LEGISLATIVE COUNCIL

Thursday 5 November 1987

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

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

PAPER TABLED

The following paper was laid on the table:

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

Pursuant to Statute—

University of Adelaide—Annual report, 1986 and Statutes.

QUESTIONS

STORAGE OF CHEMICALS

The Hon. M.B. CAMERON: I seek leave to make a short statement before asking the Minister of Local Government a question about the storage of chemicals.

Leave granted.

The Hon. M.B. CAMERON: It has become clear that a decision has been made to store 35 000 litres of highly toxic chemicals at Northfield, close to residential areas in the metropolitan area. This decision was not known until, I gather, last night when Channel 7's news identified a storage location as being just a few kilometres from the heart of the city, at Northfield Agricultural Research Centre. The Minister of Agriculture was interviewed about the matter and admitted that he was edgy about the storage of chemicals, and said that the Northfield location was only temporary before a national depot was found.

It was alleged that three semitrailer loads of chemicals had arrived at Northfield over the past few weeks, but the Government workers had refused to handle the substances—and I do not blame them—because they were not provided with adequate safety equipment. I understand that both the Metropolitan Fire Service and the local council have confirmed the location of the chemicals, and the Metropolitan Fire Service has described the location as 'high risk'.

Was the Minister of Local Government consulted before the decision was made to allocate this area as a storage area for these highly toxic chemicals and, if so, did she consult with the local council? What was the view of the Enfield council? Did the council agree to that, and for how long are the chemicals likely to be stored in this area?

The Hon. BARBARA WIESE: I was not consulted about this matter and have no information on the subject. Whether or not the council concerned was consulted I cannot say, but I shall be happy to refer those questions to the Minister of Agriculture and bring back a reply.

INTERNATIONAL VISITORS

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

Leave granted.

The Hon. L.H. DAVIS: Both the Premier and the Minister of Tourism have often said that tourism is a bright spot on the South Australian economic horizon, and some emphasis was given to tourism when reviewing the State's economic performance in this year's budget speech. However, yesterday one of Australia's leading travel authorities put the Government's performance in a different context. The well-respected national Managing Director of Thomas Cook Travel, Mr John Massey, in a hard-hitting address to the Adelaide Rotary Club said that South Australia's performance in attracting international visitors was the worst of any State. He said that this applied particularly to Japanese visitors, those likely to spend the most money in Australia, and that South Australia's share was only 4 per cent. In fact, Mr Massey said that only 2 per cent of Japanese travellers knew where Adelaide was and their perception was generally unfavourable. Mr Massey also noted that other States and territories were spending more on tourist promotions and claims that if South Australia was to compete successfully for international visitors it must work harder and smarter than other States.

Mr Massey's views are supported by the latest ABS information on tourism which shows that South Australia is falling behind. The latest ABS survey on hotel and motel accommodation for the March quarter of this year shows that South Australia accounts for only 6.9 per cent of total guest arrivals, that the average length of stay of visitors to South Australia and our room occupancy rates are both below the national average and that takings from accommodation are low, in fact only 5.6 per cent of the national total. The figures also show that our room occupancy rate of 54.1 per cent for the March quarter of this year is well below the 62.6 per cent figure achieved in the March quarter of 1982. My questions to the Minister are:

1. Does the Minister agree with the observations of the well-respected Managing Director of Thomas Cook Travel, Mr John Massey?

2. What specific action has the Government taken, or is planning to take, to correct this situation?

The Hon. BARBARA WIESE: I am very disappointed by both the contribution of the Hon. Mr Davis and also Mr Massey on the matter of tourism in South Australia. Mr Massey comes from South Australia and I would have hoped that he might take a more positive approach to tourism in this State than he has taken on this occasion. I would also hope that the Hon. Mr Davis would take a more positive approach to the sorts of things that the Government is doing about tourism in South Australia.

The Hon. L.H. Davis: You can attack me, but why attack an independent person?

The PRESIDENT: Order!

The Hon. BARBARA WIESE: The Hon. Mr Davis is becoming well known for knocking South Australia and the Government's efforts in this State towards tourism promotion. I am sorry that Mr Massey on this occasion has also decided to take the approach that he has taken during the past 24 hours. I am particularly surprised to hear Mr Massey's comments in the past 24 hours because it is only two or three months since Mr Massey was present at a gathering of people in the tourism industry when I outlined in some detail the plans that Tourism South Australia had to improve the State's marketing thrust, and outlined the marketing plan that the Government will be pursuing in future to promote South Australia as a tourism destination. On that occasion Mr Massey indicated to me that he was very pleased to hear the things that we were doing. He agreed entirely with the approach that the Government was taking and he thought that it would achieve the sorts of benefits that we were looking for in an increase in visitor numbers.

Mr Massey knows, as well as I know, that it will be very difficult for South Australia to increase the proportion of

Japanese visitors in particular to South Australia until an increase in direct flights into this State is achieved. One of the things that the Government has been concentrating a lot of time and effort on during the past two or three years is the building of a case to put to any airline prepared to talk to us about these matters to encourage airlines to consider Adelaide as a destination for direct flights.

Next week, in fact, I will meet with the Federal Minister for Aviation (Gareth Evans) and I will put South Australia's case for an increase in direct flights from Japan and from other parts of Asia in particular. On 25 November I will meet with senior executives of Qantas to put forward the same material to convince them that South Australia has a very good case for a direct flight from Japan and from other parts of Asia. If we can achieve those direct flights, I believe that we will be able to significantly increase the proportion of Japanese and other Asian visitors to this State. That is certainly one of the aims that I have pursued vigorously in the two years or so that I have been Minister of Tourism. Some of the figures that have been bandied about in relation to visitation to this State and South Australia's relative position have not been accurate, and some of the points made are out of date and out of touch.

The Hon. L.H. Davis: Which ones are out of date and out of touch?

The Hon. BARBARA WIESE: It was suggested that South Australia enjoys the lowest percentage of visitors of any State or Territory in Australia. That is not so: Tasmania and the Northern Territory, for example, have a much lower visitation rate than South Australia and, what is more, the visitation rate to Western Australia is about the same. While on the subject of Western Australia, I think it is significant to note—and it is certainly one of the things that I will be pointing out to Qantas officials and to my Federal colleague when I meet with him—that until 12 months ago, when Western Australia achieved its first direct flight from Japan, the visitation rate of Japanese people to Western Australia was marginally lower than the proportion of Japanese visitors coming to South Australia. Since they have been able to achieve a direct flight, Western Australia has built up the traffic between there and Japan very significantly, to such an extent that they are now mounting a case for a second weekly flight from Japan to Western Australia.

I believe that it is possible for us—in terms of both tourism numbers and increased trade possibilities—to achieve very significant results as well. I think it is time that Qantas listened to South Australia's case and started to take our claims seriously. We have been very patient and cooperative with Qantas over a long period, and it is now time that it took action in the national interest and in the interests of the South Australian economy and supported our case for more direct flights. In the meantime, this Government has done more to boost South Australia's image internationally as a tourist destination than has any other Government before it. The Australian Formula One Grand Prix, which is now on the international calendar—

Members interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: —has raised the profile of this State like no other event in the history of this State. The work that we have been doing in attracting conventions and congresses to this State—one of which is in Adelaide at this very time, the SKAL Congress, and has brought 1 300 visitors from all over the world, some of them being amongst the most influential people in the tourism and travel industry—is very significant and will pay enormous dividends to South Australia in terms of future visitation to our State. That is because those people will talk about their visit here and will speak favourably about the things that they have been able to see and do. We would not have been able to host a congress of this kind if we had not had a facility like the Adelaide Convention Centre, which enables us to provide the facilities and services that congresses of that kind now look for. So, we have made great strides in building our infrastructure in this State for the promotion of South Australia as a tourism destination.

INTERNATIONAL PANEL AND LUMBER

The Hon. K.T. GRIFFIN: I seek leave to make an explanation prior to directing to the Attorney-General a question on the subject of International Panel and Lumber.

Leave granted.

The Hon. K.T. GRIFFIN: Yesterday, questions were raised in the House of Assembly in respect of the Government's contribution to the New Zealand venture, International Panel and Lumber, of another $3 million or more of taxpayers' money. This must bring the taxpayers' contribution to activities in New Zealand (not South Australia) to over $20 million, including share capital. Government members in the other place declined to answer the question on the basis that they did not want to prejudice the Government's legal action in the Federal Court against certain parties who sold interests or who were involved in the sale of interests to the Government. There was no indication by the Premier or the Minister of Forests as to how pumping money into the venture now, nearly two years after the cause of action is alleged to have arisen, and of how explaining that it had occurred and why it had occurred would prejudice the Government's case. As I understand it, the case is based on a claim of misrepresentation and fraud prior to and at the time of the Government's entering into the venture two years ago; and no admission that more money has been pumped in, and the reasons for that will affect the court case. My questions to the Attorney-General are as follow:

1. Will the Attorney-General explain how an admission that the Government has put more money into the New Zealand venture within the last week or two is going to or may prejudice the Government's case in court?

