electrical or metal work associated with

(i) the construction of erection of a building

or

structure that is to be fixed to the ground and wholly or partially constructed on site;

or

(ii) the alteration or demolition of any building or structure;

(b) the construction, erection, installation, extension, alteration or dismantling of

(i) a transmission line, or any plant, plant facility or equipment of a major kind used in connection with the supply of electricity;

(ii) a lift or escalator;

or

(iii) any air-conditioning, ventilation or refrigeration system or equipment of a major kind;

(c) electrical or metal work associated with other engineering projects (whether or not within the ambit of a preceding paragraph)'.

No.2. Page 4, line 5 (clause 5)—Leave out "as a foreman: and insert "on site as a foreman and within 12 months before commencing work as a foreman the person worked in some other capacity as a construction worker under an award referred to in the first schedule or the regulations".

No.3. Page 4, line 15 (clause 5)—Leave out "the employment" and insert: "in the case of a foreman, the on site employment".

No.4. Page 4, lines 23 to 26 (clause 6)—Leave out the clause.

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

That the Legislative Council's amendments be disagreed to.

The first of the Legislative Council's amendments relates to the redefining of electrical and metal trades work. I have received correspondence from the Electrical Trades Union, the first paragraph of which states:

The consequence of the amendments passed in the Legislative Council is that approximately two-thirds of electrical employees working in the electrical contracting industry would be, in practical terms, excluded from ever obtaining long service leave.

They go on to say that their current effective financial membership in that area is 1 436. If we divide that by three and multiply it by two, there are more than 800 people who would be disadvantaged by that amendment, and for that reason I disagree with it.

The next two amendments would deprive people already in receipt of those benefits, and the fourth amendment relates to direction and control of the board. In previous debate I have made it clear that it is my view in respect of a number of matters occurring in the State now that, if Ministers are to be blamed for things that happen, they ought to have the responsibility of direction and control. The member for Mitcham shakes his head like a clown at the Royal Show, but that is the reality, and for those reasons the Government rejects these amendments from the Upper House.

Mr INGERSON: The Opposition supports the amendments for the following reasons. The definition placed in the Bill by members in another place has corrected a position about which we were concerned in the debate here, that is, to make sure that the maintenance contractors, specifically those involved in the housing area, were eliminated from coverage under the Bill, and the first amendment does exactly that.

The second and third amendments clearly change the definition of 'foreman' to give a much narrower description and that reflects our concerns. The fourth amendment relates to ministerial control, and I would like to point out to the Committee that, under the Act, any investment made by the long service leave board is required to be approved by the Premier. We have a high level of veto and a high level of interest and control over these investments in any case under the existing Act.

Secondly, all the investments are required to be checked by an actuary every 12 months, and so we already have in the Act specific and strong financial control over these funds. The Opposition cannot understand why the Minister wants to extend his own personal control when already the Premier has control over these funds. As that seems ridiculous to us and because this amendment corrects that position and leaves control in the hands of those two people, we believe the amendment should be supported.

Motion carried.

STAMP DUTIES (PENALTIES, REASSESSMENTS AND SECURITIES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 15 October. Page 867.)

Mr S.J. BAKER (Mitcham): This Bill as it stands is highly objectionable. In part it is illogical and ill conceived, and it is probably the worst construed piece of legislation ever to come before this House. We can understand when the Government takes a particular stance and why the Minister of Labour Relations will protect his union mates: that is not difficult to understand. Obviously, at all stages we would fight the Government

on the stance it has taken in relation to protecting members of the union movement.

However, the Opposition cannot fathom whether this Bill was meant to be a mad grab for cash or whether it is a poorly constructed attempt to stop rorts in relation to stamp duty. Business is hurting out there at the moment, and any increase in taxation on business will not assist in the recovery of this State. This legislation, above many other measures, would have exactly that effect and would cause business in South Australia untold damage.

Already we have seen a flight of capital from this State through the loss of head offices and because of the taxation system that pertains in South Australia, We have already seen the loss of capital in relation to FID and BAD taxes, which are the highest or equal highest in the country. Therefore, any further measure to diminish our competitive situation would have to be vigorously opposed. The Opposition is vigorously opposed to the Bill's present provisions.

As to what the Bill does, I will take up the issues that have been raised in the Minister's second reading contribution. The Bill creates new taxation regimes and it is absolutely confused about what is financial accommodation. That is the central issue that we are addressing in the Bill today. According to the Minister's second reading contribution we find that he wishes to stamp out all areas of stamp duty avoidance.

He names four areas: first, third party guarantees on loans, where the only registered security is the third party's contingent liability under the guarantee. The second area involves put option schemes whereby the lender requires a third party to meet loan repayments in the event of the borrower defaulting. The third area involves the reduction of mortgage duty by the use of secured bill facilities, with the dutiable mortgage being set at a nominal amount; and the fourth area is the execution of an instrument by a borrower prior to a loan being advanced.

The Opposition can only deduce that the people who put this little piece of legislation together did not understand what they were doing. For example, to suggest that bill facilities are a means of tax avoidance is far from the truth. Bills have been used as a normal means of business financing for decades. I have been approached by various people over time who have asked my advice as to which way they should go in the market.

Businessmen have asked me, 'Stephen, what would you do today in relation to your loans?' I have suggested that they do not rely on my advice, but I have made a number of observations. I have observed that, if the interest rate market is coming down, one would be mad to lock oneself into the market in the long term. It is just economic stupidity to take out a long-term loan when interest rates are falling. So, there are a number of options available to people who are considering the strategy that they should follow in those circumstances.

One such item is bill facilities. I know that a large number of businesses around town are operating on bill facilities; not because they are a means of stamp duty avoidance but because they are an accepted means of controlling finances and liabilities. Many of them now would be perhaps considering going longer term and taking out a normal loan, with perhaps a five or 10 year horizon. I can say that for a period of 18 months I would have been advising them to go short in the market—they could borrow short and use the bill facilities available until the market stabilised at a lower level. What I could see was quite predictable—with the economy falling into a state of great disrepair there would certainly not be the same demand for money that applied in the late 1980s. With a lack of demand and with unemployment rising there was only one way for interest rates to go and that was down. So, bill facilities should be looked at in terms of what they do for particular businesses or individuals and they should not be seen as an alternative to normal borrowing facilities in relation to the avoidance of stamp duty, because they are far from that.

In respect of the item about put options—where a lender requires a third party to meet loan repayments in the event of the borrower defaulting—we are talking about a contingency. With respect to the areas of the Bill that cause me and the business community great concern, we have not had an *entree* previously into the taxing regime under this Bill of such items as guarantees and indemnities—contingent liabilities. I find absolutely abhorrent the whole proposition that the Government, under the tutelage of the Treasurer, should even be contemplating applying duty to a possible future liability which may never arise. If we look at the State Bank, for example, how would the guarantee for the State Bank have been handled if it was a commercial transaction? How would the Commissioner of Stamps determine what the ultimate liability would have been early in the 1980s? Would the Commissioner have assessed it at zero? Would the Commissioner have assessed the ultimate liability of the Government as $3 150 million? The concept is stupid and should be recognised as stupid. It should never have been put in the Bill in this way.

Guarantees and indemnities are part of normal practice. Banks have lent money and have secured those loans against other assets, basically property. On occasions they believe that that asset backing is insufficient. They will ask for a guarantee or indemnity in the event of failure. If we look at overseas trading we see that Australian companies are battling for contracts overseas, and as part of the negotiations we would normally expect a guarantee to be given—a guarantee that a potential contractor can meet his or her obligations. That guarantee is in place as a matter of good faith. It has nothing whatsoever to do with financing; it is related to normal business practice.

We know that it is very common for families and members of families to be guarantors for other members of the same family. That may be a very close relationship of mother, father, son or daughter, or it may extend further to cousins, uncles, step-fathers, grandfathers, grandmothers and so on. Yet, the Bill before us alleviates that situation only in particular circumstances where there is no company arrangement. So, whilst there was a recognition that personal guarantees were part and parcel of the multitude of backing that has been provided in normal business transactions, the Government said, 'We do not want to affect families, but we do not mind affecting businesses. But, if we are going to affect families we will deal with it only in a very straight forward fashion and only allow some form of alleviation when there is a recognised relationship and no corporate relationship is established.' Often those guarantees are never called upon. Unfortunately, in recent years they

have been called upon more and more as the principal has defaulted under the economic crisis created by the Federal and State Labor Governments.

Whilst we understand Treasury's need for money—we can understand that with $3 150 million required to pay off the losses of the State Bank and a realistic assessment of State debt being over $8 billion and State liabilities in excess of $13 billion—and whilst we can understand why the Government would wish to grab for any cash that it can get, what it is doing here would send the State broke. The outflow of people and businesses would be just extraordinary. The problem I have is that I do not believe that the Government has any fundamental understanding of what is normal business practice. Because, if it had and if it understood the ramifications of what it was doing, it would never have embarked on this endeavour, unless, of course, it believed that the ultimate pursuit of more cash for the budget was to take precedence over the future health and well-being of the businesses of this State.

What started out as a desire by the Government to cut out what it classes as rorts in the system has turned out to be demonstrably hopelessly ill-conceived. I would like to address the particular matters in the Bill because it is important that the readers of *Hansard* fully understand the impact of the provisions. Under this Bill the Treasurer has signified that effectively all instruments that have been noted on a mortgage document are dutiable. The Bill also allows the Commissioner additional powers to reassess dutiable transactions, and the penalties have been increased under the legislation. The Bill alters rental duty provisions that were being circumvented by the use of guarantee fees payable to a third party. I will not discuss what will happen during the passage of the Bill, but simply reflect on the debacle that we have in relation to the $10 fee.

The Government has made the mistake of believing that anything is fair game. It believes that a guarantee which cannot really be measured should have some duty applied to it at the normal *ad valorem* rate. It believes that any indemnity given should have duty applied at the *ad valorem* rate irrespective of whether those items will ever be called upon to be met. It is no wonder that we have had a storm of protest from all organisations consulted on the Bill and many other interested parties.

The main charges levelled at the Bill are that its penalties are draconian and create problems when applied in conjunction with criminal sanctions; that the Commissioner is not bound by previous assessment decisions even when all the facts were at his disposal; that the Commissioner will be able to apply duty retrospectively; that guarantees provided by family and friends may now be caught; that indemnities will be fully dutiable even if never exercised; that duty will be payable on the maximum amount to be secured, not on the actual advance; that bailment arrangements, such as a motor vehicle floor plan subject to securitisation, will be dutiable; that there could be a double application of *ad valorem* duty if the legislation is read strictly; and that there is a progressive increase in stamp duty as further funds are advanced, even for small amounts.

There is the inclusion of bills of sale, stock mortgages and even possibly crop lands as dutiable instruments if they have been noted on the mortgage. There is culpability for incorrect or misleading disclosure to apply to the person engaged to stamp the instrument, even if the instructions under which they were operating were wrong. All cross guarantees become dutiable under this ill, even if they relate to the same amount of money, so we have multiple duty. Statutory declarations on transactions will place land brokers at a commercial disadvantage to lawyers.

The Bill is unfair. Not only will it lead to unconscionable burdens being placed on businesses and individuals but the sheer interpretation involved with the provisions of the Bill will lead to considerable delays in dealing with the Stamp Duties Office. We have already heard that it takes a number of days on occasions to get advice from the Commissioner on some of these transactions. The Opposition supports the Government's endeavour to stamp out rorts and the special deals that we have seen, particularly in relation to No.1 Anzac Highway, but when it takes the action that it is taking in this Bill we have to say, 'No. Go back and try again.' I believe that actions taken on behalf of all the people who have contacted me and other Opposition members has led to a rethink on this matter and we may see that coming out in the amendments which will be dealt with in Committee.

In relation to the specific clauses, we believe that hiking the penalty for failure to cancel a duty stamp from $20 to $500 is exorbitant. That is just one of the provisions contained in this Bill. We also note that the Bill makes non-compliance, for whatever reason, an offence. It is quite offensive to people in the industry to see the way that the Bill has been constructed. The issue of statutory declarations again causes great concern to people who are dealing in instruments every day of the week. For example, land brokers would find the problems of complying with statutory declarations quite unmanageable, and they do not have the same capacity as lawyers who can call upon their colleagues to evidence documents.

One of the clauses only allows for a defence against inappropriate stamping information submitted by a professional to reliance on information supplied by a party to the instrument. This should be expanded to include a person who instructed the professional on behalf of the party to the instrument. It is common in business, particularly with some of the more expensive transactions—for example, some land transfers run into millions of dollars—for a legal firm to act on behalf of a client and instruct a land broker or another legal firm to carry out the stamping arrangement. In those circumstances it is not the agent who does the stamping who is responsible but the person who issued the instructions.

As regards the provision in relation to the upstamping of documents within two months, if the rest of the clauses were allowed to stand, the Commissioner of Stamps would have to take a long holiday. I believe the strain would be far too much for him to cope with the enormous volume of business that would be imposed upon him as a result of the Bill. We expect a large volume of business, because there is an acceptance in the business community, even in relation to normal borrowing activities, that the instrument is upstamped at the time of the transfer of the property or of a change in

the amounts borrowed. There has not been compliance in a number of areas with stamp duty, but I question whether two months is sufficient.

The issue of how much scope the Commissioner should have to reassess after he has made a mistake, with the full details at his disposal, needs to be contested. We do not believe that if the Commissioner has made a mistake, and all the information has been in front of him, he should have the right to come back and say, 'I have made a mistake. I am sorry about that, but we will now have to recover more money.' We can understand it if the Commissioner has not been provided with full details or has not had the correct details and has been deliberately misled. In those circumstances, we do not have any difficulty about the Commissioner having a right of reassessment, but if the Commissioner makes a mistake the traditional understanding is that it is his mistake and he wears it on the chin.

There is a question mark whether the right of reassessment should be as long as five years. There has been a unanimous suggestion by all the people who have contacted me that it should be reduced to three years. It is deemed that that is sufficient time for the Commissioner to make up his mind as to how well the document and the detail have complied with the Act, unless some element of fraud is involved. If fraud is involved, we have no difficulty about allowing the Commissioner to apply penalty duty and the full force of the law. However, where there is an absence of fraud or misrepresentation, we believe it is up to the Commissioner to sort out his affairs within three years rather than five years.

In relation to bailment plans, we recognise that is a new form of taxation that is being introduced. We do not agree with new forms of taxation being imposed. I have said previously that the State is suffering enough disability without further imposts on normal business transactions. The most common bailment plans are in relation to motor vehicle floor plans. That is when a group of often new and sometimes used vehicles are financed by a company and that company has a right of possession over those vehicles until such time as the obligation is satisfied by the payment of the loan or there is a default and the company recovers the goods. Bailment plans are common in the hire industry and in the sale of motor cars. The Opposition will not call for a division on this issue, but this is yet another impost on business and we ask why. It cannot be classed in the same area as some of the deeds and some of the ways in which stamp duty was avoided in relation to No. 1 Anzac Highway. So, the net is spread wide.

Regarding bills of exchange, I have noted previously that, again, this is a new form of taxation. Bills of exchange have been part of business practice for decades, and the Government now wishes to bring them within the auspices of the Stamp Duties Act. The Opposition rejects the proposition that bills of exchange should be used in this way. If we look at the duty payable on bills of exchange, we question why a person would make a decision on the basis of the stamp duty that could either be avoided or paid, because the margins in respect of bills of exchange on normal commercial loans would far outweigh any consideration of stamp duty. Therefore, the Opposition totally rejects the proposition that bills of exchange can in any way be considered in the same vein or in the same financing mode as normal commercial loans. Under the umbrella of 'let's stop the rorts', the Government has decided to widen the taxation net, and the Opposition expresses its displeasure.

The issue of penalty duty is not clear under the Act. Under section 3 of the Act, 'duty' includes 'penalty duty'. However, if we look further into the Act, we could be excused for suggesting that the Commissioner has the right to apply duty upon duty at a double penalty rate. That is the wide interpretation of the Act, and we believe that matter should be clarified. Conceivably, under the terms of the Act, penalty duty could represent four times the amount of duty that is unpaid either through avoidance or lack of knowledge.