2. Will the Attorney-General confirm that over $3 million more was paid in from Government funds within the last week or two and will he say what was the reason for that payment and whether or not it is a secured or unsecured loan?

The Hon. C.J. SUMNER: I have nothing to add beyond what was said yesterday by the Premier and the Minister responsible in another place.

The Hon. K.T. Griffin: So you are hiding.

The Hon. C.J. SUMNER: No. If after consultation with them I am able to provide the honourable member with any additional information as a result of his questions, I will do so.

KANGAROO ISLAND FREIGHT

The Hon. I. GILFILLAN: I seek leave to make a brief explanation before asking the Attorney-General a question relating to Kangaroo Island freights.

Leave granted.

The Hon. I. GILFILLAN: In reply to a question asked in the other place about Kangaroo Island freights, the Minister of Transport made some comments which are relevant to the situation on Kangaroo Island. Members will recall that the issue was raised when I indicated in this place that

the Government had a document which was aimed at full cost recovery and which was a matter of some discussion in this place and some publicity at the time. Since then, residents on Kangaroo Island have been very concerned that they have been singled out for a full cost recovery relating to transport and, quite naturally, have looked for some relief from that. I was pleased to note in the answer given by the Minister of Transport to a question about Kangaroo Island freights the following assurance, which I consider reflects some concern for the situation that could arise on Kangaroo Island:

> If, in fact, situations develop on the island that warrant another look at the economic position that applies there, and if representations through the Department of Agriculture and the Department of State Development are made, providing a whole number of other inputs to a policy decision, then the Government may again look at the matter. The Government is flexible and is also very considerate of the problems that people in country areas have from time to time.

My questions relate to the admirable intentions that are expressed in that answer, and I ask: first, what does the Minister of Transport mean by the phrase 'if representations through the Department of Agriculture and the Department of State Development are made'?

Secondly, what actual machinery is established in the Departments of Agriculture and State Development to monitor the economic situation on Kangaroo Island? Thirdly, by what means will these departments make representations to the Government, and when?

The Hon. C.J. SUMNER: I assume that the Minister's statement means what it says. It did not seem to me to be particularly in need of elaboration, especially by me, because I am not the Minister responsible, nor am I the Minister who made the statement.

The Hon. I. Gilfillan: Your colleague is not here. I am asking you, as Leader of the Government.

The Hon. C.J. SUMNER: That's all right, and I'm telling you: I suspect it means what it says. Does anyone here have any misunderstanding as to what the Minister said? He said that representations could be made. That phrase is used quite often in politics. The honourable member receives representations from the Trades and Labor Council sometimes, from the Conservation Council sometimes, from the Aurora Action Group sometimes, from the Save the Parklands Group sometimes—

The Hon. Carolyn Pickles: From the Anti Grand Prix.

The Hon. C.J. SUMNER: From the Anti Grand Prix Group on occasions and I assume that, having been the subject of representations himself on numerous occasions as a member of Parliament, the honourable member knows what that means. I understand that that was the statement made by the Minister of Transport: representations could be received.

The Hon. I. Gilfillan: Has he asked for them?

The Hon. C.J. SUMNER: I do not know whether or not he has asked for them, but according to what the honourable member said in his question, apparently he has said that representations could be made. I would have thought that that did not require any particular explanation but, in light of the honourable member's apparent incapacity to comprehend this fairly obvious statement (which I would have thought should not have been beyond his comprehension in light of his experience in this Parliament) and, because he seems to be in some kind of confused state about it, I will refer the matter to the Minister of Transport—and I take it that he is the relevant Minister—

The Hon. I. Gilfillan: Yes, in the first instance. There are two others.

The Hon. C.J. SUMNER: It will be referred to the Minister of Transport for any additional information that the Minister might be able to provide to the honourable member.

BANKRUPTCIES

The Hon. DIANA LAIDLAW: I seek leave to make a short explanation before asking the Attorney-General a question about bad debts and bankruptcies.

Leave granted.

The Hon. DIANA LAIDLAW: On 6 August last I highlighted the alarm shared by credit providers and financial counsellors in this State about the rising level of bad debts and bankruptcies in South Australia. I asked the Attorney-General what, if any, action he had taken after receiving a request from the Premier that he investigate the concerns of the lending institutions and welfare agencies.

In response, the Attorney indicated that he would organise a meeting of debtor organisations and lending institutions. I understand that some 10 weeks later, on 15 October, a meeting was held at which representatives from both sectors stressed that the problem of bad debts and bankruptcies had reached crisis proportions.

Following that meeting, news items in the *Advertiser* and also on television indicated that the Attorney would set up a working party to investigate this matter. However, my efforts since 15 October to inquire about the composition and terms of reference for the inquiry have been unsuccessful. The non-government representatives who attended that meeting with the Attorney on 15 October have not been informed about these matters.

The Hon. C.J. Sumner: You're a bit out of touch.

The Hon. DIANA LAIDLAW: That was my advice, even of today.

The Hon. C.J. Sumner interjecting:

The Hon. DIANA LAIDLAW: I do not know what is happening in terms of the Attorney's knowledge of this, but I spoke with three of the people who attended that meeting and all their representatives today, and they are no wiser about this working party than when the Attorney-General made his statement on 15 October. Therefore, I ask the Attorney who, in addition to Mr Colin Neave (the Director-General of the Department of Public and Consumer Affairs), who is to chair this working party, will be members of the working party; what will be the terms of reference of the working party; what administrative support will be provided; has the working party a time frame in which to meet; and can the Minister assure the Council that the proposed working party will not die or be disbanded like the earlier poverty task force which, the Attorney will recall, at one time was set up to investigate the very same concerns that are to be investigated, I understand, by the working party?

The Hon. C.J. SUMNER: The working party is to be coordinated by the Director-General of Public and Consumer Affairs, Mr Neave. The meeting that I convened was attended by the Minister of Health, representatives of the Government agencies concerned, representatives of people involved in the voluntary welfare sector, including the Adelaide mission, the Legal Services Commission and representatives of the finance industry—the Australian Finance Conference, the Australian Bankers Association, credit unions and building societies.

The working party will investigate providing practical solutions to tackle the problems resulting from consumer debts. It is expected that the proceedings will conclude early next year, and no doubt some of the proposals it develops could be put to the debt summit that has been called by the Federal Minister for Consumer Affairs, Mr Staples,

some time early next year. No doubt the question of shoppers using credit to purchase food and perishable goods will also be considered by the working party as part of its deliberations.

The Hon. Diana Laidlaw interjecting:

The Hon. C.J. SUMNER: Good! I am pleased that the honourable member asked the question. It is a pity she had not made a few more—

The Hon. Diana Laidlaw interjecting:

The Hon. C.J. SUMNER: The working party has been established as far as I am aware. Mr Neave chairs it.

The Hon. Diana Laidlaw interjecting:

The Hon. C.J. SUMNER: They have been sent letters. I suggest that they should contact the people who represented them on the working party, but letters have been sent.

The Hon. Diana Laidlaw: You can't provide the names of the people?

The Hon. C.J. SUMNER: Yes, I can, but I do not have them in front of me. If the honourable member wants them, I will get them for her. All I know is that I have signed letters to the people concerned establishing the working party. If the honourable member wants more details, I can provide them. The working party will be coordinated by the Director-General of Public and Consumer Affairs, Mr Neave, and will involve representatives of the relevant Government departments, the finance sector, and the voluntary welfare sector.

The Hon. DIANA LAIDLAW: I wish to ask a supplementary question. I seek advice from the Attorney as to the names of the people to whom those letters were sent. Were those people being nominated themselves, or were those people to nominate in turn someone to represent them on the inquiry? When are the names to be provided to either the Attorney or Mr Neave so that the working party can actually start to undertake the tasks that the Attorney has advised it is to investigate?

The Hon. C.J. SUMNER: I have already said that I do not have the details of the working party in front of me, but letters have been sent to the groups that are to be involved. As far as I am concerned, the matter is proceeding.

The Hon. Diana Laidlaw: You won't provide the names?

The Hon. C.J. SUMNER: Yes, I will provide them for the honourable member. I said that previously.

SMALL FARMS ADVISER

The Hon. M.J. ELLIOTT: In the absence of the Minister of Health who represents the Minister of Agriculture, I seek leave to make a brief explanation before asking the Attorney-General a question about the small farms adviser.

Leave granted.

The Hon. M.J. ELLIOTT: Small farms play an important role in agriculture in South Australia. It is often on the small farms (which, of course, include hobby farms) where people first started trying out things such as angora goats, deer farming, dairy sheep and alternative crops such as kiwi fruit—

The Hon. R.I. Lucas: Pistachios?