Regarding offences, to which I have referred previously, members of the industry say that, if an offence is committed, it should bear some relation to the criminal code. As I have observed, failure to live up to a duty should not be regarded as an offence. The issue of a close relative offering a guarantee has already been referred to. It should be clearly understood that the provision covering a close relative does not extend to the normal members of a family, such as grandparents or step-parents, who could be involved in the process, and it certainly does not extend—and this is a greater problem—to family companies. To that extent, the exemption relating to financial accommodation in the form of guarantees is inadequately covered.

Under the Bill, the Commissioner has the right to tax multiple securities even if they relate to the same loan. The Opposition does not think that is appropriate. If, say, $100 000 has been borrowed, the stamp duty should relate to that $100 000 and not to other instruments which could have been put in place with a certain degree of conservatism because the original borrower was not fully trusted. So, there could be multiple securities. I have already mentioned the issue of cross securities.

I have already stressed the importance of understanding what actually happens in terms of guarantees, indemnities and contingent liabilities. They are consequential upon an event, and that event is normally the failure of the principal to meet his or her obligations under the loan. Those matters have never been and should never be considered as dutiable, yet this provision makes them so. Further, the question of how we can measure the full extent of an indemnity or a guarantee remains unanswered.

Clause 27 covers a range of transactions, including performance bonds in the building industry, chattel leasing arrangements and letters of credit. To further complicate the issue, the duty shall be applied to the maximum amount potentially obtainable, and this could include ancillaries such as interest penalties, stamp duties, rates and taxes. Also, the requirement for statutory declarations on discharge of mortgages with unspecified amounts appears unduly onerous and should be replaced with a certificate. There is confusion in clause 6 between what is a mortgage and what is a security, and I have already mentioned the issue of double duty. The Government has even had the hide to introduce duty on a caveat. A caveat normally protects an interest over an unregistered mortgage, and the Government has decided that this should be dutiable. Again, this changes the

taxation regime and further complicates the issue, and the Opposition rejects the proposition.

One issue of tremendous importance is the transition clause. Given the way in which the clause is constructed, if existing instruments are not up to date, they must be updated within two months. Under these provisions, if a business wishes to roll over bills of exchange, it will become liable for duty. To that extent, it makes the Bill retrospective. Legal advice regarding the transition clause as it stands is that the Commissioner could apply the new rules back to 1915. The consequences of that action would be quite extraordinary. So, that transition clause is unsatisfactory basically because of its retrospectivity and also because it does not meet the time honoured tradition of this Parliament that, if transactions have been undertaken in good faith and comply with the law of that time, at a later stage we should not be allowed to enact a further law to make that former action unlawful.

The final issue I wish to raise concerns the $10 fee on agreements. I have received an extraordinary amount of correspondence and an extraordinary number of phone calls on this matter over the past two or three weeks. this House, the Opposition said 'No' to the proposition of Members will recall that, when this matter was debated in an increase in stamp duties, but the Government did not actually analyse what it was doing. We found that the 20c stamp duty was being honoured in the breach and only $70 000 of revenue was being collected. I suggest that the Minister's second reading explanation must be dishonest because, if we multiply that $70 000 which was collected on the 20c duty by a factor of 50 (an increase from 20c to $10), we find that the amount of revenue would be $3.5 million. So, insufficient information was provided to the Parliament at the time. It was suggested that the total income from the new stamp duty initiatives when introduced would be about $3.2 million, and we someone did not do their homework. Now we have the increased many other duties at the same time. So, interesting situation where the Treasurer's advice on this subject could mean that just about anything was subject to the $10 duty.

In closing my remarks, I should like to cite the views of a number of business organisations. A document from the Land Brokers Society states:

> The society does not take issue with the intent of the Bill, but it does have concerns with some of the provisions and their impact on land brokers and their clients.

In particular, the society is concerned with new section 19(2), and it states:

> This provision may require a statutory declaration to be given to the Commissioner of Stamps; in fact, it is possible that the Commissioner may require a statutory declaration with every If this provision is passed in its present form, it will be one more instrument or with every statement accompanying an instrument. instance of inequality between landbrokers and solicitors.

The document refers to the onus of proof in relation to land brokers acting as agents, and I have already mentioned that matter. So, the land broking industry has grave difficulty with the provisions of new section 19 in relation to stamp duty declarations. It also has difficulty with new section 23a in relation to responsibility and right of reassessment.

I have heard from the banks, which are also very concerned about the ultimate implications if this Bill were to ever find its way into law. A number of areas in that submission have been identified. I have already received submissions on the $10 fee, but the banks point to new sections 77 and 80 as being of extreme cause for concern, particularly in relation to guarantees, which I have already mentioned. They have already taken up the issue as to whether five years is an appropriate term.

An analysis, which was circulated through Adelaide and which prompted a large number of telephone calls to my office, was done by one of the principal South Australian law firms. It has itemised nine areas of issue, namely:

> 1. Retrospective Tax. All financial institutions may be expected to upstamp at *ad valorem* rates, within two months from the Bill being enacted, certain securities including those which previously were stampable at only $4 or $10. For example, a mortgage which relates to a bill facility of say $10 million will have to be stamped further by the payment of another $35 000. These taxes will no doubt be passed on to borrowers. Securities could also include set-off arrangements. These are included in almost all financial documents.

So it is not only what is in the future: the Bill, as it stands, does not cover those people who have entered into arrangements in good faith in the past. The document continues:

> 2. Guarantees. All guarantees (except by a close relative or director of some companies) are to be stamped at *ad valorem* rates. For example, a guarantee relating to a $1 million liability will be liable to $3 500 stamp duty.
>
> Even if the guarantee is only a performance guarantee, the Stamp Duties Office will be able to estimate the potential monetary value of the obligation and assess duty on that basis. A guarantee by a father of his son's liabilities will be liable to only $10 duty, but a guarantee by a father-in-law of his son-in-law's liabilities will be liable to duty at *ad valorem* rates. Only guarantees by some relatives are stampable for only $10. Guarantees by grandparents and step relatives will be liable to *ad valorem* duty.
>
> 3. Contracts containing indemnities. All indemnities will have to be stamped at *ad valorem* rates. Almost all contracts, including building contracts, leases, lease assignments, rental contracts, mining contracts, finance contracts, insurance policies, re-insurance contracts and the like contain indemnities. For example, if a building contract is for a sum of, say, $200 000, then it could be liable to approximately $700 duty. A contract of an amount of say $20 million will be liable to approximately $70 000 duty.

I note that the $20 million sum chosen in this example is the same amount as that which applied to No. 1 Anzac Highway and on which $4.25 was paid. The document continues:

> 4. Assessment of security duty. Mortgage and security duty which was previously only payable on 'amounts advanced' will now be payable on all 'secured' amounts. Bill facilities, put options, third party guarantees and deposits of title to protect unregistered mortgages will now be liable to *ad valorem* duty.
>
> Security duty will be paid on the basis of an estimate of the maximum amount to be secured, not on the amount actually secured from time to time.

And that point has been made time after time by all the people who have contacted me. Further, the document states:

This is a serious departure from accepted stamp duties practice in Australia. South Australia will be out of step with the other States.

5. Collateral securities. Many securities previously exempt from duty will be stampable at *ad valorem* rates. In some transactions stamp duty will be payable more than once. At present, collateral documents are exempt. The exemption will be seriously curtailed.

6. Penalties and offences. Penalties are substantially increased. Many events will be made criminal offences.

7. Reassessment. The Stamp Duties Office will have the power to reassess transactions and require payment of further duty, even if the original assessment was made incorrectly by it through no fault of the parties to the transaction. If the Stamp Duties Office decreases duty payable, it will not be liable for interest on the amount of the excess paid for the time it was holding that amount.

8. Bailment plans. The rental business duty provisions will be dramatically broadened. Now, persons carrying on rental businesses are obliged to pay a tax of approximately 1.8 per cent of their receipts. The proposals will require financial institutions to pay the tax, where they hold title to stock as security for any finance, including guarantees, they provide. These changes are principally aimed at floor plan financing arrangements.

The provisions will extend the legislation to persons not only doing business in South Australia but also those who carry on business outside South Australia but deal with South Australians.

9. Company returns. Where the Stamp Duties Office has reason to believe or suspect that a company has failed to comply with section 59b (lodgement of returns relating to entries in its register under section 214(7) of the corporations law) it may estimate the duty which should be paid and make an assessment on this basis. This proposal could lead to arbitrary assessments.

That was a very full description of what was perceived to be at fault. I have a number of other submissions that encompass much of the detail contained in the legal interpretation which I have just cited. If the Minister would like to have it inserted in *Hansard,* I have a much more comprehensive interpretation. I am keeping this contribution to a minimum.

One of the corporations in South Australia has commented on the wisdom of applying stamp duty to bill facilities. It believes it will disadvantage South Australians and South Australian companies, and will lead to greater out-flows of capital from this State. The same company has commented on retrospectivity under the transition clause. So, there is a great deal of dissatisfaction.

An international company has made the point that I made previously, namely, that guarantees are used as a means of obtaining finance at a level lower than that of the normal market level, because the risk factor is reduced. To even contemplate asking for duty to be paid on those guarantees is quite unconscionable. Of course, the comment is made that guarantees are provided every day of the week for international contracts, and some of those are for very large amounts of money. It would be in the State's least best interests to apply stamp duty on guarantees as proposed under this Bill.

So, it is one of those issues which is highly complex and complicated. I have spent a considerable number of hours on the matter in an attempt to understand the complexities of the legislation and their impact. However, having received so many representations on the subject, I can only conclude that the Bill would destroy business in this State, or the little remaining business there is in this State, and it would make South Australians suffer a further competitive disadvantage to their eastern and western State counterparts. It would not be in the best interests of this State.

The Hon. FRANK BLEVINS (Deputy Premier): Very briefly, I thank the member for Mitcham for his contribution on behalf of the Opposition. It was an excellent contribution, well researched—perhaps a little wordy but, apart from that, first class, as we have come to expect on these issues. The measure is unashamedly an attempt to block tax avoidance schemes. A number of these schemes have been raised by Opposition members, quite properly, and I have agreed with them. This Bill principally is a response to the discovery of those loopholes. There is no doubt that, in closing loopholes, the expectation of the Government is that it will raise more revenue for the Government, and we make absolutely no apology for that.

In debate in this House, it is clear that the overwhelming majority of members—in fact, probably all bar one—want nothing whatsoever to do with raising revenue, only spending it. That is understandable, but it is a luxury not available to a Treasurer. A Treasurer has to raise it also. I agree with many of the points made by the member for Mitcham. He was quite correct in many of his criticisms of the Bill. The Bill has been before the House now for many weeks, and during that period extensive discussions have taken place. I expect that many of the difficulties stated by the member for Mitcham will be dealt with in the Committee stage.

I did not agree with all the honourable member's assertions. Some of them were, to say the least, debatable. Those that are still debatable—questions of interpretation—will always be with us. I have asked the Commissioner of State Taxation to consult with industry on some of those matters where there is still some argument. The member for Mitcham was plainly wrong in a number of the things he said. For example, he said that the Bill requires multiple securities to be stamped with *ad valorem* duty. I am advised that this is not the case. Caveats also were mentioned by the honourable member. I inform him that caveats have been liable for duty since 1988. Nothing has changed in that regard.

The honourable member made play of the position where the Commissioner makes a mistake which can result in a reassessment within five years. The honourable member said that many mistakes are made by withholding information, or correct information is not given, and in all fairness he has no problem with reassessments on those occasions. However, mistakes can cut two ways. The Commissioner can make a mistake that adversely affects the person liable to pay the duty, so I do not think that a period of five years is too long, particularly with respect to a person who has paid duty and finds within five years that too much has been paid. That can happen, and that person would be pleased that the Parliament has seen fit to include the five-year provision. I am advised that the Australian Taxation Office reassesses four years plus the current year, so it is fairly standard in the industry in these areas.

I could take up a number of other matters, but it is not appropriate to do so at this stage. It is a Committee Bill, and we will have quite extensive discussions in the Committee stage. I will be pleased to go through the points one by one during the Committee. There is no doubt that the issue of agreements is a vexed question. We have attempted to bring in amounts below which duty on agreements would not be paid, and I have indicated this outside the House. However, no matter where you set the line, a group of people will be just above the line and they will complain bitterly. Most of them have not been paying duty in any event, as their agreements have not been stamped as they ought to have been. It could be argued that we should not have much sympathy for tax avoidance, and avoidance in the area of stamping agreements is widespread. It is enormous, and it is a problem that has to be dealt with.

There are two ways of dealing with it. Enforcing the provisions would raise a very large amount of money, given the number of non-compliers that have come forward. It is quite staggering the amounts of money that have been calculated would be paid if everyone paid what they ought to have paid and obeyed the law. Of course, I considered that but, on balance, I preferred to take a different approach and abolish the stamping of agreements altogether. It seems to me a particularly irritating and annoying way of collecting revenue. The Government does not get terribly annoyed in these matters, but I imagine that, to small businesses, having to bother to play around with what were 20c stamps and what are now $10 stamps on relatively minor agreements is an utter waste of time. The business community can be doing something far more productive than that.

It is my intention to abolish all stamps on agreements and make an appropriate and equivalent adjustment to the *ad valorem* rate on conveyancing for those transactions over $1 million. So, it will not affect too many people at all. Again I thank the member for Mitcham. I know that on behalf of the Opposition he has put a tremendous amount of effort into the Bill, and that was shown in the quality of his second reading contribution. I look forward to a Committee debate that will be efficient, brief and one that will enable us to get these measures through without wasting the Parliament's valuable time.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—'Commencement.'

Mr S.J. BAKER: When will the Bill be proclaimed? I am really interested in whether it will be a prospective date or a retrospective date.

The Hon. FRANK BLEVINS: It will be prospective, and I am quite hurt by the question.

Clause passed.

Clause 3—'Interpretation.'

Mr S.J. BAKER: This clause causes some difficulties in interpretation. We will test this matter by amendment to be moved later. By changing 'duty' to mean 'duty (including penalty duty) chargeable under this Act', we then have an umbrella that duty includes penalty duty and, wherever the word 'duty' appears in the Act, it will include penalty duty. If one pays a penalty on penalty duty, one could have a penalty that represents four times the amount of duty originally unpaid. I raise this issue now but I will test it later by amendment.

Clause passed.

New clause 3a—'Denotation of duty.'

The Hon. FRANK BLEVINS: I move:

Page 1, after line 22—Insert new clause as follows:

3a. Section 10 of the principal Act is amended by inserting after its present contents (now to be designated as subsection (1)) the following subsections:

(2) Duty may be denoted by endorsement on the instrument on which the duty is chargeable if the endorsement is made in accordance with an authority granted by the Commissioner under this section.

(3) The Commissioner may, in his or her discretion, grant an authority to endorse instruments with stamp duty.

(4) An authority, if granted—

(a) must specify the class or classes of instruments to which it relates; and

(b) may be subject to conditions as to the manner and form in which endorsements are to be made under the authority and such other conditions as the Commissioner thinks fit; and

(c) may be varied or revoked by the Commissioner at any time.

(5) An instrument endorsed in accordance with an authority is taken to have been stamped with the amount of duty shown by the endorsement.

(6) A person who holds an authority must, at periodic intervals stated in the authority—

(a) lodge with the Commissioner a return—

(i) stating the total of the amounts endorsed under the authority during a preceding period to be determined in accordance with the authority; and

(ii) containing such other information as may be required by the conditions of the authority or by the Commissioner; and

(b) pay to the Commissioner a sum equal to the total amount endorsed under the authority during the period to which the return relates.

(7) If a person who holds an authority under this section fails to lodge a return, or to pay duty, within the time prescribed by the authority, that person is liable to penalty duty of—

(a) $50; or

(b) 10% of the duty payable in respect of the return period for each month up to the time the obligation to lodge the return and pay the duty is fully complied with,

whichever is the greater (but the Commissioner may remit penalty duty payable under this subsection wholly or in part).

(8) A person who—

(a) contravenes or fails to comply with a provision of this section; or

(b) knowingly endorses an instrument with an amount of duty less than the amount

with which the instrument is chargeable;
or

(c) contravenes or fails to comply with a condition on which an authority was granted under this section;

is guilty of an offence.

Penalty: $5 000 and, if the offence results in avoidance of duty, twice the amount of duty avoided.

(9) A person who, without being authorised to endorse instruments under this section, endorses an instrument in a way that suggests or implies that the instrument is endorsed under this section is guilty of an offence.

Penalty $5 000 plus twice the amount of duty chargeable on the instrument.

This new clause benefits taxpayer groups by allowing them to pay by return, which will reduce their costs, and I am sure that the Committee will agree that that is desirable.

Mr S.J. BAKER: The Opposition has no difficulty with the principle and the new clause reads particularly well. First, what means will be used to ensure that the schedule, which accompanies the payment, is ratified within the Stamp Duties Office so that the instruments are deemed to have been duly stamped?

The Hon. FRANK BLEVINS: Compliance tests are made from time to time and we have not found a great problem in this area. The method of payment is not novel. It is certainly new for this area, but it is one that is fairly standard in the Stamp Duties Office and its procedures have been found to be very effective. By and large, people are honest.

Mr S.J. BAKER: Will the Minister explain how the system will work? Will financial houses or land brokers bring the instrument into the Stamp Duties Office, and will it be duly stamped there and a bill sent out on line, or whatever method is being used, or will the document be retained within the office of the financial institution or landbroker?

The Hon. FRANK BLEVINS: The latter applies.

Mr S.J. BAKER: That could cause problems if the schedule as revised failed to match up with the schedules provided.

The Hon. FRANK BLEVINS: We have compliance tests that have been found to be effective. I believe, and life has borne me out, that basically most people are honest. Business people by and large are honest and they do comply with the law overwhelmingly. However, in an abundance of caution we have a few compliance tests just to pick up the odd one who may make a mistake.

Mr S.J. BAKER: As to the validity of the stamping, if a person goes into the Stamp Duties Office and the document is stamped there it is deemed to have been duly stamped. Because of the way the new clause reads, it will be deemed. that stamp duty will have been paid, but the document will not have been duly stamped. I wonder about the legal interpretation under such conditions and whether the document will necessarily be deemed to be fully stamped.

The Hon. FRANK BLEVINS: I take the honourable member's point, but I draw to his attention new section 10(5), which provides:

An instrument endorsed in accordance with an authority is taken to have been stamped with the amount of duty shown by the endorsement.

I am advised by the people who assisted me in drawing up these amendments that that is the appropriate way to deal with the problem that the member for Mitcham has raised, and I have no doubt whatsoever about the quality of that advice.

New clause inserted.

Clause 4—'Adhesive stamps to be cancelled.'

Mr S.J. BAKER: I move:

Page 2, lines 4 to 6—Leave out subsection (3) and substitute:

(3) A person who is required to cancel an adhesive stamp must not fail to do so in accordance with this Act.

Penalty: $50.

Two principles are involved in this amendment. The first involves taking out 'offence'. Members of the finance industry find it offensive that they are regarded as offenders if they do not comply with the Act. That non-compliance could be due to simple oversight. In this instance we are talking about a duty stamp which has failed to be initialled. That is what happens to cancel a duty stamp. A land broker puts a 20c duty stamp on a document and normally the broker will write his initials, with the date, across the stamp and it will be deemed to be cancelled.

If that person fails to do so, the previous penalty was $20; it is now to be $500 as well as being an offence, and that appears to the people who have read the Bill to be somewhat draconian. It is also difficult to understand why anyone should be charged $500 for failing to initial a duty stamp. It is a lot of hard work, steaming off a duty stamp and transferring it to another document, so I cannot see the relevance of this provision, except to say that people should comply and do the right thing.

The Hon. FRANK BLEVINS: I am advised that to take out 'offence' does nothing. If a penalty is stated in the Act, whether or not 'offence' is there, the penalty applies, so it does not help the member for Mitcham at all. The $500 penalty is a significant increase but, nevertheless, it is a significant offence and, again, I can only say that the people who have assisted me in drafting this provision have advised that $500 is consistent with other offences of a similar nature and seriousness. I have no doubt about the quality of their advice. However, there may be further debate in another place and, whilst at this stage I rely on the advice I am given, I am sure that if members in another place want to put further argument they will do so. We will see what happens.

Mr S.J. BAKER: I take the Minister's point. I do not intend to pursue the amendment any further, other than to indicate that 'offence' is offensive to people in the industry and we know that a well recognised construct of the law specifies that certain things shall be done. They do not necessarily then determine that it is an offence. The way the law is written, one is required to do such and such, with a penalty provided of $50, $100 or $200. Members of the finance industry would feel far more comfortable if 'offence' were taken out.

Amendment carried; clause as amended passed.

Clause 5—'All facts to be truly set forth.'

Mr S.J. BAKER: I move:

Page 2, lines 14 and 15—Leave out paragraph *(b)* and substitute:

(b) in a statement produced to the Commissioner prior to the stamping of a document.

That replaces paragraph *(b)*. As the Bill currently stands it requires a statement to accompany the instrument, but it would be better with the wording that I have suggested.

The Hon. FRANK BLEVINS: My advice is that it makes no difference and in the spirit of cooperation I am happy to accept the amendment.

Amendment carried.

Mr S.J. BAKER: I move:

Line 16—Leave out 'A statement affecting the liability of an instrument to duty' and substitute 'Any facts or circumstances affecting the liability of an instrument included in a statement under subsection (1).'

Again, this makes it abundantly clear what we are trying to achieve.

The Hon. FRANK BLEVINS: I regret that after going so well I have to reject this amendment. We believe our wording gives more certainty. Whilst I understand what the member for Mitcham is trying to do, I believe that the wording in the clause is far better. Accordingly, I reject the amendment.

Amendment negatived.

Mr S.J. BAKER: I move:

Page 3, lines 9 and 10—Leave out 'a party to the instrument' and substitute 'another person.'

The way the Bill currently reads this is the defence clause if an agent makes a mistake. It provides:

(b) if the defendant is a person who was professionally engaged to have the instrument stamped—to prove that the defendant reasonably relied on information supplied by a party to the instrument.

My advice is that there are many occasions, particularly involving large sums of money, where the party to the instrument is not the person issuing the instruction. What we have here is a limited form of defence. It is not uncommon for a second party to instruct a third party to stamp the document with details provided by that intermediary. Under those conditions there is no defence because the agent would be relying on the information provided to him by the principal and in this case there is no principal relating to the agent.

The Hon. FRANK BLEVINS: I oppose the amendment. I think it is perfectly proper that the professionals dealing with these instruments take every precaution to see that the information that they are using is absolutely reliable. Merely to ask another person—a third party who may not be a party to the instrument—creates the potential for another loophole and we do not want to do that. I think professionals have a very serious obligation on them and there is no doubt this is a higher obligation on them, and I think it is perfectly appropriate.

Mr S.J. BAKER: I understand the Minister's stance on this issue. I only reiterate that it is something that may be worth looking at in the passage between the two Houses. It may be useful to allow the defence when a person has been instructed by someone other than the party to the instrument in relation to the details provided to the Commissioner. I simply make the point and I am sure it will be pursued in another place.

Amendment negatived; clause as amended passed.

Clause 6 passed.

Clause 7—'Penalty for not duly stamping.'

Mr S.J. BAKER: I move:

Page 3, line 24—Leave out 'penalty duty' and substitute 'further duty'.

This is a test amendment. It relates to how duty is interpreted. The clause provides that the capacity to double up on the double duty is alive and well. I refer the Minister to the definition in clause 3, which provides:

...'duty' means duty (including penalty duty) chargeable under this Act;

It is with some degree of caution that we should clarify that matter. We should stipulate that it should be additional duty or further duty. In this case we have chosen the words 'further duty' rather than 'penalty duty' because 'penalty duty' can be well and truly misconstrued.

The Hon. FRANK BLEVINS: I am sorry I cannot accept this amendment, although I accept that it is a test amendment. I thank the member for Mitcham for his agreement that, if this fails, a whole raft of subsequent—

Mr S.J. Baker interjecting:

The Hon. FRANK BLEVINS: That will assist the Committee. With respect, we cannot quite grasp the kernel of the argument. It is made very clear in clause 3 that duty means 'duty (including penalty duty) chargeable under this Act.' That is a quite deliberate statement; that is absolutely the intention. We fail to see why the member for Mitcham would want to make any alteration to that. With respect, we just do not quite understand the intent or the explanation.

Mr S.J. BAKER: Well, I presume that I have explained it perfectly clearly, but it is difficult to grasp. If 'duty' includes penalty duty, the payment of a penalty on duty could involve double duty on the original penalty. That is why we want to clarify the matter and ensure that there is no confusion as to what the Commissioner could do under the circumstances.

The Hon. P.B. Arnold interjecting:

Mr S.J. BAKER: He may well be double dipping as the member for Chaffey suggests. If he is going to apply penalty duty on a duty which includes a penalty in the first place, we get four times the amount of duty owing. It is mathematically understandable, Mr Chairman, and I am sure that you have had no difficulty in understanding it.

The Hon. FRANK BLEVINS: I thank the member for Mitcham for that further explanation. Now I do understand it completely and I am even more opposed to it.

Amendment negatived.

The Hon. FRANK BLEVINS: I move:

Page 4—After line 3 insert paragraph as follows:

(f) by striking out from subsection (4) 'subsection (1)' and substituting 'subsection (1) or (1a)'.

This is purely for clarification. It ensures that mortgages are required to be upstamped.

Amendment carried; clause as amended passed.

Clause 8 passed.

Clause 9—'Reassessment of duty.'

Mr S.J. BAKER: I move:

Page 4—

Line 14—Leave out paragraph (a).

Lines 18 and 19—Leave out paragraph (c).

As far as I am aware, there has been a time honoured tradition that the Commissioner, if he had all the facts at his disposal, has the right to impose duty and there is no right of reassessment. That is my understanding of the way that the Act has operated in the past. Under this provision the Commissioner wants to have his cake and eat it, too. The Opposition does not feel kindly disposed to that. The Commissioner is seeking a power to correct his mistakes even where a document has been lodged for an opinion. If he makes a mistake in these circumstances, he should be bound by his decision. However, if incorrect, misleading or incomplete information has been supplied and that has led to the error, the Commissioner obviously has a right and that is retained by paragraph (b) which covers incorrect, misleading or incomplete information. Therefore, the Commissioner is well protected under the Act.

I understand that the Commissioner has not had a right to get back into the system if he has made a mistake when all the details given to him are correct. This provides a new power and there is some objection to it. Basically, it means that the Commissioner can be as slack as anything and not do his duty and, further down the track, say, 'I have a right to go back down the track and get the duty that I missed.' The Opposition has reservations about this provision and that is why I have moved the amendments.

The Hon. FRANK BLEVINS: In my response to the second reading I made the point that this cuts two ways. That is why we are intent on retaining this provision. At the moment, when the Commissioner makes a mistake, there is no provision for refunding. There is a very cumbersome process of *ex gratia* payments which is not desirable. I am strongly of the view that the amendments ought to be opposed. I think that on reconsideration by the member for Mitcham and by the Committee the Committee will agree. It is not an attempt to keep rampaging back at will to see whether there is anything else that we can obtain by turning over previous decisions; that is not the intention. It is a more sensible mechanism than what we have to do at the moment if the Commissioner has made one of his very rare errors in favour of the taxpayer.

Amendments negatived.

Mr S.J. BAKER: I move:

Page 4, lines 23 and 24—Leave out paragraph (b).

It seems entirely unsatisfactory that the Commissioner should have a right to reassess duty when someone has an appeal in progress or has won an appeal. It reads as follows:

A reassessment may be made... whether or not an objection or appeal has been made or instituted under this Act.

That seems to be entirely unfair. I take the point that, if misinformation has been provided, the Commissioner has a right to go back, irrespective of what the courts have said in the process; but, if the Commissioner has had someone rule against him (if an appeal has been instituted and been successful), I see no reason why the Commissioner should have the right to go back and get duty. It is objectionable legislation as far as I am concerned, and I have received a number of representations on this subject. I ask the Committee to support the removal of paragraph (b).

The Hon. FRANK BLEVINS: I accept the amendment.

Amendment carried.

Mr S.J. BAKER: I move:

Page 5, lines 1 to 3—Leave out subsection (3) and substitute:

(3) A reassessment of duty under this section must be made within three years after the date of the original assessment or such further period as the Attorney-General may, in a particular case, allow on the basis that fraud or deliberate evasion of duty appears to have occurred.

There are two parts of this clause that cause me concern. One relates to the extended period of five years. The Minister has already said that five years is better if someone has overpaid. I do not know that too many people have ever overpaid their duty. The second part is of greater concern to me, though not necessarily to the industry because it regards five years as far too long. The clause, as it is constructed, provides:

...unless the Commissioner has reason to suspect fraud or deliberate evasion of duty, in which case it may be made at any time.

That means that the Commissioner, without any scrutiny, can say, 'I suspect some fraud, so I will keep it for six, eight or 10 years.' I do not think that is satisfactory. The clause as it stands is too bland; it has too much scope for the Commissioner to continue investigation, harassment or whatever he might deem appropriate without a check and balance in the system. If this clause is to survive, it must have a check to say that there is a cut-off point; somebody else should make the decision whether that cut-off point should be exceeded.

The Hon. FRANK BLEVINS: I strongly oppose the amendment.

[Sitting suspended from 6 to 7.30 p.m.]

The Hon. FRANK BLEVINS: Before the break, the member for Mitcham moved an amendment to alter the period of five years. As I did in response to the second reading debate, I point out that five years is consistent with the Income Tax Assessment Act. It is deemed appropriate that this provision be consistent with that Act, and I see no reason to change it. The question of the Commissioner having unfettered powers under this provision is qualified significantly by the words 'reason to suspect'. If the Commissioner acted arbitrarily or capriciously, action against the Commissioner could be taken in the court, so safeguards exist.

Mr S.J. BAKER: Regarding the first point, the people who have contacted me believe that three years is a reasonable time, and I concur with that recommendation. As far as the second issue is concerned, if this clause is to survive I believe it should be qualified to make quite clear that the Commissioner cannot act unilaterally, that there must be a very good reason. The Minister is wrong in saying that the courts would adjudicate on the matter. We know that is not correct; in fact, in most cases if the Commissioner were asked, 'Why did you extend past five years?' he could say, 'Well, I had reason to suspect fraud.' That is an easy out. It is a bit like when the police break down a door and say, 'I have reason to suspect.' An individual has an automatic right to seek redress, but

there is no automatic right under this Bill, because the first right of appeal is to the Minister and the second right of appeal—

The Hon. Frank Blevins interjecting:

Mr S.J. BAKER: That is what I'm worried about. The second right of appeal is to the Supreme Court. So, under the current conditions, it is a very expensive process to pursue something in the Supreme Court. I believe that some sense of caution should be injected into this measure; it must be amended, and I am upset that the Minister will not accept my amendment.

Amendment negatived.

Mr S.J. BAKER: My amendment to line 7 is consequential, so I will not move it. I move:

Page 5, line 11—Leave out ',or that person's agent'.

New section 23a (6) provides:

Notice of a reassessment of duty under this section must be given personally or by post to the person liable to pay the duty, or that person's agent...

The Opposition believes that notice should be given to the person responsible for paying the duty. In the case of an agent, it is the land broker. The person who has taken it upon himself under instruction to have the document stamped might not be around and might be fulfilling another need, so we believe the notice should go back directly to the person who is responsible for paying the duty.

The Hon. FRANK BLEVINS: I am advised that with respect to certain documents we do not know the address of the taxpayer and we deal only with an agent; that in fact, we never deal with the taxpayer. It is entirely proper that we have someone on whom to serve the notice. If we do not have the address of the taxpayer or if we have never had any dealing with that person other than through the taxpayer's agent, it is quite clear that this provision is absolutely required.

Mr S.J. BAKER: I am moving these amendments with some degree of caution, because a person's agent can change over a period of time. If that person has no further responsibility to act on behalf of the principal, the service of a notice, particularly if that person is in gaol, would serve no good purpose. I expect that the Commissioner should have a provision to require further action to be taken to ensure that the principal is informed. I do not believe that the new subsection as it stands is sufficient, and I ask for further consideration to be given to that matter during the passage of the legislation in another place.