The Hon. M.J. ELLIOTT: Pistachios, yes. There are many examples of where—

The Hon. Diana Laidlaw: Have you got a vested interest in asking the question?

The Hon. M.J. ELLIOTT: I do not own a farm any longer. I suggest that small farms play an important part. On the small farms we will often find people experimenting with permaculture, organic farming and so on, which sometimes leads to breakthroughs which are accepted by the mainstream of agriculture. Small farms can be a problem at times in relation to pests, be they plants, insects or whatever. I have been told that the position of small farms adviser in the Department of Agriculture has been abolished, and the only person now available for advice is a consultant linked to the Institute of Technology. Is it correct that the position of small farms adviser has been abolished and, if so, will the Minister consider re-establishing the position?

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

WORKCOVER

The Hon. PETER DUNN: Does the Attorney-General have an answer to the question I asked on 6 October about WorkCover?

The Hon. C.J. SUMNER: The WorkCover Claims and Levy Agency arranged with Australia Post to circulate information concerning the new workers compensation scheme together with necessary registration forms for all business houses recorded by that organisation. Australia Post advised that 55 000 information sheets and registration forms would be necessary to ensure that all business houses known to its organisation received the required information. The WorkCover Claims and Levy Agency recognised that the list of business houses upon which Australia Post was operating may not be totally comprehensive, and provided for supplies of information brochures and registration forms to be held at Australia Post offices. Further, recognising that not all employers would be included in the Australia Post listing, a full page advertisement was placed in the press in August 1987 advising employers of their responsibilities under the new legislation and that, should they not receive registration forms via the post, supplies were available at their local Post Office or the WorkCover Claims and Levy Agency.

The issue of difficulty in getting through to the Workcover Claims and Levy Agency via telephone has been raised several times before. It is important to note that every attempt was made to provide for the answering of queries both from employers and employees. Logistically it was almost impossible to respond immediately to the 22 000 calls received during September 1987. Whilst some delays were experienced which led to obvious frustration, overall the hotline's ability to respond effectively and speedily to the majority of calls was maintained. It should be further noted that as at 30 September 1987 approximately 52 000 registration forms were received.

The issue of domestic workers employed by householders has been clarified in respect of policy by the corporation. Several full page advertisements were placed in the press setting out the basic principles of that policy. In addition, an information sheet was prepared which was made available to all people seeking information about this matter. In essence, the major points of that policy are as follows:

(a) A person who works in a domestic capacity in a private home on less than five days in a single calendar year is not covered by the WorkCover scheme in the event of a compensable injury.

(b) Where a domestic worker works on more than five days in a calendar year or expects to work on more than five days in a calendar year but earns less than $5 000 remuneration in total in that year, he or she is covered by the WorkCover scheme, but the householder is not required to register, nor pay a levy for such workers.

(c) Where a householder's domestic worker earns in total more than $5 000 per annum remuneration, that householder is considered to be an employer and is required to register, and pay a levy.

The WorkCover Claims and Levy Agency is continuing to receive registration forms from employers. It is the intention at this stage not to proceed with the imposition of penalties available under the Act for late registrations. However, in the case of registrations received following 31 October 1987, consideration will need to be given to pursuing the imposition of penalties. It is considered that a one month's grace period is sufficient for all registrations to be submitted.

The issue of itinerant workers and the responsibility of employers to meet the first week's payment of wages in the event of a compensable injury has been considered by the WorkCover Corporation. The corporation will be providing a 'buy out' option to such employers at the cost of an extra 20 per cent of the levy that is otherwise payable. The 'buy out' option is designed to assist employers who have a transient work force but will not be available if an individual employer has a poor claims record.

NORTH ADELAIDE RAILWAY STATION

The Hon. I. GILFILLAN: Does the Attorney-General have an answer to my question of 20 August 1987 about the North Adelaide Railway Station?

The Hon. C.J. SUMNER: Whilst the authority has agreed in letters to a term of 30 years, not even a draft lease document has yet been prepared. In all negotiations with the developer, he has been made aware that it is necessary for him to obtain appropriate planning approvals for the development before the authority prepares any formal lease document covering the terms of the agreement. Negotiations have taken place and agreement has been reached in regard to suitable rental levels. However, in fairness to the developer, the authority is not prepared to reveal details of such lease agreements to the general public.

The developer will be required to fulfil both financial and performance obligations as part of the future lease agreement. If these obligations are not met, then the authority will certainly have the opportunity to terminate such an agreement. The land is part of the dedicated rail corridor and not alienated parkland.

It should be noted that two large parcels of land in the immediate vicinity, one of the western side and the other on the southern side of the railway station will be returned to parklands in the near future. One piece of this land has a portion leased to a Mr Robinson for use as a woodyard. This lease provided substantial returns to the authority. A final point that should not be overlooked is the importance of the buildings as heritage items, which has led to their inclusion on both State and council registers. The authority sees the proposal to redevelop the station as a means of restoring the buildings without a large drain on authority funds. The authority is certainly not in a position to commit funds to the restoration of this building and sees opportunities for development as an effective way of avioding these costs.

MARKET RESEARCH

The Hon. R.I. LUCAS: I seek leave to make a brief explanation before asking the Minister of Tourism a question about market research and related matters.

Leave granted.

The Hon. R.I. LUCAS: The most recent annual report of the Government Management Board states on page 10:

> The board has argued for testing the public acceptability of the standard of service provided by Government agencies. The Government intends during 1987-88 to replace some of the *ad hoc* consumer surveys carried out by individual agencies with a survey program conducted by a reputable market research firm. The board's role will be to provide a framework for the identification of subject areas, and to ensure that the results are correctly interpreted and acted upon.

The *Advertiser* of 24 October 1987 carried a story under the headline 'ALP Firm Gets Polling Appointment'. It then states:

> The State Government has appointed the ALP's public opinion poll firm, Australian National Opinion Polls, to carry out all Government research. The Premier, Mr Bannon, said yesterday that all future Government research programs would be coordinated through a central committee. The new committee would ensure Government departments avoided duplication of research topics.

Members in this Chamber—although the Minister of Health is missing on this occasion—will recall that Australian National Opinion Polls, as well as being the State and Federal Labor Parties' market research firm, was also the agency that carried out market research for the South Australian Health Commission on drugs and, at the same time, threw in some market research for Chris Schacht and the South Australian Labor Party, as well as a bonus question as to how popular was the Minister of Health in South Australia.

Members interjecting:

The Hon. R.I. LUCAS: The Minister of Health tells us that that was a freebie. Members will know that that issue was a matter of some debate in the Chamber and led to a successful motion of no confidence in the Minister of Health. I provide that information purely by way of background and to show that a number of people in the community have expressed grave concern that the Labor Party market research company has evidently wrapped up quite a juicy little contract with Premier Bannon and proposes to carry out research for a number of other Government agencies.

My questions to the Minister are as follows: First, was the Minister consulted about this matter; does it affect departments under her control; and does the Minister support the proposal to centralise in one agency all the Government's market research programs? One should bear in mind that last year the Minister told us that a $150 000 survey was given to an interstate company in relation to tourism.

Secondly, will Tourism South Australia pay a proportion of its market research budget to underwrite the cost of the survey organised by the Government Management Board through Rod Cameron's ANOP and, if so, what amount of underwriting will the department provide to the Government Management Board; and, thirdly, what is the market research budget of Tourism South Australia for the year 1987-88 and what was the comparative figure for the year 1986-87?

The Hon. BARBARA WIESE: I will take the last two questions first. I do not recall what the market research budget figure for this year is, but I am happy to obtain those figures. What I can say about this year's budget compared with last year's is that it will be considerably reduced because last year an amount of money was included to allow the Government to conduct during the latter part of 1986 a major market research study which led to the shaping of a new marketing strategy.

During this financial year there will be no need to do surveys of a similar size or magnitude, so the market research projects that will be undertaken by us during this financial year will be on a much smaller scale. Many of them will be

done in-house, as it were, using the resources of Tourism South Australia, and will be related to regional visitor survey matters and things of that kind. So, the expenditure on market research during this period of 12 months will be nowhere near as great as it was last year. I am happy to obtain the relevent figures for the honourable member and bring back a reply.

With respect to ANOP being appointed to undertake Government market research, I was consulted on this matter to the same degree as were other members of Cabinet, because it was a Cabinet decision that ANOP would be appointed. At this stage I am not clear to what extent that decision will impact on the market research that will be undertaken by Tourism South Australia, but it is something that I will have to take up at the appropriate time.

I am not aware of any requirement for the agency under my control to underwrite costs for market research through ANOP, but, as indicated I have not had discussions with the statistical research committee about the procedures that will need to be followed in future market research, and, at the appropriate time when market research needs to be undertaken by an outside organisation, those discussions will take place and I will be made aware of the guidelines.

The Hon. R.I. Lucas: Will you find out what you have to and bring back a reply?