The Hon. FRANK BLEVINS: If this amendment were carried, we would have to ask the taxpayer for a great deal more information than we ask for at present. This amendment is totally unnecessary. We are looking only for a party on whom to serve notice. The bureaucracy and the procedures that would be required in order to have sufficient detail always to be able to serve notice on the taxpayer would be quite extensive and unnecessary and would put many people to a lot of trouble for no good purpose, whereas this new subsection maintains a very simple procedure.

Amendment negatived.

Mr S.J. BAKER: I move:

Page 5, line 14—Leave out 'by that person'.

This amendment is clear. It is intended that the duty should be paid: it does not mean that the agent should pay the duty.

The Hon. FRANK BLEVINS: I agree with the amendment.

Amendment carried.

Mr S.J. BAKER: I move:

Page 5, lines 20 to 22—Leave out subsection (9) and substitute:

(9) A person must not fail to comply with a requirement under subsection (8).

Penalty: $5 000.

This amendment is similar to the one I moved in relation to the word 'offence'; it simply tidies up the legislation.

The Hon. FRANK BLEVINS: I support the amendment.

Amendment carried.

Mr S.J. BAKER: My amendments to lines 26 and 27 are consequential upon previously failed amendments.

Clause as amended passed.

Clause 10—'Objections and appeals.'

Mr S.J. BAKER: I move:

Page 6, line 5—Leave out all words in this line and substitute:

'assessment' includes—

(a) a reassessment;

or

(b) the imposition of additional or further duty under this Act.

This clause amends section 24 of the Act, which allows people to appeal against decisions of the Commissioner. 'Assessment' is amended to include 'reassessment' and does not allow for any person to appeal against the penalty duty that has been imposed. I move this amendment to correct that situation.

Amendment carried; clause as amended passed.

Clause 11 passed.

Clause 12—'Interpretation.'

The Hon. FRANK BLEVINS: I move:

Page 7, after line 10—Insert at the end of the definition of 'rental business'—

'but does not include business of a class exempted by regulation from the ambit of this definition.'.

In essence, this is a safety clause to remove any unintended situations that may arise. It is something that the Committee could support.

Amendment carried.

Mr S.J. BAKER: I have received legal advice on clause 12. The Opposition opposes in principle this new form of taxation, which is to catch bailment plans. I referred to that issue in the second reading debate. We have some concerns about the effect of clause 12. It introduces a number of new definitions. It is important that the Parliament should understand how the system works. The Parliament changes the legislation with the best of intentions. However, those intentions are then interpreted by the courts, and the courts can quite often draw a conclusion that is different from the one that has been put forward in the passage of the Bill.

We are introducing new definitions. They are subject to re-interpretation by the court. So, whilst we object to the bringing in of bailment plans, we also have other concerns. The first of these definitions is 'bailee', which is defined to mean a person who has or is entitled to possession of goods under a contractual or

non-contractual bailment. A 'contractual bailment' is then defined, but no indication is given as to what is intended to be encompassed by non-contractual bailment. It would appear that by implication it applies to every other situation which is not the subject of a contractual bailment. So, it is the obverse. If it is nothing less, it should be said so. If between the two expressions all forms of bailment are intended to be encompassed, what is the purpose of drawing the provision in this manner?

In the definition of 'bailment plan', the expressions 'financier' and 'financial accommodation' are used. The provisions are at large. They assume that the engaging in bailment arrangements can constitute financial accommodation. That is the key issue. They assume that bailment can and will be classed as financial accommodation, or leading to a liability, and can be viewed in the same form as a loan from the bank, as we have already discussed. It also uses the expression 'trading stock'. It is unclear whose trading stock it is referring to. In *FCT v. Sutton Motors (Chullora) Wholesale Pty Ltd,* 83 ATC 4304, the Federal Court held that a bailment arrangement relating to motor vehicles was trading stock of the bailee, notwithstanding that he was not the owner of the stock.

It is also possible on some arguments that the goods may also be the trading stock of the bailor where they are acquired by him for the purpose of re-sale and the temporary placing of the goods with a third party to facilitate that sale. Whether or not a particular item constitutes trading stock will very much depend on in whose hands it is found. The mere existence of an item does not render it to be trading stock. If it is not the bailor's trading stock, there must be a question as to how the proposed provision operates.

A third requirement is that the trader has possession of the trading stock by virtue of a contractual or non-contractual bailment. Again, what is intended by the use of the expression 'contractual or non-contractual' appears unclear. A 'contractual bailment' is defined as a bailment pursuant to an agreement under which a person who owns the goods confers on another the right to possession of those goods. Accordingly, every owner of goods who regularly places goods on consignment with traders but is not prepared to pass title will have a contractual bailment. Another modem practice is for vendors of goods to retain title to the goods pending payment. So, it is encompassed by this provision, but it is not a contractual bailment in terms of a floor plan which the Minister wishes to catch under these provisions.

Another modem practice is for vendors of goods to retain title to the, goods pending payment, as I said. Accordingly, those goods are put into the possession of another under a contract or agreement which confers that right pending payment. These arrangements have in recent times become know as 'Romalpa' clauses after the decision in the *Aluminium Industrial Vaasen BV v. Romalpa Aluminium* 1976, 1WLR 676. Such arrangements are arguably within the definition of 'bailment'. The doubt is whether goods delivered pursuant to a sale agreement, property in respect of which goods has not passed, is indeed a bailment. I happen to agree with the interpretation of the legal advice that I have been given.

A bailment of the law usually involves an arrangement which contemplates the return of the exact same goods. Many of the arrangements whereby a wholesaler or retailer is provided with goods without title, whether described as a bailment, a sale with a reservation of title or goods on consignment contemplates a return of the goods only if there is some formal default (see *Stroud's Judiciary Dictionary,* Vol. 1, page 246, definition of 'bailment').

The sale will not be caught because of section 31i(1)(b), which was inserted late last year after doubts arose about amendments to section 31g(1)(e). Other amounts will be required to be included unless any of the other provisions of section 31i apply. The final definition is 'rental business'. Yet again, the provisions are very wide. Regarding paragraph (a), does lay-by come under the definition?

That is a fairly extensive reference to what bailment can include. It can include a variety of arrangements, some of which are financial arrangements involving the provision of moneys to that business: others are a consignment of goods for sale or rental on the basis of some capacity to re-acquire those goods. Having sat down with various people on this issue, I could not come up with a changed set of definitions that would clarify the matter, but it seems to me there is a lot of sense in the legal advice provided. I ask the Minister to re-consider the ambit of clause 12.

I do recognise that the Minister may well have the capacity to limit the extent of the application of this clause under his own discretion if it goes far wider than he envisages in his information provided to me. I ask that the Minister look at this matter before it is debated in the other House. Secondly, will the Minister give an undertaking to the Committee that, in the application of this clause, we will deal only with financing arrangements, which he indicated he wished to cover by this clause, and not other arrangements which clearly lie outside the ambit of the Act?

The Hon. FRANK BLEVINS: That was very interesting, and I thank the member for Mitcham for putting it on the record. However, there is a problem. We have already considered it; it had a familiar ring about it. It has been considered by the people who assist me in drafting these measures, and they assure me that the clause is drafted in this way as a result of a case in August 1992—and I will trade cases for cases with the member for Mitcham—the Supreme Court decision of *Esanda Finance Corporation Limited and Esanda Wholesale Pty Ltd v. the Commissioner of Stamps.* The reasoning and the outcome of that case has left the entire rental revenue base exposed.

The advice to the Government has been very clear. Provisions must be drafted in their present fashion to ensure that the present base is protected. However, given the labour of the member for Mitcham in reading into the *Hansard* that submission he has received, I will certainly ask those who assist me to look at it again to see if they missed anything the first time. If there is anything further to report on that, I can assure the honourable member it will be reported in another place.

Mr S.J. BAKER: I thank the Minister. Since he mentioned *Esanda v CSD,* I will raise that matter because I knew he would fall into the trap of quoting that case.

My advice is that it goes much further than overcoming the Esanda case, whereas a small change to section 31b of the Act and the insertion of paragraph (c) along the lines of my amendment would solve the problem. With the scope of this clause, what is the effect of the amendments in wet hiring agreements? What is the provision of labour with substantial machine not incidental? The point of demarcation may be very difficult.

The Hon. FRANK BLEVINS: Wet hirers are not touched now.

Mr S.J. BAKER: I understand that the Minister is saying the amendments proposed to clause 12 will not bring wet hiring within the provisions of the Act.

The Hon. FRANK BLEVINS: Absolutely not.

Clause as amended passed.

Clause 13—'Persons carrying on rental business to be registered.'

Mr S.J. BAKER: The amendment to this clause is consequential, so I will not be pursuing it. The same will apply to my amendments in relation to clauses 16, 17, 18, 19, 20 and 21.

Clause passed.

Clause 14—'Statement to be lodged by registered person.'

Mr S.J. BAKER: Can I have an undertaking from the Minister in relation to these rental businesses? We had a battle previously about what should and should not be dutiable as far as rental businesses are concerned. We cited the example of, say, a hire firm or a video shop. The way the previous provisions were drafted, it was possible that the Commissioner could have charged duty on what are called incidentals—sweets in the video shop or, in the machinery hire shop, items of a type to assist in the digging of ground, the moving of earth, the chopping down of trees or for whatever purpose was connected with the use of that machinery. We fought that provision and won, I might add, on the basis that there was a clear understanding that these incidentals would not be brought within the Act. Paragraph (a) provides:

> ...(including amounts received for services incidental or related to that business).

Can I have a clear undertaking from the Minister that this will not affect businesses in the way we have previously sorted out?

The Hon. FRANK BLEVINS: Certainly, but I do not know whether we sorted anything out. The member for Mitcham says that he won. It was not very difficult to win when there was no intention—nor did the Bill at that time provide for the taxing of these incidentals. Whilst I do not wish to take away from the quality of that debate, which I remember well, I cannot let stand the comment that 'we fought that and won' when it was a one-sided fight. There was nothing in the Bill that provided for the taxing of incidentals. There is a touch of paranoia here—not on the 'part of the member for Mitcham, I might say, but on the part of some people.

Clause passed.

Clauses 15 and 16 passed.

Clause 17—'Unregistered persons.'

Mr S.J. BAKER: This clause renders it an offence to fail to comply with section 31n(3). That section and a similar provision in section 42ab(3) in respect of insurance are two sections rarely appreciated by the ordinary citizen, and I can say, 'Hear, hear!' to that. Actually, I do not know anyone who appreciates the provisions of the Stamp Duties Act.

Section 31n(3) applies to persons who pay rental for the use of goods to a person who carries on a rental business and is neither registered nor approved under the South Australian Stamp Duties Act. A person paying the rental is then required by this section to file a statement with the Commissioner within 21 days of making the payment to the bailor and to pay to the Commissioner 1.8 per cent of the amount paid to the bailor. It makes no difference that the bailee is already paying to the bailor an amount on account of stamp duty from another jurisdiction. The person concerned will still be liable for an offence in this State as well for the duty and, further, will be liable for a penalty.

If a resident of this State goes interstate to acquire a car because he thinks he can get a better price, and happens to lease that car from a financier that does not carry on business in South Australia but does carry on business in, say, Victoria, and that financier pays Victorian duty, under these provisions the lessee is still obliged to lodge a statement and pay duty in South Australia. If he does not, then double duty and offences will be involved, even if he has paid Victorian duty.

There is always this problem with interstate jurisdictions. It is my belief that if people have paid their just dues, whether it be in Victoria, New South Wales or South Australia, then the Commissioner should not have the right to come back and demand the duty for the same transaction. So, the Opposition has considerable problems with this clause, and there should be a softening of the provision to the extent that if a person has paid full duty, unless that duty is of an amount less than would otherwise be charged in this State, I do not believe the State has any right to collect double duty.

The Hon. FRANK BLEVINS: The Liberal Party may be having some difficulties with this, but my advice is that the industry does not. The honourable member's legal advice which he read out has a familiar ring. It has been considered by the Commissioner of Stamps and has been the subject of other legal advice available to me. Given my advice, which clearly indicates that it has created no problems whatsoever, I cannot see why the clause should not stand as is. I can only hope, somewhat vainly, that the lawyers may eventually agree on some of these things. Certainly the industry does not appear to have any difficulty with this provision.

Clause passed.

Clauses 18 to 21 passed.

Clause 22—'Penalty on taking unstamped bill or promissory note.'

Mr S.J. BAKER: I move:

Page 10, lines 16 and 17—leave out paragraph (a) and substitute:

(a) by striking out 'without causing it to be duly stamped after receiving it shall be liable to a penalty not exceeding forty dollars' and substituting 'must cause it to be duly stamped'.

The Hon. FRANK BLEVINS: As the amendment is well argued, I accept it.

Amendment carried; clause as amended passed.

Clause 23—'Bills or notes issued unstamped.'

Mr S.J. BAKER: I move:

Substitute new clause as follows:

23. Section 51 of the principal Act is amended by striking out subsection (1) and substituting the following subsection:

(1) A person must not issue, endorse, transfer, use, negotiate, present for payment or pay any bill of exchange, promissory note, coupon or interest warrant chargeable with duty unless it has been duly stamped.

Penalty: $100

This amendment is consistent with the other amendments I have moved in relation to offences.

The Hon. FRANK BLEVINS: I support the amendment.

Amendment carried; clause as amended passed.

Clause 24—'Returns to be lodged by companies.'

Mr S.J. BAKER: Mr Chairman, I will not be pursuing amendments on file in my name to clauses 24, 28, 30, 34 and 35.

Clause passed.

Clauses 25 and 26 passed.

Clause 27—'Substitution of ss.76-83.'

The Hon. FRANK BLEVINS: I move:

Pages 12 to 17—Substitute the following clauses:

Interpretation

27. Section 76 of the principal Act is amended by striking out the definition of 'mortgage' and substituting the following definitions:

'liability' means a present, future or contingent monetary liability;

'mortgage' means—

(a) an instrument creating, acknowledging, evidencing or recording a legal or equitable interest in, or charge over, real or personal property by way of security for a liability; or

(b) an instrument creating, acknowledging, evidencing or recording a liability in respect of which an instrument of title is or is to be pledged or deposited by way of security,

(and includes an instrument that would, assuming the fulfilment of a condition to which the instrument is subject, fall into one of the above categories).

Substitution of s. 81b

27c. Section 81b of the principal Act is repealed and the following section is substituted:

81b. (1) A security that creates a charge on property in South Australia and property outside South Australia may, subject to this section, be stamped for less than the full amount *ad valorem* duty otherwise appropriate to the amount secured.

(2) The amount for which the security is stamped must however be sufficient to satisfy the following formula:

$$\frac{A1}{A2} \geq \frac{V1}{V2}$$

Where

A_1 is the amount for which the security is stamped

A_2 is the amount on which ad valorem duty would, apart from this section, be chargeable

V_1 is the value of property situated in South Australia

V_2 is the total value of the property subject to the security.

(3) A security stamped under this section is available as a security on property situated in South Australia for such amount only as the *ad valorem* duty denoted on the security extends to cover.

(4) If a security does not create a charge on property in South Australia it may be stamped with a stamp indicating that no *ad valorem* duty is payable.

The lengthy amendment of this clause comes after considerable discussion with the industry. The securities provisions were redrawn to ensure that the Government's intentions as set out in the second reading explanation are met. As I said, the industry has made those submissions and is now generally happy with the provisions in this amended form.

Mr S.J. BAKER: As I said on the second reading, we had grave difficulty with the way that clause 27 was constituted. It had a number of unwanted consequences and I outlined them at the time. The Minister knows that we would have been here all night if clause 27 had remained unamended. I congratulate the Minister on the changes that have taken place, because it is obvious that the intention to pursue some of the contingent liabilities has not been sustained in these amendments.

We do not have difficulties with guarantees and indemnities that we would have had under the definitions contained in the Bill prior to this amendment. However, I have a description of what constitutes a liability and it goes for about five pages. It is not my intention to read it all, but it is worth reading and I will ensure that the Minister has a copy. The major contention in relation to this clause revolves around the meanings of 'liability' and 'mortgage'. The legal interpretation I have received in respect of 'liability' is as follows:

The following extracts from *Words and Phrases Judicially Considered,* vol.3 at p.39, appear to provide some assistance as to the use of the word 'liability':

'In my opinion, the ordinary meaning of the word "liable" in a legal context is to denote the fact that a person is responsible at law.'