The Hon. BARBARA WIESE: Yes, if you want me to do that I am happy to do so.

ABALONE LICENCE FEES

The Hon. PETER DUNN: I understand that the Attorney-General has an answer to a question that I asked about abalone licence fees.

The Hon. C.J. SUMNER: I have been provided with the following answer. The proposed 1987-88 abalone licence fees result from the application of a principle and formula linking the fees to the 'fortunes of the fishery' that has been negotiated with industry and used for a number of years. The fee is based on the value of production, determined from the average catch taken over three years, and the price received for abalone in the last year. The increase is a direct result of rapid increases in export prices between 1984-85 and 1985-86. Conversely, as most of South Australia's fisheries are currently fully exploited, any downward fluctuation in either catch and/or price could result in a reduction of fees collected. The abalone divers have made representation to the Minister of Fisheries on the proposed level of fees and are currently preparing a detailed submission seeking reassessment.

With regard to the specific questions from the honourable member:

1. No—as clearly indicated above, the increases result from application of previous agreements between the Minister and the industry.

2. Licence fees are sought by Government to both recoup the costs of managing fish resources as well as, if possible, return some of the benefits of the management of the fishery to the State. Independently, appropriate measures are implemented (such as legal minimum lengths and quota allocations) to ensure preservation of fish resources.

BUS AIR-CONDITIONING

The Hon. J.C. BURDETT: I seek leave to make a brief explanation prior to asking the Minister representing the Minister of Transport a question about air-conditioning on STA buses.

Leave granted.

The Hon. J.C. BURDETT: On 4 November 1986, a year ago yesterday, I asked a question about a directive that air-conditioning on STA buses be not used during summer because of the potential of spreading legionnaire's disease. The reply was to the effect that the direction had been given and that investigations and tests were being carried out. An article in the *News* of 25 September 1987 reports that Adelaide's buses will be without air-conditioning again this summer. The Minister commendably remarked that passenger comfort must come second to passenger safety. There is no question about that, but my question is directed to why it has not been possible over the past 12 months to solve the problem.

STA buses have been air-conditioned in South Australia for eight years. The cost of installing air-conditioning is considerable, but according to the report the air-conditioners will not have been operating at the end of this summer for two years. My questions are:

1. What tests are being carried out?
2. Who is conducting those tests?
3. When is a recommendation expected?
4. Are new buses as they are purchased by the STA still equipped with the same type of air-conditioning? and
5. Is the air-conditioning on super trains, which is operating, of a different type, and is there no danger with this type of air-conditioning?

The Hon. BARBARA WIESE: On behalf of the Minister who represents the Minister of Transport I will be happy to refer those questions and bring back replies.

COUNTRY TRAVEL AGENTS

The Hon. K.T. GRIFFIN: I seek leave to make an explanation before asking the Attorney-General a question about travel agents in country areas.

Leave granted.

The Hon. K.T. GRIFFIN: A number of country people have made representations to me since the travel agents legislation came into effect complaining about the decisions taken by a number of State-wide companies to reduce their representation in country towns. That reduction in representation has occurred because a registration fee is payable under the Travel Agents Act in respect of each premises where a travel agency business is carried on. Stock agents—companies such as Dalgetys and Bennett Farmers—and the ANZ Bank and other banks and stock agencies have limited their representation quite significantly. That means that many country people who deal with either banks or stock agents will have to go to one of the major rural centres rather than to their local bank branch or their local stock agent if they want to undertake travel interstate or overseas.

This is creating a great deal of inconvenience for country people who are denied a range of travel agency services similar to those available to people in the metropolitan area and in large country centres. Will the Attorney-General examine the problem which has arisen as a result of the Travel Agents Act and regulations with a view to ensuring that branches of travel agent companies can operate in country towns without attracting the high fees presently payable under the Travel Agents Act and regulations?

The Hon. C.J. SUMNER: I will examine the problem to which the honourable member refers. I am not sure whether there is any basis—

The Hon. K.T. Griffin: Well, there is.

The Hon. C.J. SUMNER: All right, but I am saying that I do not know whether there is any basis in what the

honourable member says and, therefore, I am not now in a position to say what the solution might be. I will certainly examine the matter raised by the honourable member and bring down a reply.

MORTLOCK LIBRARY

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Minister of Local Government a question about the Mortlock Library.

Leave granted.

The Hon. L.H. DAVIS: I understand that as from 1 December the Mortlock Library will be forced to reduce its hours on Tuesday, when it is currently open between 9.30 a.m. and 9.30 p.m. As from 1 December those hours will be cut back and it will be open from 1 p.m. to 8 p.m. That is on top of the fact that already the Mortlock Library is probably the only institution along the North Terrace cultural precinct that does not open its doors on Sunday. I understand that these cutbacks are forced on the Mortlock Library because of budgetary constraints. As the Minister would be well aware, the Mortlock Library was an initiative of the Hon. Murray Hill and it has been one of the great success stories along North Terrace in recent years.

I understand that there has been a 25 per cent increase in the use of the Mortlock Library in 1986-87 over 1985-86. The problem with the library is that when private records were transferred from the library the processing backlog was 20 years and it has continued to build up, forcing the library to reduce its hours on Tuesdays, and it has not permitted the library to open its doors on Sunday. The Mortlock Library receives enormous support and interest from schools and families seeking histories and also general research material. In fact, there has been a 50 per cent increase in the number of letters received by the library over the past 12 months.

Quite clearly, the Jubilee 150 awakened and rekindled interest in South Australia's history, and not surprisingly the increase in demand for the services of the Mortlock Library has continued into the current year. People who use that library are concerned that the Government cannot go on ignoring the build-up in the processing of this archival material because, if the people providing material to the Mortlock Library find out that it is not being processed, there will be a loss of confidence and as a result the amount of material being provided to the library will fall off. My questions to the Minister are as follows:

1. Is the Minister aware of the proposal to cut back on the number of hours that the Mortlock Library will be open on a Tuesday?

2. Has the Minister been made aware of the demand for the services of the Mortlock Library, particularly on a Sunday?

3. Will the Minister address this situation as a matter of urgency to try and resolve what is a most unsatisfactory situation?

The Hon. BARBARA WIESE: I am aware of what is going on about the Mortlock Library and I am aware of the excellent service that it is providing to the citizens of South Australia. In fact, I think it can be said that the Mortlock Library is one of the great success stories of our Jubilee 150. I think that the honourable member should congratulate the Government on the initiative that we were able to take in establishing the Mortlock Library at a time when money is so scarce. I think we should also take time to congratulate the staff of the Mortlock Library who work so hard in both providing a service to people who use the library and also in processing the archival material that has come to the library since it was established. It is true that the interest in South Australian history and in family histories has become so great that the demands on the services of the Mortlock Library have increased enormously during the past 12 months or so. As a result, the staff are constantly under pressure in dealing with the work that comes their way.

The staff of the Mortlock Library are doing an excellent job in handling the number of visitors to the library and in processing the archival material. It is precisely because of the enormous increase in archival material that has come to the library that it has been decided to close it for some hours during the week so that the staff can devote time to processing that material. It would be a breach of faith with the people who supply material to the library if we did not devote some time to processing it. Unfortunately, in the current financial climate we are not able to employ more staff, but we will be able to catch up with some of the processing of archival material by closing the doors for a few hours each week.

If the honourable member looked at our record in the provision of funding for libraries during this financial year, he would see that we have done quite an excellent job in maintaining library services around the State—despite the financial circumstances of this year's budget. The fact that we are not able to keep the Mortlock Library open for those few hours each week, although it is regrettable, is certainly not the worst decision that we have had to take as a result of the cut-backs in funding experienced by the State Government. So, whilst there might be some minor inconvenicence to some of the users of the Mortlock Library with this closure. I think that, overall, the service is a good one and that it is much appreciated by the people of South Australia.

WORKCOVER

The Hon. M.J. ELLIOTT: Has the Attorney-General a reply to a question I asked on 20 October about WorkCover?

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

Leave granted.

The Commission is not aware of 'great confusion as to what requirements exist for farmers' in respect to the coming into force of the occupational health and safety legislation on 30 November.

The following actions are planned in conjunction with the events:

1. A public launch on the day of proclamation.

2. A press release and publicity in provincial electronic and print media.

3. Supplements in the *Advertiser* and *News* which would also involve various organisations with an interest in occupational health and safety.

4. Publication of a 'Guide to the Occupational Health, Safety and Welfare Act' to be given widespread distribution prior to the Act's proclamation on 30 November.

LOCAL GOVERNMENT ACT AMENDMENT BILL

The Hon. BARBARA WIESE (Minister of Local Government) obtained leave and introduced a Bill for an Act to amend the Local Government Act 1934; and to make related amendments to the Electricity Trust of South Aus-

tralia Act 1946 and the Rates and Land Tax Remission Act 1986. Read a first time.

The Hon. BARBARA WIESE: I move:

That this Bill be now read a second time.

This Bill is the second in a series of five Bills which, when complete, will revise and update the entire Local Government Act. The first Bill of the series was passed by Parliament in 1984 and came into force in August of that year. It dealt with the constitution of local government—the formation and structure of councils, the electoral system, duties of Council members and staff and other matters. This Bill covers the powers and duties of councils in relation to their discretionary functions and the raising and expenditure of revenue. The Bill also demonstrates the Government's commitment to expressing legislation in gender-neutral language. It is proposed that subsequent Bills will deal with the management of land dedicated for public use, and certain regulatory functions of councils.

The Hon. C.M. Hill: It will be the year 2000 before we get them all in.

The Hon. BARBARA WIESE: I do not think so; after this one it will be easy, all plain sailing. The final Bill will review any remaining provisions and consolidate the Act. This revision Bill has two distinct aims. The first of these is the more straightforward, that of recasting relevant parts of the Act in logically arranged sections, written in plain language. Frequent amendments to the Act since 1934 have resulted in poorly structured provisions, duplication, excessive detail and incongruous material. The second aim is to reform the legislation so that it provides a more adequate framework for the operation of contemporary local government. In doing so the Bill strikes a balance between the legitimate scope of local government activity, the rights of individuals and groups governed by local authorities, and the overall responsibility of Parliament for the system of local government.

In this Bill, judgments as to where that balance lies are based on the following criteria:

(i) Local government in South Australia is sufficiently developed and responsible to warrant broader powers and greater flexibility to respond to local needs and circumstances, subject to the duty of the Parliament to ensure that appropriate standards are maintained.

(ii) Local government taxation should be based on standards of equity, consistency and accountability, comparable with other spheres of government.

(iii) Modern financial management in local government requires a greater degree of flexibility in the raising and deployment of funds.

Providing appropriate powers for Local Government:

Communities now expect a great deal more from their local council than the basic property-related services they have historically provided. Councils have responded to the extent they are able under the present Act and provide programs which range from industry assistance to community art. It is now desirable to allow councils to exercise broader powers and greater autonomy in the performance of their functions.

The administration of local government employs increasing numbers of officers drawn from a range of professional groups. As a result of measures introduced in the first revision Bill its elected members are now more directly accountable to their electors and ratepayers through a more representative electoral system and a more visible and accessible decision-making process. This represents a most significant change from the circumstances in which local government operated when the Act was introduced in the 1930s, and makes it possible to rely to a greater extent on the response of the council's electors as a check on its performance.

The degree of autonomy which can be granted to councils is limited by the State Government's responsibility for the overall performance of the local government system. Local government in Australia is subordinate, not sovereign. It is established by State Parliaments to exercise delegated powers. A State Government has a duty to delegate those powers in such a way that appropriate standards are maintained in local government.

Councils may only exercise the powers, duties and functions which are expressed or implied in the Local Government Act and other statutes. An action of a council which is *ultra vires* (that is, which goes beyond those powers) is invalid. Clearly, expressing the power of councils to act for the benefit of the community in a broad and inclusive way, instead of in a narrow and restricted way, will soften the application of the *ultra vires* principle and provide councils with the flexibility they require.

The Bill does this by providing councils with a new set of functions which they can exercise for the benefit, improvement and development of their areas. These include the provision of services and facilities which benefit ratepayers and residents, improving amenity and attracting commerce, industry and tourism. Where a council has a function it has power to do whatever is necessary or reasonably incidental in carrying out that function. Councils will be able to undertake any of these functions jointly with other councils, bodies or persons and will be able to appoint controlling authorities to undertake the management of any council project, service or facility.

These measures provide a very broad range of options for councils to exercise in responding to community needs and initiating development at the local level. These extensive powers are balanced with the requirement that councils must refer projects to the Minister where they involve the compulsory acquisition of land, expenditure or borrowing in excess of prescribed limits, or are otherwise of a prescribed kind. This control is designed to ensure that a local community is not exposed to significant financial risk without being properly informed, that projects undertaken by councils are not in conflict with broader regional or State activities, and that proper standards of public accountability are maintained.

The regulations affecting projects will be the outcome of consultation between the Minister and the Local Government Association. The provisions of the Bill aim to ensure that the Minister's powers cannot be used in a heavy-handed unilateral fashion. If the Minister believes that a project should not go ahead, or is considering imposing modifications or conditions, he or she is required to consult with the council concerned. The Minister must provide in writing to the council reasons for any decision to veto a particular project. The clear intention of these provisions is that every reasonable effort should be made to assist councils to meet the local needs which they have identified.

Local government taxation:

The most important source of revenue for local government will continue to be the levying of a rate upon the assessed value of property. All taxing systems need to be based on the principles of equity, consistency and accountability whilst also raising sufficient revenue for the proper performance of responsibilities.

The notion of tax equity is notoriously difficult to resolve. In the rating system ratepayers are taxed *pro rata* to the value of their property. The amount payable should be related to both the benefit derived from services supplied and to the capacity of the owner to pay. These principles

are not always compatible. However to a great extent the fairness of the rating system depends upon the certainty and consistency of its application.

This Bill deals with a number of specific issues which have arisen over recent times in relation to local government rating. In particular the application of existing minimum rating provisions has been subject to widespread debate. The Government has identified three broad areas of concern in relation to current practice. First, the increased use of the minimum rate to raise greater proportions of total rate revenue is causing serious distortions in the rating system, to the extent that in some council areas it is questionable whether an *ad valorem* rating system exists in any real sense. Secondly, the use of the provisions is accentuating the regressive impact of local government rating through increasingly higher rates of tax being borne by owners of lower valued properties. Thirdly, the increasing application of minimum rating is diverting Commonwealth and State funds from the purposes intended by Parliaments.

The Bill provides for minimum rating to be phased out by 1990 by which time the flexibility proposed in raising and managing funds will be understood and utilised. Following that date a minimum rate may only be levied with ministerial approval. Such approval is intended to be used in exceptional circumstances. The Government views reform of current practice in this area as a crucial element of the Bill.

Where the rating system produces adverse impacts councils will have broad powers to grant remissions and concessions. Councils will be able to assist disadvantaged persons through providing complementary concessions to those currently made available by the State Government under the Rates and Taxes Remissions Act. A greater incentive will be provided for councils to allow postponement of rates, for example until the finalisation of an estate, as they will be able to charge interest on such rates.

The general tendency towards the use of capital values will be encouraged. Capital valuations, taking into account improvements to land, are considered to more closely reflect a land owner's capacity to pay than do other methods. Those councils currently using alternative methods of annual and site (land) value may continue to do so; however, having adopted capital values, a council may not revert to other valuation methods.

The difficulty created for ratepayers by a single annual rate payment is being addressed by providing councils with power to adopt a system of payment by half-yearly or quarterly instalments. Encouragement for councils to move to a system of quarterly payments is offered in the form of special arrangements, available in the first year of operation, which would allow councils to depart from the principle of equal instalment payments. Councils may collect up to two-fifths of that year's revenue in the first instalment, and decrease the remaining three instalments, so as to have a greater sum available earlier in the year and thereby ease the cost of transition.

Differential rating, or the application of a different rate in the dollar to different classes of rateable land, also interferes with the consistency established by the *ad valorem* rating system. It is generally used to differentiate between different classes of property benefiting disproportionately from the services provided by a council, or as a tool to complement and assist development policies of councils. This flexibility has been maintained in ways which limit arbitrary application. The power to declare differential rates according to the use of land has been retained. However, in order to provide greater certainty for councils and ratepayers, those uses will be specified in regulations.

The Bill contains a number of further measures which attempt to rationalise inconsistencies in the application of the rating system. The range of properties exempted from rating will be clarified by the proclamation of those hospitals and benevolent institutions not required to pay rates. The existing statutory exemption for such bodies is so difficult to interpret and apply that their present treatment by councils varies considerably. Concessions to private schools and show societies will continue to be guaranteed by legislation. However, instead of being granted by way of reduced property valuations, they will appear in the more appropriate form of rate rebates.

Powers to levy rates and annual service charges, for public utility functions, on rateable and non-rateable land have been consolidated. As departures from the rating system, such annual service charges will be subject to regulation prescribing their method of calculation. These measures are intended in many ways to focus upon the general rate as the primary means of generating income for the broad range of local government services. Alternatives to this are intended to be visible and therefore more easily understood by the public. Where one part of a council area derives a particular benefit not enjoyed by other parts, for example, in the form of residential streetscaping, a council will be able to apply a separate rate to those properties. Councils wishing to encourage particular forms of development will continue to have broad powers to grant rate rebates.

Provisions allowing for the levying of fees and charges, service charges and service rates are all intended to ensure that, whilst flexibility for councils is maintained and extended, the public is able to identify a clear purpose behind taxing decisions.