Littlewood v George Wimpey & Co. Ltd [1953] 2 All ER 915 at 921, CA, per Denning LJ (also reported in [1953] 2 QB 501 at 515):

It is said that, under the Companies Act 1948, s. 302 [repealed; see now Companies Act 1985, s. 596] the "liabilities" which the liquidator in a voluntary winding-up is bound to discharge include an obligation to pay tax due to a foreign state. All turns on the meaning of the word "liabilities" in this section. On the one hand, it is said by the respondent, that it means only those obligations which are enforceable in an English court, and on the other hand, that its meaning is extended ... but at least so far as to cover liabilities for foreign tax in respect of which the company might have been sued in the courts of the country imposing it.

A number of other cases have been quoted in this brief, and the nub of the argument is that by defining 'liability', meaning a present, future or contingent liability, it has changed the word 'liability' to have a particular context which was never envisaged in the wider sense of the word 'liability' as interpreted by the law. A number of cases are quoted. There is the *Government of India, Ministry of Finance (Revenue Division) v Taylor 1955* and *Winter v Inland Revenue Commissioners 1961* in which the relationship or the understanding of the word 'liability' is a liability under law, whereas this is in fact squeezing the term 'liability' to reflect only those terms that are included under the definition, and means a present, future or contingent monetary liability.

The argument goes on to suggest that anomalies will arise later in the Bill, and I refer to section 103, where the term 'liability' has a completely different meaning to the one that we are scrutinising in this Committee. It is interesting that we should put a particular construct on the word 'liability'. My understanding of the word 'liability' was somewhat different. If we are going to use and abuse a word and, in a sense, change the force of law, I think we should think again. I will not read out all of the legal precedences that have been quoted in this case, but they are quite compelling on what a liability comprises.

A second item has been raised, and it may well be classed as nitpicking, but it also has some importance. I refer to the definition of 'mortgage'. Under the amendments we have here 'mortgage' means:

An instrument creating, acknowledging, evidencing or recording a legal or equitable interest in or charge over real or personal property by way of security for a liability.

The concern is the extent to which documents that are not mortgage documents will be pulled in under this definition. The Minister would recognise that in our SGIC report it may well be reported that there is a mortgage or there is a liability in relation to the Terrace Hotel, for example. Under this definition that could bring the annual report of SGIC under the ambit of the legislation, according to its widest interpretation. In its widest interpretation it may be that the annual report and every annual report has to be stamped. I am only raising these matters as having been brought to my attention—

The Hon. Frank Blevins interjecting:

Mr S.J. BAKER: Yes, of course, we could be stamping a lot of annual reports if we interpret the legislation as widely as it has been interpreted. They are the two problems with the definitions to which reference has been made. There is a suggestion about how we could overcome that terminology by using the term 'financial accommodation' instead of 'liability'. I believe that terminology is quite useful. It was only when we got down to the definition of the items that fall within the definition of 'financial accommodation' that we realised there were one or two problems.

It is important that we have consistency in our legislation; that when people read it they consistently interpret terms such as 'mortgage' and 'liability' and there is no mistake as to the way they are interpreted. With those few words I commend the amendment to the Minister. I will supply him with a copy of the question that remains in relation to the terminology in the definitions and I am sure he will read it diligently before he goes to bed tonight to see whether there is a better way of treating this definition clause.

The Hon. FRANK BLEVINS: I thank the member for Mitcham for that and I look forward to receiving the document. However, again, it has a familiar ring and I feel that it has done the rounds once before. Nevertheless, I will have it examined. I would just point out that my information is that the ABA and the AFC are very happy with the provisions in the Bill.

Amendment carried.

New clause 27a—'Repeal of section 76a.'

The Hon. FRANK BLEVINS: I move:

That section 76a of the principal Act be repealed.

Amendment carried.

New clause 27b—'Mortgage securing future and contingent liabilities.'

The Hon. FRANK BLEVINS: I move:

That section 79 of the principal Act be repealed and the following section substituted:

79 (1) A mortgage that extends to future or contingent liabilities is, if limited to a particular amount, chargeable with duty as if it were a security for that amount.

(2) A mortgage that extends to future or contingent liabilities is, if not limited to a particular amount, chargeable with duty as follows:

(a) the mortgage is chargeable, in the first instance, with duty on the basis of an estimate of the highest amount to be secured (to be made on the assumption that all contingencies to which the mortgage or the liability is subject will actually happen); and

(b) if the amount of the liability secured by the mortgage subsequently exceeds the amount for which the mortgage has been previously stamped, the mortgage becomes chargeable with further duty as from the date when the liability was first exceeded and the amount of that further duty is to be calculated as follows:

(i) a fresh estimate is to be made in accordance with this section of the highest amount to be secured; and

(ii) duty is then to be calculated on the basis of that estimate and in all other respects as if the mortgage were a fresh instrument made on the date when the liability was first exceeded.

and

(iii) the further duty is then to be calculated by subtracting the amount of duty already paid from the amount of duty calculated under subparagraph (ii),

(but this paragraph does not apply if the liability is denominated in a foreign currency and the amount for which the mortgage has been previously stamped is exceeded solely because of fluctuations in the rate of exchange).

(3) If a mortgage is chargeable with duty under subsection (2), the parties must, on submitting the mortgage for stamping or further stamping, make a fair estimate of the highest amount to be secured (to be made on the assumption that all contingencies to which the mortgage or the liability is subject will actually happen).

(4) The Commissioner may accept the parties' estimate of the highest amount to be secured or, if dissatisfied with that estimate, substitute the Commissioner's own estimate of that amount, for the purposes of determining the amount of duty or further duty with which the mortgage is chargeable.

(5) The Commissioner has a discretion, in the case of a mortgage securing a contingent liability, to permit the mortgage to be stamped for an amount that is less than the full amount of that liability, but, if the contingency subsequently happens, further duty becomes chargeable on the mortgage as from the date of the happening of the contingency and the amount of that further duty is to be calculated as follows:

(a) duty is to be calculated on the mortgage on the basis of the full amount of the liability as if the mortgage were a fresh instrument made on the date of the happening of the contingency; and

(b) the further duty is then to be calculated by subtracting the amount of duty already paid from the amount of duty calculated under paragraph (a).

(6) If a mortgage for an unlimited amount is registered under the Real Property Act 1886, a discharge of the mortgage may not be registered unless the instrument of discharge is endorsed with a certificate by the mortgagee, an officer, agent or employee of the mortgagee, or some other person approved for the purposes of this subsection by the Commissioner—

(a) stating the highest amount that was secured during the currency of the mortgage; and

(b) stating that the mortgage has been duly stamped.

(7) If a certificate under subsection (6) is false, the mortgagee and the person by whom the certificate was signed are each guilty of an offence.

Penalty: Imprisonment for 2 years.

(8) In this section references to an amount secured or to be secured by a mortgage are, if the mortgage secures both principal and interest or principal, interest, and rates, taxes or other recurrent charges in respect of land, to be read as references to the principal only.

Mr S.J. BAKER: I move:

Leave out 'fresh' from proposed new section 79(2) (b) (ii) and substitute 'new and separate'.

The Hon. FRANK BLEVINS: I accept the amendment.

Amendment to amendment carried.

Mr S.J. BAKER: I move:

Leave out from the parenthetical passage at the end of proposed new section 79(2)(b) 'liability is denominated' and substitute 'liability is wholly or partly denominated'.

This relates to foreign currencies and it improves the construct of the Bill.

The Hon. FRANK BLEVINS: I accept the amendment.

Amendment to amendment carried; amendment as amended carried.

New clause 27c—'Substitution of section 81b.'

The Hon. FRANK BLEVINS: I move:

That section 81b of the principal Act be repealed and the following section substituted:

81b. (1) A security that creates a charge on property in South Australia and property outside South Australia may, subject to this section, be stamped for less than the full amount *ad valorem* duty otherwise appropriate to the amount secured.

(2) The amount for which the security is stamped must however be sufficient to satisfy the following formula:

$$\frac{A1}{A2} \quad \frac{A2}{V2}$$

Where

Al is the amount for which the security is stamped

A2 is the amount on which ad valorem duty would, apart from this section, be chargeable

V1 is the value of property situated in South Australia

V2 is the total value of the property subject to the security.

(3) A security stamped under this section is available as a security on property situated in South Australia for such amount only as the *ad valorem* duty denoted on the security extends to cover.

(4) If a security does not create a charge on property in South Australia it may be stamped with a stamp indicating that no *ad valorem* duty is payable.

Again, after discussions with the industry and, in particular BOMA, that provision is amended and I commend it to the Committee.

Mr S.J. BAKER: The amendment is generally supported by the Opposition. There are cases, of course, where difficulties will occur and that is in relation to where the assets, which are secured, actually change between States. We have had a number of examples where there has been a consolidation of head office or a movement of assets and personnel across State borders. We have had it with a number of our firms that have left this State. So, in securing the assets there will be a change in the relationship. This pertains at the point at which the security is raised and the point at which the documents are stamped. We know that on many occasions there will be examples where firms move parts of their assets in and out of this State. They may sell their buildings or a whole range of things which will change the asset base.

As the Minister would understand, on those occasions where, for example, there is a movement into South Australian—we hope that will be avalanche in the future—the security of the property or whatever asset is being used would not be reflected in the relationship we have seen here, which was the historical relationship. That will cause difficulties if a lender of money wishes to pursue his or her claim over that property in relation to the security that exists. Under the law, as we are aware, a person has a right to pursue to the value that that asset secures. We believe it is a step in the right direction, but it does not cater for movements interstate. There may be a remedy in terms of having the document upstamped. I would like the Minister's undertaking that if documents have to be upstamped in such circumstances no penalties will flow.

The Hon. FRANK BLEVINS: I will look at what the member for Mitcham has said and consider whether there is any comment that I wish to make on it. Again, it was not a provision that we saw as giving any difficulty to anybody, and the industry agreed. Nevertheless, I will have a further look at it.

New clause inserted.

Clauses 28 to 37 passed.

Clause 38—'Penalty for fraud.'

Mr S.J. BAKER: I refer the Minister to section 82e of the Taxation Administration Act. That may well be a better way of handling this circumstance.

Clause passed.

Clause 39 passed.

Clause 40—'Amendment of Second Schedule.'

The Hon. FRANK BLEVINS: I move:

Page 23, lines 1 to 18—Leave out all words in these lines and insert new paragraphs as follows:

(a) by striking out the item commencing 'AGREEMENT or any MEMORANDUM OF any AGREEMENT';

(b) by striking out 'Exceeds $100 000' from paragraph (b) of the item commencing 'Conveyance or Transfer on sale' and substituting 'Exceeds $100 000 but does not exceed $1 000 000';

(c) by inserting +at the end of paragraph (b) of the item commencing 'Conveyance or Transfer on sale':

Exceeds $1 000 000 .....$38 830 plus $4.50 for every $100 or fractional part of $100 of the excess over $1 000 000 of that value.;

(d) by striking out 'Exceeds $100 000' from the item commencing 'Conveyance operating as a voluntary disposition *inter vivos'* and substituting 'Exceeds $100 000 but does not exceed $1 000 000';

(e) by inserting, in sequence, in the item commencing 'Conveyance operating as a voluntary disposition *inter vivos':*

Exceeds $1 000 000 .....$38 830 plus $4.50 for every $100 or fractional part of $100 of the excess over $1 000 000 of that value.;

(f) by making the following amendments to the item commencing 'MORTGAGE, BOND, DEBENTURE, COVENANT or WARRANT OF ATTORNEY':

(i) strike out paragraphs (a), (b) and (c) and substitute the following paragraphs:

(a) subject to paragraphs (b) and (c), the rate of duty is

(i) if the secured liability does not exceed $4 000—$10;

(ii) if the secured liability exceeds $4 000 but does not exceed $10 000—$10 plus $0.25 for every $100 or fractional part of $100 over $4 000;

(iii) if the secured liability exceeds $10 000—$25 plus $0.35 for every $100 or fractional part of $100 over $10 000, but any amount representing the premium on an insurance policy over property subject to the security is to be excluded);

(b) if a mortgage is a mortgage of an existing mortgage over land used or to be used solely as the site of a residential building, the duty is $10.

(c) a bond, debenture, or covenant securing a contingent liability is liable to *ad valorem* duty based on the amount presently secured at the time of stamping if the Commissioner is satisfied of the genuineness of the contingency.

(ii) insert the following exemption after Exemption 2 -

3. A deed of cross guarantee entered into between a company and its subsidiaries in pursuance of a class order under section 313(6) of the Corporations law or a mortgage, bond, debenture or covenant securing a liability under such a deed of cross guarantee.

(g) by inserting under the heading 'General Exemptions From All Stamp Duties' the following item:

la. Agreement or memorandum of agreement made on or after 1 September 1992, not under seal, and not otherwise specifically charged with duty.

We now get to the question of agreements. As I said in my response to the second reading, the question of agreements and the stamping of them had got so untidy that the best way of dealing with them was to get rid of the requirement to stamp altogether. That is what this provision does. I think there will be hundreds of thousands of cheers for this provision. There were not hundreds of thousands of people paying, but they ought to have been. Nevertheless, they have not, and the law, in effect, fell into disrepute, probably because it was not such a good one. By abolishing the requirement to stamp agreements, if some other provision were not made, clearly there would be some adverse effects on the State budget and the requirement of all Governments to fund their programs. Therefore, we have an increase in some conveyancing fees, but only for those that involve property over $1 million.

I think the Committee will agree that that hardly affects ordinary people in the street to any degree. If they are involved in conveyancing property worth over $1 million, by definition they are not ordinary people in the street, and certainly not the ordinary people with whom I mix. It is an increase and we are quite up front with that. I think the Committee would have to agree to get rid of the requirement to stamp all agreements and that on balance the increase in this area is far more satisfactory for the vast majority of businesses in South Australia.

Mr S.J. BAKER: The Opposition is delighted that there is to be no more stamp duty on agreements. I can assure the Minister that we were going to be here for some hours asking him whether he sustained his original position about all possible agreements that would come under the ambit of the legislation. I had a very good example quoted to me. If I had written to the Minister and suggested, 'Would you agree to put aside the debate on the Stamp Duties (Penalties, Reassessments and Securities) Amendment Bill for one more week for further consultation'?', and the Minister had written back saying, 'Yes, I agree', it would have had to be stamped with a $10 duty stamp according to the definition that the Treasurer gave us and I would have been in breach of the legislation. That is a crazy situation. We have had many interpretations, but I think I should read this to the Committee:

In general terms if the document reflects the concurrence of two or more persons affecting or altering their rights and duties and that agreement is in writing, then duty would be payable subject to the above-mentioned exceptions.

They relate to the $1 000 exemption level for rental and sale. That definition broadened the scope of agreements *ad absurdum.*

The Hon. Frank Blevins interjecting:

Mr S.J. BAKER: It would have been extraordinary revenue. According to a legal opinion that we have been given, every time a person signed a bankcard chit after buying goods, they would have to pay another $10 because it came under the general determination that I have just read to the Committee. It has become absolutely impossible. As the Minister said, it was honoured in the breach rather than in the observance. When it became $10 we had phone calls. I will not tell the Minister how many phone calls we had on this provision, but it was an extraordinary number. We appreciate what is being done in this respect. We believe there are enough revenue provisions in the rest of the legislation to cover the loss of $70 000 worth of 20c duty that would have been available under the old provision. We do not accept that the Treasurer needs to increase the rate on conveyancing or sale of property above $1 million. Business in this city is suffering and we do not wish to present any further burdens.

Amendment carried; clause as amended passed.

Clause 41—'Transitional provision.'

The Hon. FRANK BLEVINS: I move:

Page 23, line 21—After 'instrument executed' insert ', or a transaction completed,'.

This amendment merely clarifies the Government's intention; it is in no way contentious.

Mr S.J. BAKER: Again, I congratulate the Minister on changing the provisions of the transitional clause. Clearly, the Minister does not intend to have the element of retrospectivity that would have occurred had the clause remained in its original form. It was quite unconscionable

that the Commissioner would have the right to go back to all existing instruments under the new provisions and charge additional duty. Those arrangements have now been changed, and this amendment tidies up the matter. I will move a small amendment to tidy it up further.