Raising and Managing Funds

Councils' powers to raise and expend revenue have been set out in general terms, again to address the restrictions which arise when specific powers are conferred by legislation. Although no new tax base has been identified as appropriate for local government, the Bill allows greater scope and flexibility in raising revenue. Councils will be able to obtain a variety of forms of financial accommodation to take advantage of the most appropriate and least expensive finance available in the market. The securities which a council may offer are expanded to include its general revenue, registered mortgages, bills of sale or other forms of charge upon property.

Councils will be granted a general power to levy fees and charges for various purposes where these are not prescribed elsewhere. User charges for services or facilities which councils choose to provide may be set at a level which recovers more or less than the cost involved, allowing councils to transfer costs between services as they see fit.

Local government has, for some time, been seeking powers to extend its revenue raising capacity by undertaking commercial ventures associated with economic development. Councils, like all governments, have a responsibility to manage public assets as efficiently and creatively as possible. The Bill provides that councils may undertake projects and activities to raise revenue. All of these measures add to local government's ability to expand its revenue base.

These powers should, however, be treated with some caution. councils will be required to have regard to the effect of a revenue raising or commercial project on local service provision and business and to the objectives of the development plan. Councils are precluded from forming or participating in companies, although they may, with ministerial approval, invest in the types of companies in which a trustee is able to invest. The measures contained in the

Bill are sufficient to enable the effective management of projects or schemes by other means. For example, the Bill allows the establishment of controlling authorities within the existing council structure for the carrying out of projects, and the administration of facilities. Finally, as noted earlier, councils engaging in projects beyond certain expenditure and borrowing limits will require ministerial approval.

In holding and managing funds councils act in a caretaker capacity on behalf of the residents and ratepayers of an area. Many of the existing statutory controls which purport to preserve the standard of care required are ineffective or serve to limit a council's ability to arrange its finances to best public advantage.

The measures contained in the Bill deregulate most of these matters and give councils the power to manage their assets in the most productive way. Reserve funds and special purpose accounts, for example, may be established without ministerial approval. If the money being held is not immediately required, it may generally be advanced for other purposes and replaced as and when necessary within the financial year.

No controls over local government borrowing are contained in the Bill, with the exception of those relating to projects involving debt in excess of prescribed limits. It should be noted that existing controls bear no relation to the capacity of a council to service a loan. It is to the advantage of both councils and lending authorities to assess that capacity, within bounds established by 'the global limit' and the financing of the Local Government Finance Authority, rather than rely on arbitrary statutory restriction.

The object of any controls should be to ensure that councils meet high standards of accounting practice and do not commit themselves so heavily that the proper performance of their statutory duties is compromised or their future choice curtailed. In this light, the auditing provisions have been strengthened. The auditor will be able to comment not only on irregularity in the council's accounting practices, but also on the management of the council's financial affairs.

The preparation of the Bill benefited from a long process of consultation and debate. Discussion papers dealing with the valuation and rating system, local government borrowing, alternative sources of revenue, etc., were distributed last year to councils, business organisations, and a wide range of other interested parties and their views sought on the most viable options for amendment to the legislation. The Local Government Act Revision Committee, comprising representatives of the Department of Local Government and the Local Government Association, assessed responses and provided advice on the drafting of the Bill. A draft Bill was prepared and circulated to councils and interested bodies earlier this year. A series of seminars on the draft proposals were conducted for local government officers throughout the State.

While it cannot be said that councils unanimously support every measure now contained in the Bill, the vast majority of issues addressed are the subject of agreement. In striking a balance between local government flexibility and State Government responsibility, inevitably disagreement occurs. Given the range and complexity of the matters involved, it is a notable achievement that such disagreement is narrowly confined. The passage of the Bill is eagerly awaited by local government.

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

Leave granted.

Explanation of Clauses

Clause 1 is formal.

Clause 2 provides for the commencement of the measure.

Clause 3 provides for the repeal of section 3 of the principal Act.

Clause 4 replaces or revises several definitions in section 5 of the principal Act in association with the enactment of new substantive provisions in other clauses of the Bill. New definitions include definitions of 'company', 'domestic premises', 'land', 'project' and 'unalienated Crown land'. The definition of 'owner' has been revised and simplified. The definition of 'rateable property' is to be replaced by a simple definition and the contents of the existing definition, in so far as may be appropriate to this measure, are to be transferred to a substantive provision.

Clause 5 amends section 36 of the principal Act to make new provision in relation to a council's powers. A contract will not be void by reason of a deficiency in a council's juristic capacity but action will still be available to restrain a council from entering into an *ultra vires* contract.

Clause 6 makes a minor amendment to section 37 of the principal Act to clarify that the common seal of a council may be affixed to a document in any case where to do so is to give effect to a council's resolution. Some councils have been taking the present provision to mean that a separate resolution of the council must be passed for the common seal to be affixed to a document.

Clause 7 inserts a new section 37a. A later provision of the Bill repeals Part XVIII of the principal Act. Section 377 presently prescribes the manner in which a council may enter into, vary or discharge contracts. The new section 37a will replace that section and provides that a council may make its contracts under its common seal or through an authorised officer, employee or agent.

Clause 8 amends section 41 of the principal Act, which deals with the delegation of council powers. It is proposed that councils now be limited to not being able to delegate the power to make or fix rates and charges under Part X. The present restriction on the inability to delegate the power to borrow money is to be extended to include the power to obtain other forms of financial accommodation (which is consistent with later provisions to be inserted by this Bill). The section is also to make specific reference to the inability of councils to delegate the power to establish controlling authorities and the power to adopt, reconsider or revise financial estimates. A delegation will not be able to be made to an advisory committee.

Clause 9 provides for a new section 57a of the Act, which will extend the Conflict of Interest provisions of the Act to members of controlling authorities.

Clause 10 provides for the repeal of Parts X to XV of the principal Act and the substitution of new Parts dealing with financial management, rates, fees and charges, council projects and controlling authorities.

The provisions of new Part IX—Financial Management, are as follows:

Section 152 sets out the various ways in which a council may raise revenue.

Section 153 sets out the various forms of security that a council may provide in respect of its borrowings. It is proposed that a council have a general power to issue debentures (or other forms of charge) charged on the general revenue of the council. If a council defaults in carrying out it obligations or a loan secured by debenture, the creditor, or a trustee for debenture holders, will be able to apply to the Supreme Court for an order directing the council to appropriate sufficient revenue to satisfy its liabilities or requiring the council to impose a special rate.

Section 154 provides for the expenditure of council revenue.

Section 155 will provide that if a council declares a separate rate to raise money for a particular purpose and that purpose is not carried into effect or an excess of funds occurs, the money made available must be credited against future liabilities for rates in respect of the land on which the rate was imposed or refunded.

Section 156 provides that revenue raised from rates in a particular financial year need not be completely expended in that year.

Section 157 provides that a council may invest its money in trustee investments. Ministerial approval will be required in special cases. A council will be able to invest in other forms of investment with ministerial approval.

Section 158 deals with the creation and management of bank accounts and reserves.

Section 159 will require the chief executive officer to prepare an annual budget of estimated income and expenditure for the ensuring financial year. The estimates will have to be considered and adopted (with or without modification) by 31 August of each year.

Section 160 makes it the chief executive officer's duty to keep proper accounts of the council's income and expenditure.

Section 161 provides that financial statements must be prepared at the end of each financial year. These statements will be required to be in a prescribed form and in the preparation of the statements prescribed accounting principles will be required to be observed. The statements are to be audited. A copy is to be supplied to the Minister, and any other prescribed body, by a date set by the regulations.

Section 162 relates to the appointment of an auditor for each council.

Section 163 requires a chief executive officer to assist and co-operate with the council's auditor.

Section 164 directs an auditor to refer any irregularity in a council's accounting practices or the management of its financial affairs to the chief executive officer and, if it is appropriate, to the council. A report must be made to the Minister if an irregularity is not promptly rectified, if a breach of the Act comes to the auditor's attention or if any other prescribed matter comes to the auditor's attention. The Minister will, on the strength of a report under this section, be able to appoint an investigator to carry out an investigation under Division XIII of Part II.

Section 165 relates to the writing off of bad debts. The chief executive officer will be required to certify that reasonable attempts have been made to recover the debt or that the costs of recovery are likely to exceed the amount to be recovered.

Section 166 allows a council to accept any gift and, if property is affected by a trust, the council may carry out the terms of the trust.

The provisions of new Part X—Rates and Charges on Land, are as follows:

Section 167 sets out the various rates and charges that may be imposed under the new Part.

Section 168 provides that, subject to subsection (2), all land within a council area is rateable. Under subsection (2), specified classes of land will not be rateable.

Section 169 sets out the basis of rating.

Section 170 provides that, subject to this Act, a rate must be declared on the capital value of land. However, a council that has been declaring its rates on the annual value or site value of land may continue to do so.