Amendment carried.

The Hon. FRANK BLEVINS: I move:

Pages 23 and 24—Leave out subclauses (2) and (3) and substitute—

(2) If—

(a) a mortgage executed before the commencement of this Act is extended or renewed after the commencement of this Act; or

(b) a liability that is secured by a mortgage executed before the commencement of this Act is incurred after the commencement of this Act (except a liability that accrues in respect of a liability that was incurred before the commencement of this Act, or a liability that takes effect in substitution for an earlier liability and does not—when incurred—exceed the amount of the earlier liability); or

(c) after the commencement of this Act the time for payment or repayment of a liability secured by a mortgage executed before the commencement of this Act is extended or deferred,

duty is chargeable under the principal Act as amended by this Act as if the mortgage were a fresh instrument executed on the date of the extension or renewal, the date when the fresh liability was incurred, or the date when the time for payment or repayment of the liability was extended or deferred (as the case requires), but allowance must be made for duty paid on the mortgage before that date.

This amendment clarifies the situation and, again, should be non-controversial.

Mr S.J. BAKER: I move to amend the Hon. Frank Blevins's amendment as follows:

Leave out from the proposed new subsection (2) 'a fresh instrument' and substitute 'a new and separate instrument'.

The Hon. FRANK BLEVINS: I support the amendment to the amendment.

Amendment to amendment carried; amendment as amended carried; clause as amended passed.

Title passed.

Bill read a third time and passed.

MOTOR VEHICLES (CONFIDENTIALITY) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 12 November. Page 1416.)

Mr OSWALD (Morphett): The Opposition supports the Bill. It has been debated at length in another place and I do not intend to delay proceedings, but there are a few matters I would like to raise. This small Bill seeks to amend the Motor Vehicles Act to insert confidentiality provisions in respect of the registers maintained by the Registrar of Motor Vehicles. The Registrar maintains two registers: the first relates to motor vehicles and the second to licensed drivers. Both registers contain confidential and sensitive information about individuals—addresses, dates of birth, medical details—and secured information about motor vehicles—engine numbers and vehicle and identification numbers.

The Opposition was concerned that the Act could be construed to infer that the registers are public documents and that anyone who pays a search fee is entitled to peruse therm. Indeed, there was much concern that members of the public with ulterior motives could have access to the registers for matters which would not have been in the best interests of those about whom they were seeking information—and I will come to that shortly. I understand the need for the maintenance of confidentiality in respect of the register. I understand also that for some time there has been concern that information has been provided that could assist in the trade of stolen vehicles. That is a matter of great concern. In fact, in her second reading speech in another place, the Minister said:

In practice, the registers exist only in an electronic form and are not available for public searches. The guidelines for release of information are stringent and conform with the requirements of the South Australian information privacy principles.

The Opposition has had access to the guidelines. It is comfortable with the guidelines and appreciates the fact that the Government has made them available during the course of the debate. The fact that the information in the department is in electronic form means that there will be some constraints on the ability of people to telephone and get information but, if the Government and the Motor Registration Division adhere to these guidelines for the release of information, I do not anticipate much trouble.

The Opposition was concerned that the register might be tightened in ways that would make things more difficult in a number of instances. For example, a person might have been involved in an accident where minor damage was caused to another person's vehicle and might not have wished to be involved with litigation or with an insurance company but might have wished to pursue the matter through the small claims court. That person might then want to have access to the motor vehicles register to find out the name and address of the person who was involved in the minor accident, if the matter can be pursued through the small claims court.

I understand that the circumstances have been retained so that this information can be made available. During the Committee stage the Minister might clarify that matter. However, my advice from another place is that that information will still be available to allow a person to pursue a claim through the small claims court. I believe that the provision of this information should be tightly controlled for certain reasons. For instance, if a person involved in a domestic violence case could get access to the registration number of a motor vehicle or the name and address of the owner, there could be dire consequences for the driver of the vehicle. I am sure that members could think of other reasons for not wanting to hand out names and addresses without some constraint.

From general discussions on this Bill, I understand that the register would continue to be available to the police; in fact, the police would have unrestricted access to the register for all business matters irrespective of business criminality and activity. For example, a police officer who made general inquiries in relation to a distressed

animal in a motor vehicle would be given access to the register.

The guidelines contain a table to which I refer all members who are interested in this subject. It lists every Commonwealth and State department or authority which can access the information by telephone, in writing or in person so that very little doubt is left in the mind of anyone in the department as to whom the information can be given. With the assurance received from the Minister in another place, the Opposition is happy to support this relatively minor piece of legislation, and I do not intend to delay the House any further. I understand there is a minor amendment regarding a drafting matter. Once that matter has been dealt with, the Opposition will be quite happy to support it.

The Hon. M.D. RANN (Minister of Business and Regional Development): I regard it as an enormous privilege to handle the Motor Vehicles (Confidentiality) Amendment Bill because, whilst I have a very passionate commitment to freedom of information, I also believe in privacy. That commitment is not mutually exclusive. This Bill provides a number of protections to motorists from the illegal and improper use of information that is held on the register. So, I welcome this bipartisan attitude this evening, and we can proceed to the Committee stage.

Bill read a second time.

In Committee.

Clause 1 passed.

New clause la—'Commencement.'

The Hon. M.D. RANN: I move:

Page 1, after line 12—Insert new clause as follows:

Commencement

1a. This Act will come into operation on a day to be fixed by proclamation.

New clause inserted.

Clause 2—'Confidentiality.'

Mr OSWALD: I refer to the table that was handed out by the Government in relation to the guidelines. In my second reading speech, I said that a minor accident could occur, say, in a supermarket car park; only relatively minor damage might be done to a vehicle, so it would not warrant taking the matter to an insurance company, and the person might want to settle it in the small claims court. They may want to have access to the name and address of the driver who caused the accident. Could that information be made available to the person whose car has been damaged?

The Hon. M.D. RANN: It might be useful for me to cite for the benefit of the Committee and obviously for constituents who receive copies of *Hansard* the guidelines for the release of information. These guidelines are issued under section 139d(l)(f) of the Motor Vehicles Act 1959. They are not to be interpreted so as to be inconsistent with the statutory intent of the Motor Vehicles Act or an individual's right to privacy as may be implied by the common law or set out in any statute. They are as follows:

1. Personal information may be released (other than to the person concerned) where:

1.1 the individual concerned has been made aware or is reasonably likely to be aware that the information is:—generally used for the purpose for which it has been released, or—generally passed on to those persons, bodies or agencies to whom it has been released;

1.2 The individual has consented to the disclosure.

1.3 The disclosure is necessary to prevent or lessen the serious and eminent threat to life. or health—

The second point directly relates to the honourable member's question:

2. Personal information may also be released to:

2.1 Motor vehicle manufacturers for the purpose of safety related vehicle recalls;

This is the point that the honourable member particularly mentions:

2.2 Insurance companies dealing with motor vehicle accident claims and parties involved in motor vehicle accidents.

2.3 Finance companies or other parties claiming a financial interest in a motor vehicle. The financial interest will only be recognised if there is a registered security interest on the vehicles securities register.

Where information is released in accordance with the principles set out in I and 2, it will be on the condition that it will only be used for the purposes for which it was released and will be treated as confidential.

I can make the remaining information available to the honourable member.

Mr OSWALD: The Minister referred to information and specifically cited insurance companies. Is the private individual covered in terms of members of the public telephoning and seeking information on the name and address of the owner of the vehicle and then using that knowledge?

The Hon. M.D. RANN: Yes. The guidelines refer to insurance companies dealing with motor vehicle accident claims and parties involved in motor vehicle accidents, so that would be covered. Obviously, with a major motor vehicle accident, the information would be obtained via the police but, in terms of minor accidents, it would be obtained directly.

Clause passed.

Title passed.

Bill read a third time and passed.

STATUTES AMENDMENT (RIGHT OF REPLY) BILL

Adjourned debate on second reading.

(Continued from 10 November. Page 1284.)

Mr S.J. BAKER (Mitcham): It is funny, but I am always missing Ministers when it comes to legal matters, and I wonder why.

The Hon. M.D. Rann: I'm here.

Mr S.J. BAKER: Yes, but you don't do anything legal. The Minister of Recreation and Sport fills in on occasions, and the Minister of Primary Industries provides back-up, but we do not seem to see either of those individuals. The Bill is supported by the Opposition. According to my understanding of the way the courts work (and I have occasionally visited criminal trials, but I have not made a habit of it) the accused has a right to address the jury or the judge if he or she has called only character witnesses. Of course, that means that the person has not had the right to put his or her case to the court. Some 20 years ago, the Mitchell committee determined that it should be a fundamental right of a person to defend themselves. Under the provisions of the legislation as it stands today, the

prosecution is normally the last speaker if witnesses have been called by the defence.

The Mitchell committee found that this was inappropriate, but it has taken 20 years to change the law. The right of justice and the right of a person to be heard by the court is enhanced by the proposition in this Bill. It makes clear that the defence—it may be the person representing himself or herself or the legal representative acting on that person's behalf—has a right to outline the case before the court and also has the right of last say, which was precluded under previous conditions. I can imagine certain cases where justice might not be done by that process, but I do accept the need that justice be seen to be done. The Opposition accepts the proposition before us. If anyone wishes to look at the history of the common law as it is applied in the courts and the current provisions in relation to how the courts conduct themselves in trials, I suggest that they read the debate that took place in another place. The Opposition supports the Bill.

The Hon. G.J. CRAFTER (Minister of Housing, Urban Development and Local Government Relations): I thank the Opposition for its indication of support for this measure, which has been debated at great length in another place and which comes to us in a state whereby, I am sure, the House can be confident that it has been well debated. Indeed, the basis for its coming before us has been well assessed. It comes to us not only as a result of the recommendations of the Mitchell committee, which, as the honourable member said, occurred in the middle 1970s, but also in more recent times from the Criminal Law Committee of the Law Society of South Australia. It comes to us out of an abundance of caution to provide fair play in our courts and to ensure that an accused, whose liberty is at risk, has the opportunity to address the jury, whereas, as a result of the passage of legislation in this place in more recent times, some doubt was cast upon that right of the accused.

This measure puts that beyond doubt. As was indicated in an earlier debate in this place, there were representations from criminal lawyers and the criminal bar about the importance and fundamental nature to the defence of this right to be heard in circumstances that otherwise may not occur. It has been argued that that right is as important to the defence as the presumption of innocence, and the privilege against self-incrimination. Some concern has been expressed by the criminal bar for some years now about the uncertainty in the law in this area. This legislation clarifies that situation and puts it beyond doubt.

The Bill also makes another change to the law in relation to the right of the prosecution to address the court. Traditionally there was a rather quaint rule of law which provided that, where the accused was unrepresented, the prosecution could not address the jury at all at the end of evidence. The reason for this was essentially an awareness of a general disparity between the forensic abilities of the professional prosecutor, whether he was a qualified lawyer or police prosecutor, and the general run of accused persons who, obviously, in many cases lacked those basic skills to advocate on their behalf. In fact, the rule, if breached, led to a mistrial, so that was really an unsatisfactory situation from a number of points of view. This amendment clarifies that and obviously it needs to be practised with due consideration to the circumstances of a trial where the accused is unrepresented. Certainly it allows for a jury to be properly apprised of the facts and argument on the law before a judge in trials where the accused is unrepresented.

That is perhaps a rare occurrence today in serious matters because of the extensive .provision of legal aid through the Legal Services Commission and the Aboriginal legal rights movement and because of the practices of many legal practitioners who take on cases where they do not receive full recompense. That still occurs today. However, prior to there being universal acceptance of legal aid, many people simply could not afford to pay for legal representation. As a result, these rules were established and that situation no longer pertains in the main today, but it needs to be monitored carefully to see that fair play once .again is applied within the rules of court. So, these two amendments in the spirit that the member for Mitcham has indicated to the House are recommended to all members.

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

AMBULANCE SERVICES BILL

Returned from the Legislative Council with amendments.

LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) AMENDMENT BILL

Received from the Legislative Council and read a first time.

The Hon. G.J. CRAFTER (Minister of Housing, Urban Development and Local Government Relations): I move:

That this Bill be now read a second time.

I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

This Bill is part of a wider process of reform in the local government sector and is one of a series of reform Bills foreshadowed when the Local Government (Reform) Amendment Bill was introduced into this place in April 1992.

The changes which will be enabled by this legislation have been the subject of discussion since 1988 when the Australian Accounting Research Foundation issued a discussion paper which recommended that the accrual basis of accounting be adopted by local governments and that the financial reporting regulations and practices of local governments be harmonised. The discussion paper was followed, in 1989, by a draft accounting standard, and in 1991 the final version of the standard was issued as AAS27, 'Financial Reporting by Local Governments'. The new standard is to take effect from 1 July 1993.

Consistent with the new relationship which has been established between the State and local government sectors in South Australia it was agreed that the South Australian Local Government Association would take responsibility for preparing the way for the introduction of the new accounting standard in South Australia. The association established a Local Government Accounting Committee in August 1991 to manage this process

and a grant of $80 000 was provided by the State Government to assist with the employment of a consultant and a project officer. A State Government nominee was also appointed to the committee.

The impetus for reform of local government financial reporting was prompted by concerns which included:

- insufficient consideration given to the objectives which financial reports should aspire to achieve, the users for whom those reports should be prepared and their information needs;
- the lack of a common approach to the resolution of similar accounting problems in each State and Territory; and
- the reporting of excessive details, and the preparation of financial reports which are difficult to understand and interpret.

Further, the nature of local government reporting in Australia has been influenced more by the need to provide statistical information to other bodies than by the need to convey meaningful financial information to the local community. This has led to a situation where councils in South Australia are required to prepare 25 separate schedules to satisfy the requirements of the Local Government Accounting Regulations.

The principal effect of the amendments which are proposed will be to provide the means for extending the use of the accrual basis of accounting within the local government sector and to require councils to prepare financial statements which provide information which is useful to those groups in the community which have an interest in these matters. It will help to make councils more accountable to their ratepayers, an important issue given the discussions which are taking place concerning the devolution of powers and responsibilities from the State to the local government sector.

The legislative changes set out in this Bill are those which are necessary to implement the new accounting standard and to permit the subsequent introduction into this place of regulations which will set down in detail the form and content of financial statements which will be required. This Bill also amends that section of the principal Act dealing with the appointment of an auditor by a council, thereby bringing to an end transitional provisions intended to protect those persons who were acting as auditors of councils although not possessing the qualifications deemed to be essential.

Explanation of Clauses

Clause 1 is formal.

Clause 2 provides that the measure will come into operation on 1 July 1993.

Clause 3 inserts a definition of 'accounting records' in section 5 of the Act so that the definition can apply in conjunction with the other amendments proposed by the measure.

Clause 4 makes an amendment to section 41 of the Act to change a reference to 'financial statements' so that it will now be a reference to a 'council budget'.

Clause 5 makes a consequential amendment to a heading.

Clause 6 removes material that will now be dealt with by accounting standards and principles prescribed by the regulations.

Clause 7 provides for a new Division V of Part IX, relating to budgets and financial reporting. A new provision sets out the objects of the Division. Reference will now be made to the requirement that a council prepare an 'annual budget'. New section 160 will require a council to keep appropriate accounting records. New section 161 will set out new requirements to be observed in relation to local government accounting. In particular, material prepared under the new provision will be required to comply with accounting standards and principles prescribed by the regulations. The relevant statements will need to be audited on an annual basis.

Clause 8 provides that the provision under section 162 of the Act that allows certain persons who do not hold formal qualifications to act as auditors of councils will cease on 1 July 1996.

Clause 9 makes two amendments to section 163 of the Act that are consistent with the terminology that is now to be used in the Act.

Clause 10 amends section 164 of the Act to reflect the fact that the regulations will now prescribe accounting standards and principles for the purpose of determining a council's assets and liabilities.

Clause 11 amends section 169 of the Act to reflect the fact that the regulations will now prescribe model financial statements for adoption by councils.

Clauses 12 and 13 are consequential amendments.

Clause 14 amends section 197 of the Act to reflect the fact that the regulations will now prescribe what constitutes operating expenses for the purposes of the Act, which are now to be the appropriate criteria for the purposes of section 197 (1) *(a)* (i).

Clause 15 amends section 691 of the Act so that new regulations may be made which incorporate the new matters that are to be observed in the area of local government accounting. In particular, the regulations will be able to adopt or incorporate codes or standards prepared or published by prescribed authorities.

Mr S.J. BAKER secured the adjournment of the debate.

ADJOURNMENT

The Hon. G.J. CRAFTER (Minister of Housing, Urban Development and Local Government Relations): I move:

That the House do now adjourn.

Mr HAMILTON (Albert Park): For many years now I have expressed concern in this place and outside it about the question of truancy. You, Sir, would appreciate my involvement in this field and the need to address the problem, not only in terms of schools but how it impacts upon the community. You will recall the discussions we had in a number of places in relation to the attitude of some people concerning truancy. It is fair to say that the member for Henley Beach and I, after reading reports from the city of Gosnells in Western Australia, were reasonably convinced that truancy was not only a problem in that State but also a problem here in South Australia, because of the similarities between the States in many respects.

It was found that, because of the approaches made and the manner in which the Police Department and the Education Department addressed this problem, the incidence of day-time break and enter offences in that municipality and State were reduced by in excess of 50 per cent. Those figures are quite staggering. When I brought back the report and showed it to a number of people in South Australia, they were rather surprised at the figures.

I raise this issue because there is a feeling among some people in South Australia that truancy is not a particular problem. I refer especially to some people in the Education Department and in the teaching fraternity. To be pragmatic, it is fair to say that the system of checking off students from class to class left a lot to be desired within the Education Department. I do not believe there is any decent system that has applied for some time in the department. Students could go missing. They could leave the school grounds and would not be ticked off from class to class. They could become involved in all sorts of problems. Indeed, some of those problems led to the break and enter offences particularly in and around schools.

This was highlighted rather starkly in information provided to me by the police in Western Australia, where the system there is somewhat different from that which applies here. In Western Australia, they have a crime

mapping process where the incidence of day-time break and enter offences are recorded on a daily basis. They are overlaid day by day, week by week and month by month, and a pattern emerges illustrating where students may be involved in day-time break and enter offences around schools.

In addition, when school is in recess and the kids are on holidays, the Western Australian police have found that another pattern emerges, and that is the incidence of day-time break and enter offences that occur around shopping centres and areas other than around the schools. I believe that the system in Western Australia should be implemented in South Australia. Not only do they have a system where crime mapping occurs in and around schools but, as I understand it, legislation in that State empowers the police, if they see a student absent from school during periods when the school would normally be conducting classes and when the student should be in attendance, to stop the student and ask the student what he or she is doing out of school and, if necessary, they can take such students in a police car back to the school and ascertain the reasons for their absconding. Reasons for absconding can be many and varied.

In addition, in Western Australia full-time police officers are stationed in schools. My initial reaction to that related to how staff in those schools would feel about a police officer being present full time. The response was that initially there was adverse reaction but it was found that, after the police gained their confidence and *vice versa,* the students regularly would pour out their problems to police officers, not only during—

The Hon. M.D. Rann interjecting:

Mr HAMILTON: Yes, indeed. In other parts of Western Australia they found that students not just during their period in school but after they leave school still come back and make contact with those police officers. I believe that that system would benefit South Australians tremendously. It was found that not only do the Education Department and the police support that proposition in Western Australia but the business fraternity in particular is only too happy to provide vehicles and other forms of backup support.

It has also been found that service clubs are happy to assist in this matter. As I have often indicated, I have been much influenced by what I have seen in Gosnells, which has probably one of the most progressive city councils that I have seen in a long time. Much should be attributed to the Mayor of Gosnells, Mrs Pat Morris, who I understand is now the President of the Local Government Association in that State.

The Hon. M.D.Rann interjecting:

Mr HAMILTON: Indeed, as the Minister points out, she is an outstanding person, a woman who brings a tremendous amount of commonsense to the problems of people in need in her community. I believe that with the system introduced there, involving cooperation between Gosnells City Council and the police department, the police hierarchy have shown tremendous leadership in giving their support, even though there were people within the Police Department who had expressed strong reservations about the problems of truancy and break and enter.

I have videoed the activities of some of those police officers and their previous attitude was, 'Lock the little bastards up and throw away the key.' That sort of attitude should not prevail in a society where we have to address such problems. Detective Inspector Bob Kuchera, with whom I had much to do, last year was able to travel throughout the western world on a Churchill Fellowship and brought back to the Western Australian Government and the people of his State many good ideas on addressing the particular problems of youth. We have much to learn from that program and I believe that South Australia should be looking seriously at implementing a similar program of having full-time police officers in State schools, because the system has worked so successfully in Western Australia.

As I indicated, it encouraged students to strike up a rapport at an early age with the police which has lasted for many years both inside and outside the school. I hope that the Ministers responsible will take up this issue and implement it, because I believe it will not only reduce truancy but assist those students and the community later in life.

The DEPUTY SPEAKER: Order! The member for Heysen.

The Hon. D.C. WOTTON (Heysen): Recently, in the House I raised concerns that have been brought to my notice by INC parents, parents who take responsibility for young people who have got themselves into some form of trouble and who are the responsibility of the Minister. They are taken under a special program for care by INC parents. Tonight, I want to refer to difficulties being faced by foster care parents under the payment system. There is considerable concern on the part of both INC and foster parents generally about the reduction in financial assistance that has been made available to these people. I want to bring to the attention of the House some concerns and difficulties that a particular family is having with the new foster care payment system. The family visited me and I was concerned by what they told me.

It is important that this matter be brought to the attention of the House and the Minister responsible, the Minister of Family and Community Services. This family is made up of a husband and wife, a son aged 15½ , who is adopted, their own son of 12 years, another son 3½ years and two foster daughters of nine years and 7½ years, Petra and Bianca. It is these latter two children in particular to whom I want to refer tonight, but I want to talk about the overall issue as well. Petra and Bianca have been in the care of this family for some 7½ years under a ministerial order until they are 18 years.

First, this family had great difficulty in learning about the new system, other than through a caregiver's bulletin in September of this year. After receiving the news sheet they contacted their FACS social worker for further information. His response was that they probably knew more than he did because he had not seen the bulletin they had received. The worker referred the family to their support worker from Lutheran Community Care, whom they contacted. They were then informed that a meeting was to be held with a FACS representative.

Because of work commitments the family could not attend, but their support worker took their concerns, which had been listed, to the meeting. The FACS representative noted their concerns but did not respond.

Their concerns include, first, the inadequacy of the education payment, which is now $400 per year. The family has listed for my attention an approximate costing for this area, which they believe underestimates the costs involved. A very basic uniform alone will easily use the education allowance. Camps, excursions and compulsory swimming programs are also expensive and are supposed to come out of this sum.

The second concern relates to medical expenses, because the family has been informed recently that foster children must use the public hospital system. Although the family may include the children in its private health cover, no expenses will be paid where doctors in the private sector are consulted and charge more than the rebate paid by Medicare. The family has indicated that it can include its two adopted daughters in its private health membership. However, the family—including any foster children—have consulted their doctor as a family GP for the past 20 years. The family is now upset, worried and quite honestly annoyed that it will now take its three sons to the GP, but Petra and Bianca—the two foster daughters—will need to use the Modbury Hospital because the family cannot afford this cost—$6 a visit—more than occasionally. This sum will not be paid by FACS, while an additional allowance will be paid, which in real terms is less than what it seems because they already receive the pocket money and clothing allowance. It will easily be consumed by pocket money, clothing, travel and chemist items.

If we look at the continuity of medical care for Bianca, in particular, we see that that matter is very important. This particular child is very small for her age, somewhat under weight and is suffering with some difficulties—lagging well behind her peers in academic achievement. She has a recent history of lung infections with recurrent tonsillitis. Petra has a sight problem. The family has consulted a private eye specialist for the past 41 years. They have been through many months of eye patching. Their daughter trusts the doctor, and the caring relationship he has developed with her has given Petra the patience and willingness to continue. Continuity of medical care for Petra and the other children is vitally important.

Petra, I am informed, is also a bed wetter who experiences frequent infections as a consequence of the wetting and she often suffers very severe scalding of her bottom. Treatment has begun with a paediatrician, who has seen all of the children. If the need has arisen since they were born, Petra has often been with the foster mother when the other children have seen the paediatrician. Subsequently, Petra, a very timid child, is very relaxed with that particular doctor and has easily been able the discuss these embarrassing problems. Again, continuity of this care is vitally important.

The next matter of concern is pharmaceutical costs. Bianca has needed many prescription items in the past six months because of lung and throat infections and weight loss. The ointments that Petra has been using are an ongoing expensive cost, and that does not include the pillows, sheets, blankets and pyjamas that are affected. While the foster mother has asked about an additional loading, her social worker is doubtful and unsure of the guidelines in this area. I also want to refer to the special activity costs. Bianca has been attending swimming lessons to help with her motor difficulties. In the past this cost has been paid by the Department for Family and Community Services through the incidentals fund. The family were hopeful that this cost could be covered through a special needs loading, but the FACS worker was not prepared to recognise this.

Over the years Petra has had problems with self esteem and confidence. About 12 months ago the support worker suggested that she have some special activity just for her which would give her some special attention. The family agreed for their foster daughter to begin Brownies and were quite happy to outfit Petra with a uniform while FACS met the fees. Again, continuity of payments for this activity as a special need has not been recognised by the FACS worker. In conclusion, the family would like to make it quite clear that it does not expect every cost to be paid by FACS. Both girls always enjoy with the family any holidays they have. For example, they had a very successful holiday in Sydney recently. They receive birthday and Christmas presents to the same value as those given to the rest of the family. They do that because they want to make their foster children part of the family.

It is vitally important that they are treated normally and that is what the Department for Family and Community Services would have. So, I bring this matter to the attention of the House and of the Minister in particular. I will be making contact with the Minister in regard to this particular family to seek a meeting. However, it is important that the Government recognises the concerns that are being experienced by such families in the important role that they play as foster parents. It is vitally important that these parents be supported by the Government.

Motion carried.

At 9.15 p.m. the House adjourned until Wednesday 18 November at 2 p.m.

HOUSE OF ASSEMBLY

Tuesday 17 November

QUESTIONS ON NOTICE

ENTERTAINMENT CENTRE

132. **Mr BECKER:** How much does the Entertainment Centre pay in council rates to the Corporation of the City of Hindmarsh and, if none, why not?

The Hon. G.J. CRAFTER: The title to the Adelaide Entertainment Centre property is held by the Crown; therefore, council rates are not payable on the property.

PUBLIC SECTOR WORKS

143. **The Hon. D.C. WOTTON:** In relation to the estimate of receipts from recoverable works and the total of recoverable works under Recurrent Expenditure, both $5.7 million—

(a) will any work commenced in 1992-93 be completed and paid for in 1992-93;

(b) is it expected that neither profit nor loss will be made on recoverable works;

(c) what contracts are in hand;

(d) is there any risk that any of the works will not be paid for; and

(e) how are costs of recoverable works calculated and are all costs including superannuation, payroll tax, workers compensation, depreciation, etc., taken into account?

The Hon. J.H.C. KLUNDER: The replies are as follows:

(a) The estimate of $5.7 million for recoverable works in 1992-93 is made up of the following components:

Receipts:

- payment by debtors for works completed in 1991-92;
- payment for works commenced in 1991-92 but completed in 1992-93;
- payment for works commenced and completed in 1992-93.

Expenditure:

- costs of completing works in progress from 1991-92;
- costs of works commenced and completed during 1992-93;
- cost of works in progress as at 30 June 1993. The value of these works will be recognised in the balance sheet as a current asset.

Because of the unpredictable nature of recoverable works, it is impractical to put a value on the costs of works that will commence in 1992-93 and be completed and paid for in 1992-93.

(b) Recoverable works are either on a firm quote basis or actual cost, that is, no profit or loss is expected.

(c) Recoverable works can be a result of a written agreement or request to do work, an order/requisition, an application form, an accident, etc., and details are kept on various systems and controlled locally. Because of their diverse nature there is no overall data base of recoverable works from which can be established the number of contracts/agreements currently in hand.

As at the end of September 1992, there are 2 990 individual debtors with an amount outstanding of $3 million.

(d) The major categories of debtors include other Government departments, statutory authorities, for example, SAHT, local government and private contractors involved in the housing industry. The risk involved with these debtors regarding non-payment is minimal and in many cases, particularly with private contractors, money is paid prior to the commencement of work.

The high risk area involves debts arising from vehicle accidents or damage to departmental property. However, the non-payment of these debts is relatively minor when compared to the overall value of recoverable works.

(e) All recoverable works are costed through the various financial systems together with normal departmental work and attract the same operating overheads such as superannuation, payroll tax, workers compensation, long service leave, etc. In addition to these overheads an administration overhead is added to all recoverable works.

FITNESS INSTRUCTORS

156. **Mr BECKER:**

1. What allegations have been received from the public concerning activities of unqualified instructors counselling and advising persons who seek to improve their physical fitness?

2. Does the Government propose to regulate the fitness industry or will it support industry self-regulation?

The Hon. G.J. CRAFTER: The replies are as follows:

1. The Department of Recreation and Sport has not received formal allegations from the public concerning activities of unqualified instructors counselling and advising persons who seek to improve their physical fitness.

2. It is understood that the Department of Public and Consumer Affairs is introducing regulations which would require the employment in the fitness industry of only those persons whose qualifications are accredited by the South Australian Fitness Accreditation Council.

The interim South Australian Fitness Accreditation Council has made a discussion paper available for public comment and will be evaluating the responses received.

SPORTS INSTITUTE

157. **Mr BECKER:** What action is being taken to encourage overseas, particularly Commonwealth, athletes and administrators obtain sport coaching and administration skills at the South Australian Institute of Sport and, if none, why not?

The Hon. G.J. CRAFTER: The South Australian Sports Institute (SASI), Department of Recreation and Sport, has and will always encourage overseas coaches, athletes and administrators to visit and expand their skills. These initiatives must be developed but kept within restricted budget areas.

SASI has also encouraged coaches, athletes and administrators to further their professional development by visiting overseas centres of excellence and attending seminars on particular topics.

During the previous financial year the South Australian Sports Institute entertained the following:

Administrators from	England
	New Zealand
	China
Coaches from	Italy
	Sweden
	China
	Russia
Athletes from	Italy
	Germany
	Sweden
	Switzerland
	New Zealand
	Korea
	USA
Sports Scientists from	Italy
	Germany

SASI has also held discussions with the Department of Industry, Trade and Technology about the possibilities of servicing Commonwealth countries such as Malaysia. These informal discussions may come to fruition during the next 12 months.

It has and will continue to be that the SASI opens its doors to all interested sports people so that they may be able to learn from SASI and in return offer a learning experience for those South Australians who have the privilege to be involved with them.

ABORIGINAL RECREATION AND SPORT

158. **Mr BECKER:** Who are the three persons selected to head up the policy task force in recreation and sport in the recently formed Aboriginal Unit and what are their qualifications for the job?

The Hon. G.J. CRAFTER: On 18 September 1992 the Minister of Recreation and Sport announced the formation of an Aboriginal Unit in the Department of Recreation and Sport. The unit will involve three staff in the areas of sport development, recreation development, and policy and planning.

Currently, the Department of Recreation and Sport with the support of the South Australian Aboriginal Sport and Recreation Association (SAASRA) is preparing the job and person specifications, the positions will be advertised, and the subsequent appointments will conform with the Government Management and Employment Act.

BOOKMAKERS

159. **Mr BECKER:**

1. What evaluations have been undertaken to determine the future of bookmakers at horse racing, harness and greyhound racing meetings?

2. What is the reason for the decline in investments with bookmakers from $186 million to $115 million from 1987-88 to 1991-92?

3. What has been the loss in the number of bookmakers, clerks or agents during the above period?

The Hon. G.J. CRAFTER: The replies are as follows:

1. There have been a number of evaluations or investigations undertaken, particularly over the last four years, regarding the future of bookmakers at horse racing, harness and greyhound meetings.