Section 171 relates to the valuation of land for rating purposes. A council will, in every year, be required to adopt the valuations that are to apply to land within its area for rating purposes. The valuations will be prepared either by the Valuer-General or a valuer appointed by the council. A council will be able to adopt valuations that relate to land values in its area at a date prior to the commencement of the relevant year but a council will not be able to adopt a valuation that is more than five years old.

Section 172 relates to the valuation of land within a council's area.

Under section 173 a mechanism for objection and review is included if a valuer appointed by the council carries out the valuations.

Section 174 empowers a council, after considering and adopting estimates of expenditure for a particular financial year, to declare a general rate on rateable land within its area or differential general rates. A general rate must, unless the Minister otherwise approves, be declared by 31 August in each year.

Section 175 empowers a council to declare separate rates or differential separate rates within specified parts of its area. A separate rate must be related to raising revenue for a project that will benefit that part of the area in relation to which the rate is imposed.

Section 176 prescribes the various factors by which differential rates may be imposed. Differential rates may vary according to the use of land or some other basis approved by the Minister. The uses of land by which differential rates may be set will be prescribed by the regulations and the non-use of vacant land will be capable of constituting a use. A person can object to a land use assigned to his or her land on the basis that it has been wrongly assigned.

Section 177 empowers a council to declare a service rate or service charge on rateable land, and a service charge on non-rateable land, where the council provides, or makes available, a prescribed service. A council will not be able to seek to recover from a particular service rate or service charge an amount exceeding the cost to the council of establishing, operating, maintaining and improving the particular service within its area. The Minister will be able, by notice in the *Gazette*, to prescribe a method or various methods for the calculation of service rates and charges under this section, and fix the maximum amount that a council may impose as a charge for a particular service in a particular financial year. A service charge will be recoverable as a rate (even as against non-rateable land).

Section 178 relates to the assessment book. The assessment book will be required to record a brief description of each separate allotment or parcel of land, the rateable value of the land, the name and address of the owner of the land, the name of any occupier (not being an owner), in so far as that is known to the council, the use of the land, and any other prescribed information. The chief executive officer may keep the assessment book in any form that allows for the accurate recording of information and easy access to that information.

Section 179 enables persons to apply to the chief executive officer for an alteration of the assessment book on prescribed grounds. A person who is dissatisfied with the chief executive officer's decision on an application under this section will be able to apply to the council for a review of the matter. A further right of review will be to the Supreme Court.

Section 180 provides that a person is entitled to inspect the assessment book during ordinary office hours (excluding the first hour and the last hour) at the council's principal office.

Section 181 includes service charges in the definition of 'rates' for recovery purposes.

Section 182 prescribes that rates imposed on land are charges against the land.

Section 183 sets out the persons who are liable to pay rates. At first instance, the owner of land is liable to pay rates. However, if the name of an occupier has been entered in the assessment book as the principal ratepayer in respect of the land, then he or she will be liable.

Section 184 provides that rates will fall due in four equal instalments, two instalments or in one single instalment, as may be determined by the council. A decision that rates are to be payable in instalments cannot be subsequently revoked without ministerial approval. An instalment in arrears will bear interest at a rate allowed by the Minister by notice published in the *Gazette* and a fine will be payable. A council will be empowered to grant discounts and incentives to encourage early or prompt payments of rates. A council may, with the consent of the Minister, impose different requirements in relation to the payment of rates other than general rates.

Section 185 relates to the remission of rates.

Section 186 sets out the way in which an amount paid in respect of rates must be applied.

Section 187 will empower a council to sell land if any rates in respect of the land have been in arrears for three years or more. A council will be required to send a notice to the principal ratepayer for the land before a sale proceeds. A copy of the notice will also be sent to any owner who is not a principal ratepayer and to any registered mortgagee of the land. The land (other than Crown land) will be sold by public auction, at which the council will be able to set a reserve. If the auction fails, or the land is Crown land, the council will be able to sell the land by private contract for the best price that it can reasonably obtain. Land sold in pursuance of this section will vest in the purchaser free of any mortgages and charges.

Section 188 sets out a procedure that a council may follow if land cannot reasonably be sold in respect of arrears in rates. The provision will allow the Minister of Lands to order that the land be forfeited or transferred to the Crown (depending on the class of title), or transferred to the council. If an order is made under the section, the land is freed of any charge against the land in favour of the council, and any outstanding liability to the council in respect of the land is discharged.

Section 189 provides that notice of the declaration of a rate must be published in the *Gazette* within 21 days after the date of declaration.

Section 190 allows a council to fix a minimum amount in relation to an assessment of rates until the end of the financial year 1989-90, and any succeeding year with ministerial approval.

Section 191 provides that the right of a council to recover rates is not suspended pending the outcome of an objection, review or appeal in respect of a valuation or the assignment of a particular land use. If a valuation or assignment of land use is altered on an objection, review or appeal, an appropriate adjustment must be made and any amount that has been overpaid must be repaid to the ratepayer or credit against future liabilities for rates, and any amount that is additionally payable may be recovered as arrears after 30 days.

Section 192 provides for the apportionment of rates in certain circumstances.

Section 193 provides for the rebate of rates in certain cases. Land that is predominantly used for educational purposes will in certain cases be subject to a 75 per cent (or greater) rebate of rates and land predominantly used for agricultural, horticultural or floricultural exhibitions will be entitled to a 50 per cent rebate of rates. A council will also be able to grant rebates in a variety of other cases.

Section 194 provides for the making of an application to a council for a certificate stating the amount of any liability owing on land under Part X of the Act within the council's area. A council will be, as against the person to whom the certificate is issued, estopped from asserting any liability against the land under that Part that is beyond the liabilities disclosed in the certificate.

The provisions of Part XI—Fees and charges, are as follows:

Section 195 relates to the ability of a council to impose fees and charges. The section sets out a list of items in respect of which fees or charges may be set and provides that where a fee or charge need not be fixed by reference to the cost to the council of providing and maintaining property or facilities or supplying goods or services. A council will be able to set specific fees and charges, maximum and minimum fees and charges, annual fees and charges and fees and charges that vary according to specified circumstances. Fees and charges are to be set by the by-laws or by resolution of the council. Fees and charges must be listed in the principal office of the council.

Part XII relates to projects within a council's area.

Section 196 prescribes various functions of a council in relation to its area and provides that a council may, in the performance of a function, undertake such projects as it thinks fit. A council will be able to undertake projects in conjunction with any other council, authority or person, to participate in the formation of a trust, partnership or other body, to acquire and dispose of units and other such interests, to enter into various forms of commercial activity, and to undertake projects to raise revenue. Where a council proposes a revenue raising activity, the council must consider what effect the project might have on other services and businesses in the proximity, and the objectives of any Development Plan within the area.

Section 197 requires notice to be given to the Minister before a council embarks on a project of a prescribed class or a proposal to take certain action. The Minister may require that a council supply additional information in relation to an application. The Minister will be empowered to grant his or her approval, impose modifications or conditions, or veto the projects. The Minister may direct that public submissions be sought, received and considered. The Minister will be required to consult with the council if modifications or conditions are to be imposed or he or she is mindful that the project should not proceed. A regulation will not be able to be made under this section without prior consultation with the Local Government Association.

Section 198 provides that a council may apply to the Minister for permission to acquire land under the Land Acquisition Act 1969, for the purpose of carrying out a project.

Part XIII relates to controlling authorities.

Section 199 will allow a council to establish a controlling authority to provide for the management of property, undertakings and council projects. The new provision is a replacement for existing section 666c.

Section 200 will relate to the establishment, composition and operations of controlling authorities by two or more councils. A controlling authority under this section will be able to be established to carry out any project or to perform any function or duty of councils under this or any other Act. The councils will be required to obtain ministerial approval before establishing a controlling authority and a controlling authority will be created by ministerial notice published in the *Gazette*. A controlling authority will be a body corporate that has the powers, functions and duties specified in its rules. The membership of a controlling

authority will be provided for in its rules and a controlling authority will be able to make by-laws in authorised areas.

Clause 11 provides for the repeal of Parts XVIII to XXI.

Clause 12 makes an amendment to section 313 of the principal Act which will allow a council to set a fee under this section in substitution for the fee presently set by the Act. This amendment is consistent with the policy under new Part XI of the Act to allow a council greater flexibility to set fees and charges in respect of various matters under the Act.

Clause 13 repeals section 476 of the principal Act and is consequential on the greater flexibility in relation to the imposition of fees and charges and the application of its revenues.

Clause 14 is a consequential amendment to section 478 of the principal Act.

Clause 15 amends section 504a and is consequential on the greater flexibility being given to councils in relation to the imposition of fees and charges and the application of its revenues.

Clauses 16, 17 and 18 are all consequential on the flexibility being afforded to councils under this Bill especially in relation to charges.