In October 1988, a working party was established with several terms of reference including an examination of measures which the racing industry should adopt to enhance bookmaking, and to suggest ways in which regulations and legislation governing bookmaking could be changed to the benefit not only of bookmakers, but also of the racing industry as a whole. It is important to note that the major reason for the establishment of this working party was to examine initiatives which would have the effect of avoiding any negative impact resulting from the planned introduction of fixed odds totalisator betting. The committee of inquiry into the Racing Industry, completed its work in 1987, had included amongst its recommendations that consideration be given to the introduction of fixed odds totalisator betting, credit betting via TAB, and telephone betting for bookmakers.

In this sense, there was a clear nexus between each of the three initiatives, and following the withdrawal of the legislation which would have enabled the introduction of fixed odds betting, the telephone betting proposal for bookmakers was not proceeded with. The Working Party's report was not released publicly since the essential reason for its establishment lapsed following the withdrawal of the fixed odds betting legislation.

Notwithstanding these particular issues, there were several other recommendations to emerge from the Working Party's report which were implemented. As a result of this Working Party, legislation was introduced which enabled bookmakers to offer place-only and multiple bet types (in addition to the standard win and each-way betting operation); betting on sports other than racing (for example Football, Cricket, Tennis, Golf, Grand Prix, Basketball etc.); favourable negotiations between the Codes and Bookmakers in relation to the charging of stand fees; subsidised, or sometimes free, admission for bookmakers and their staff; rearranging and improving on-course facilities in such a way that the totalisator, the bookmakers ring and other amenities are readily accessible to punters.

In March 1989, a Working Party, formed at the request of a conference of Racing Ministers, to examine the question of registered bookmakers accepting telephone bets presented its report to each of the State Racing Ministers. The report concluded that 'Governments should proceed with extreme caution with any proposal to vary the existing successful mix of on and off-course betting services, and change should only be considered where it can guarantee improved positions for both the industry and government. The proposal under consideration offers no such guarantee'.

Following this report, an inquiry was initiated in April 1990 to examine the feasibility of telephone betting for bookmakers. This inquiry included representatives from each of the racing industry authorities, the Bookmakers League, Treasury, Police Department and Recreation and Sport. No actionable recommendation emanated from this Working Party largely because of the wide disparity of opinions on the subject of telephone betting.

- The examination by the Bookmakers Licensing Board on the issue of the introduction of compulsory retirement age for bookmakers. This initiative had the objective of reducing bookmakers numbers in accordance with the decline in on-course attendances. Bookmakers, however, did not support this concept and it was not proceeded with.
- The Bookmakers Licensing Board recently pursued the concept of single code bookmakers' licences with a view to achieving smaller betting rings made up of more specialised and more professional bookmakers in each code. The subject attracted strong opposition from bookmakers and the idea was dropped.

2. The reason for decline in investments with bookmakers from $186 million to $115 million from 1987-88 to 1991-92, includes the following:

(a) television coverage of racing in licensed premises (SKY channel);

(b) TAB facilities in licensed premises, including approximate totalisator odds display, via teletext;

(c) greater recreational and sporting activities available to the general public, which in turn accelerates the trend in declining racecourse attendances;

(d) current economic climate.

3. The loss in the number of bookmakers and clerks or agents during the period 1988 to 1992 has been 22 and 285 respectively.

TOTALIZATOR AGENCY BOARD

160. **Mr BECKER:** What is the estimated turnover of SP betting in South Australia and what is the estimated effect of TAB agencies in hotels and licensed clubs on this activity?

The Hon. G.J. CRAFTER: South Australian TAB has no established facts available regarding South Australian SP betting turnover. However, in the five year period of TAB's greatest turnover growth from 1986-87 to the present time, TAB has appointed 263 Agents on Licensed Premises throughout the State. Those Agencies in the 1991-92 financial year generated turnover of $193.5 million, an increase of $175.5 million over turnover of $18 million achieved from that source in the 1986-87 financial year. It is management's view that a significant proportion of that new money turnover came from illegal SA betting operations and that establishment of TAB facilities in hotels and licensed clubs has had a major effect in reducing SP activity in South Australia.

161. **Mr BECKER:**

1. What is the reason for the increase in the cost of betting tickets purchased by the TAB from $1.067 million to $1.534 million for the 1991-92 year?

2. What impact has the removal of 15 per cent tariff on the thermal coated board to be converted into betting tickets made to the cost of purchase?

3. What action is the TAB taking with other interstate TABs to obtain thermal coated board made in Australia or to encourage Australian manufacture and if none, why not?

The Hon. G.J. CRAFTER: The replies are as follows:

1. Betting ticket expenditures over the past three years have been:

1989-90—$1.333 million
1990-91—$1.067 million
1991-92—$1.534 million

This represents an increase of 15.1 per cent for the period 1989-90 to 1991-92; however, it should be noted that 1990-91 expenditure was $266 000 less than 1989-90. This resulted from deferring the receipt of the 1990-91 final quarter betting ticket order until July 1991 (commencement of new financial year) to increase profit for distribution in 1990-91.

In August 1989, the 15 per cent tariff was removed; therefore 1989-90 expenditure includes only minimal tariff cost, 1990-91

expenditure includes nil tariff cost and, as reported in the 1991-92 Annual Report, the 15 per cent tariff has been reinstated.

The applicable 15 per cent tariff component in 1991-92 expenditure of $1.534 million approximates $168 000. If the tariff was not reinstated, expenditure would have been $1.366 million.

If 1990-91 expenditure was maintained at 1989-90 level ($1.333 million) and the tariff had not been reinstated in 1991-92, the net increase would have been $33 000 or 2.5 per cent increase from 1990-91 to 1991-92. This increase can be compared to an actual increase of 6.2 per cent in tickets issued for the same period.

2. As detailed in 1 above, the 15 per cent tariff was reinstated (effective from November, 1990) with full effect in the 1991-92 financial year; therefore, the tariff reinstatement has increased costs by approximately $168 000 in 1991-92.

3. The South Australian TAB is not currently taking any action with other interstate TAB's to obtain thermal coated board made in Australia.

The only Australian product has been tested on several occasions by South Australian TAB; however, on each occasion the product has failed to pass the required quality assurance testing standards. On that basis, the South Australian TAB continues to use the imported product.

162. **Mr BECKER:** How many TAB agencies are established in licensed clubs and hotels, respectively?

The Hon. G.J. CRAFTER: As at Monday, 19 October 1992, the following is a break-up of all TAB sales outlets:

Staffed Agencies	107
Agents other than Licensed Premises	8
Licensed Premises Agencies:	
Hotels, SANFL and Angle Park	285
Licensed Clubs	16
Total Number of Sales Outlets	416

PORT BONYTHON TO PORT PIRIE PIPELINE

166. **Mr BECKER:**

1. What was the cost paid by Pipelines Authority of South Australia in the year 1988-89 for the 11.3 km products pipeline built across Spencer Gulf from Port Bonython to Port Pirie?

2. What was the reason for building this pipeline and what contracts or guarantees of use were given and by whom?

3. What is the estimated cost to retrieve this pipeline and dispose of the scrap and what is the scrap value?

The Hon. J.H.C. KLUNDER: The replies are as follows:

1. The cost paid by Pipelines Authority of South Australia in 1988-89 for the 11.3 km products pipeline built across Spencer Gulf from Port Bonython to Port Pirie was $1.06 million.

2. In 1988 PASA constructed a 90 km natural gas pipeline to Whyalla at a total approximate cost of $14 million. This pipeline crosses Spencer Gulf for 11 km between Mambray Creek on the east (about 45 km north of Port Pine) and Douglas Point on the west (about 20 km north of Port Bonython). The Whyalla pipeline branches off from the 70 km Port Pirie lateral at a point near Port Pirie. The total pipeline system from the main Moomba to Adelaide gas trunk line is, therefore, 160 km in length.

At the time of building the Whyalla gas pipeline system, Southern Cross Petroleum (SA) Pty Ltd was proposing to build a small refinery at Port Bonython and it was considered that a small diameter products pipeline would be required to transport product across the gulf from west to east. Consequently, the opportunity was taken to lay a 100 mm diameter pipeline at a low additional cost across the gulf by 'piggy backing' it on top of the 200 mm diameter gas pipeline.

Although PASA had no contracts or guarantees for the use of the products pipeline, there was significant economic advantage in constructing the products pipeline in conjunction with the gas pipeline. The cost of constructing the 100 mm diameter pipeline by itself would have cost about $4 million.

As it turned out the proposed refinery has not yet proceeded, and although the possibility of transporting LPG and other uses were investigated, a commercial use for the pipeline by an outside party has not yet been achieved. The pipeline is currently connected into the gas pipeline system and is now used to transport some of the gas to Whyalla. However, it remains available for future use for transporting liquids or for increased gas demand, which may well occur in the Whyalla region.

3. The estimated cost to retrieve this pipeline is $1 million since it is attached to the gas pipeline and is buried in the seabed. The scrap value is estimated at $15 000.

However, there is no reason to remove the products pipeline because it is providing a useful purpose and may still be required to transport hydrocarbon liquids. At present it is providing a 50 per cent security back-up to the 200 mm diameter gas pipeline and will be useful in providing for additional pipeline capacity in the event of the need arising to increase pipeline capacity all the way to Whyalla.

There is no doubt that the 100 mm diameter pipeline provides a back-up to the larger gas pipeline since it is buried beneath the larger pipeline and is, therefore, protected by it, but the likelihood of the 200 mm diameter pipeline being damaged is considered remote.

Although the 100 mm pipeline is connected into the existing 200 mm pipeline, as things currently stand it accounts for only 1.5 per cent of the throughput capacity of the existing system due to the fact that it extends only over 6 per cent of the total distance from the Moomba to Adelaide pipeline to Whyalla and is only half the diameter of the main lateral.

With regard to future pipeline capacity, it is uncertain whether or when this may be required. The limiting factor of the existing system is the Port Pirie lateral which has an annual capacity of about 6 PJ per annum. However, if gas were to be brought in from the Amadeus Basin, connecting into the existing system at Mambray Creek (this is the current thinking), extending the 100 mm diameter pipeline from Douglas Point to Whyalla would increase the capacity of the system from Mambray Creek to Whyalla by about 20 per cent (3 PJ per annum).

GOVERNMENT HOUSE

179. **Mr S.J. BAKER:** Why did salaries, wages and related payments for Government House staff exceed the budget estimate in 1991-92 by more than $106 000?

The Hon. FRANK BLEVINS: Over one-half of the overrun (that is, $58 000) relates to a terminal leave payment following the retirement of a Secretary to the Governor. The balance of the excess reflects, in the main, the cost of award restructuring, employment of temporary staff and overtime associated with an increased number of functions and the appointment of a cleaner, the cost of which has been offset by savings in the accommodation/services area.

A significant part of the excess in salary expenditure was offset by savings achieved in the goods and services area, to the extent that the agency only exceeded its total budget by $42 000.

This overrun was less that the cost of the terminal leave payment and was funded as an unavoidable cost as the State Governor's establishment budget does not include ongoing funding to meet extraordinary costs of this nature.

TOURISM TAX

184. **Mr S.J. BAKER:** Has Treasury provided any advice to the Government on the introduction of an accommodation tax in the tourism industry and, if so, what was that advice?

The Hon. FRANK BLEVINS: In June 1991, a working party consisting of representatives from Tourism SA (TSA) and Treasury prepared a joint report titled 'Alternative Funding Sources for Tourism South Australia' which canvassed a broad range of alternative sources of funds for TSA including an accommodation levy.

The former Minister of Tourism considered the report and rejected the implementation of an accommodation levy.

The Minister of Tourism has recently announced that the accommodation levy will not be introduced during the life of the Government.

Treasury has from time to time in the context of the annual budget process canvassed a whole range of proposals including the implementation of an accommodation levy as a means of raising revenue for general budgetary purposes.

GOVERNMENT VEHICLES

200. **Mr BECKER:**

1. What Government business was the driver of the vehicle registered VQF-572 attending to whilst towing a small fishing boat on Saturday 26 September 1992 at approximately 5 p.m. along Grange Road, Grange?

2. To which Government department or agency is this vehicle attached?

3. Were the terms of Government Management Board Circular 30/90 being observed by the driver of this vehicle and, if not, why not and what action does the Government propose to take?

The Hon. M.D. RANN: The replies are as follows:

1. Vehicle registration VQF-572 is leased to the South Australian Sports Institute and is frequently used by the Rowing Program for training. At this date/time, the vehicle was located at Mannum on a Rowing Camp (8 a.m., Friday 25 September to 3 p.m., Sunday 27 September). On any other day, this vehicle is usually travelling to/from training at West Lakes. The speedboat/dinghy attached to the vehicle is used for coaching.

2. The vehicle is registered to State Fleet and is leased on long term hire to the South Australian Sports Institute.

3. The terms of the Government Management Board Circular 30/90 were being observed by the driver of this vehicle.

MURRAY RIVER

207. **Hon. D.J. HOPGOOD:** Are there plans for relaxing the 50 millimetre tolerance which applies to weir pool levels in the River Murray to limit the frequency and amplitude of water level changes between weirs and if so, when are such changes likely to be implemented and how and if not, why not?

The Hon. J.H.C. KLUNDER: The longstanding practice for operating the locks and weirs on the River Murray has been to operate to maintain constant pool levels at the weirs. This has resulted in an expectation by the community, especially irrigators and boat owners, that water levels behind the weirs do not normally fluctuate during regulated flow periods.

In recent years the environmental impact of holding pool levels steady for long periods of time has been questioned. Over the last three years some short duration trials have experimented with both lowering and raising weir pool levels to assess likely impacts of altering levels.

Subject to community acceptance operating guidelines for maintaining pool levels at the locks and weirs could become more flexible. An inter departmental working group is assessing the impact of changing the operating practices to provide improved environmental benefits. Any major changes to operating rules would require extensive community consultation and feedback before implementation. It is anticipated that a discussion paper on this issue will be available to the community early in the new year.

MURRAY COD

209. **Hon. D.J. HOPGOOD:** What is the present conservation status of *Maccullochella peeli* (Murray Cod), are the prospects for its survival as a species improving or deteriorating and what measures are in hand to conserve the species?

The Hon. T.R. GROOM: Murray cod is not considered to be specifically at risk at a national level. Since 1989 there has been improved recruitment of this species within the South Australian section of the River Murray.

Through the Murray-Darling Basin Commission a native fish management plan has been developed and implemented. Management of this plan along with continuing research into the habitat requirement of Murray cod will ensure the conservation of the species.

DISABLED PERSONS

215. **Hon. D.C. WOTTON:** What work is being carried out regarding access for people with disabilities and what role does the SACON disability access adviser have in these programs?

The Hon. M.J. EVANS: All construction works undertaken by the South Australian Health Commission and health units conform with the requirements of the Building Code of Australia—Part D3—Access for People with Disabilities, and the Australian Standard AS 1428 referred to in that code. The SACON Disability Access Adviser is Chairman of the Access Committee of ACROD SA Chapter (Australian Council for Rehabilitation of the Disabled). A representative of the SAHC Health Facilities Branch is available to attend Access Committee meetings of ACROD on request to discuss specific issues relative to access or use of health facilities.

HOUSING TRUST HOUSES

223. **Mr BECKER:** Is the South Australian Housing Trust sound proofing houses it owns at West Richmond and if so, why and at what cost per dwelling?

The Hon. G.J. CRAFTER: The South Australian Housing Trust is not soundproofing houses it currently owns at West Richmond.

MARINE RESEARCH LABORATORY

229. **Mr BECKER:**

1. What is the cost of construction of the Marine Research Laboratory at West Beach and is it on schedule?

2. Why is such a facility permitted to be built on the back of the frontal sand dune?

3. During construction of the sea water pipeline, what impact did works on the beach and in the sea have on sand erosion?

The Hon. T.R. GROOM: The replies are as follows:

1. Funds of $8.835 million were approved by Cabinet on 23 March 1992.

2. The location of the laboratory at West Beach was negotiated at length with the West Beach Trust and it is a compatible development with the coastal environment.

The architectural design has been developed to reflect and respond to the scientific activity of the complex and to the colours, forms and conditions of the seaside location.

3. There were no impacts on sand erosion. Only limited, short term impacts occurred on the beach and dunes, associated with the construction activities. These have all been rectified.