Clauses 19 and 20 relate to the provision of sewerage within council areas. A council will be empowered to undertake works and services under other provisions of the Act and so specific empowering legislation will no longer be required in relation to services for the disposal of sewerage. Under new section 530c a council will still need to obtain the approval of the South Australian Health Commission before it undertakes a scheme for the disposal of septic tank effluent, but will not require (under this section) ministerial approval. Section 530c is otherwise to be revamped into a more up-to-date form.

Clause 21 provides for the repeal of sections 533 and 534 of the principal Act, and is consequential on the enactment of other general provisions that will empower a council to act within its area.

Clause 22 repeals section 537 of the principal Act which specifically allows a council to fix fees for the removal of nightsoil, filth, offal and refuse.

Clause 23 provides for the repeal of section 630, which is no longer required given other general provisions that will empower a council to act within its area.

Clause 24 makes two amendments to section 646 of the principal Act that are consequential on the enactment of new Division III of Part X.

Clauses 25 and 26 are again consequential on the enactment of general empowering provisions.

Clause 27 provides for the repeal of section 666c (Controlling Authorities).

Clause 28 repeals section 680 of the principal Act. This is consequential on the enactment of new Part XI.

Clause 29 is linked to new section 195 of the Act and will enable regulations to be made prescribing fees and preventing fees being imposed by councils in prescribed areas.

Clause 30 makes several consequential amendments to section 692 of the principal Act.

Clause 31 makes a consequential amendment (relating to a cross-reference) to section 694 of the principal Act.

Clauses 32 to 35 make a series of consequential amendments that are related to new Parts IX and X.

Clause 36 makes a substantive amendment to section 717 of the principal Act. Section 717 presently allows a council to receive any fines, penalties and forfeitures imposed by a court for offences against the principal Act committed within the council's area. Similar provisions were to be found in the Food and Drugs Act and the Health Act, but have not been repeated in the new Food Act 1985 and the new Public and Environmental Health Act 1987. It has therefore been decided to include these Acts within the operation of this section, and to allow for other Acts to be included by later prescription.

Clause 37 repeals sections 727 and 728 of the principal Act and is consequential on the repeal of Parts XIX and XXI.

Clause 38 enacts a new section 732 as a consequence of the enactment of new Part IX.

Clause 39 repeals section 774 of the principal Act and is consequential on the repeal of Part XX.

Clause 40 relates to the expiation of offences under section 794a of the principal Act. It has been decided to provide generally for the expiation of offences against the by-laws.

Clauses 41 to 44 make a series of consequential amendments to Part XLV (special provisions affecting the corporation of the City of Adelaide). The matters affected by these provisions are dealt with by new Parts IX to XII.

Clause 45 is consistent with provisions in new Part XI relating to fees and charges.

Clause 46 provides for the repeal of section 875 of the principal Act, which is to be replaced by new section 194.

Clause 47 restricts the ability of a council to participate in the formation of a company or purchase shares.

Clause 48 makes a consequential amendment to section 886d of the principal Act.

Clause 49 will insert a provision that will allow the Minister to delegate any power or function under this Act to another person.

Clause 50 provides for the repeal of certain schedules.

Clause 51 contains various transitional provisions associated with the enactment of this Bill.

Clause 52 makes a consequential amendment to the Electricity Trust of South Australia Act 1946, to preserve certain matters in relation to the rating of property where trust plant or equipment is fixed for the generation, transmission or distribution of electricity.

Clause 53 makes consequential amendments to the Rates and Land Tax Remission Act 1986.

Clause 54 and the schedule provide for certain statute law revision amendments to Parts I to VIII that are proposed before the principal Act is reprinted.

The Hon. DIANA LAIDLAW secured the adjournment of the debate.

WEST BEACH RECREATION RESERVE BILL

Consideration in Committee of the House of Assembly's amendments:

No. 1. Page 7, line 13—Insert new clause 20 as follows:

Stamp duty not payable on instruments of conveyance to the Trust.

20. No stamp duty is payable on any instrument by virtue of which real or personal property is vested in the Trust.

No. 2. Page 7, line 15—Insert new clause 21 as follows:

Exemption from certain taxes.

21. The Trust and all property of the Trust is exempt from—

(a) any tax payable under the Land Tax Act 1936;

(b) any rates or taxes payable under the Local Government Act 1934;

(c) pay-roll tax payable under the Pay-roll Tax Act 1971;

(d) any rates payable under the Waterworks Act 1932, or the Sewerage Act 1929;

and

(e) any other prescribed rate, tax, charge, levy or impost.

The CHAIRPERSON: These two amendments are the two money clauses that were in erased type so that the Committee could not consider them previously.

The Hon. BARBARA WIESE: I move:

That the House of Assembly's amendments be agreed to.

The Hon. DIANA LAIDLAW: The Opposition is completely satisfied to support these amendments.

Motion carried.

MOTOR VEHICLES ACT AMENDMENT BILL (No. 2)

Adjourned debate on second reading.

(Continued from 4 November. Page 1699.)

The Hon. C.M. HILL: This Bill does two things: first, it adds a further exemption in relation to a vehicle owner's obligation to carry number plates on that vehicle. At present there is an exemption where a new registration or a renewal is being pursued by a person for the first time of registration, but the Government claims (and I believe quite justifiably) that there are circumstances, particularly in the country, where number plates have been either stolen or damaged beyond repair and, unfortunately, an owner must communicate with the Registrar in Adelaide and wait several days for the return of new number plates. Under the existing law that person is not entitled to an exemption and therefore cannot drive his or her vehicle. Under this amendment an exemption can be granted and the obligation will be upon the owner to fix the number plates at least one day after receipt of them. It seems to me that to widen the exemption and allow a vehicle to be driven without number plates in those circumstances is quite fair and reasonable.

Secondly, the Bill deals with the late renewal of drivers' licences. At present if someone forgets to renew a driver's licence, the new licence period begins from the date of the application to the Registrar for the new licence. That means that there could be a period between the expiry of the old licence and the renewal of the new one when, in effect, no financial payment would be made by the person involved. Of course, it is illegal to drive one's vehicle under those circumstances, and that illegal situation will still apply under the new arrangement; it will still be illegal to drive one's car when one has not renewed the licence. As applies in most of the other States, late renewals will be backdated to the time of expiry of the first licence.

That situation will apply for 90 days after the expiry of the old licence and, if a person runs over that 90 day period before renewing the licence, the new licence will apply from the date of the application and a fee will be paid, compensating for the Registrar's costs and expenses. As I believe that those two changes improve the Motor Vehicles Act, I support the Bill.

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

ROAD TRAFFIC ACT AMENDMENT BILL (No. 2)

Consideration in Committee of the House of Assembly's message.

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

That the Council do not insist on its amendment.

The Hon. PETER DUNN: I oppose the motion.

The Hon. I. GILFILLAN: I indicate that the Democrats oppose the motion.

Motion negatived.

LANDLORD AND TENANT ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 3 November. Page 1550.)

The Hon. C.J. SUMNER (Attorney-General): In replying to the second reading debate I thank the Hon. Mr Griffin for his support of the Bill, and I will provide answers to the questions that he raised which will enable him to consider his attitude to any amendments during the Committee stage. With respect to the first question about consultation, there was extensive consultation with affected parties during the drafting of the Bill. The predecessors of this Bill were circulated widely in August, October and November 1986 and in February of this year. Final submissions were received by the end of April. In the majority of cases, the organisations which made final submissions were satisfied with the February draft Bill. The exception was Thomson, Simmons and Co., the firm of solicitors who made the original submissions on their problems with the Act. Two further drafts were prepared to attempt to satisfy the concerns of Thomson, Simmons and Co., and, as the concerns were of a technical drafting nature, the redrafts were not widely circulated.

In essence, the final Bill of July 1987 did not vary greatly from the draft of February 1987; hence further need to circulate the Bill for further discussion was seen as unnecessary in view of its circulation on four previous occasions—hardly a lack of consultation.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: No, I think they wanted it clarified. Understandably, there have been some concerns about the suggested increase from $60 000 to $150 000 in the prescribed rental to which Part IV applies. However, it was pointed out in October 1986 when the second draft of the Bill was circulated that that matter was receiving consideration. In the time since, the whole question of the adoption of a flat rental limit has been re-examined, and this week a new proposal has been circulated widely to industry groups to consider, as follows. I now refer to a relevant extract from a memo sent by Mr C. Sargent, Senior Assistant Registrar of the Commercial Tribunal. It states:

To date I have been unable to resolve satisfactorily the proposed increase of the review of the monetary limitation to $150 000 (currently $60 000 per annum). The Bill attempts to distinguish between the different components of 'rent' and 'outgoings'. Any fears that the broad definition of 'rent' contained in the existing legislation included the outgoings components so as to make the $60 000 limit inadequate should now be reduced. However, the adoption of a flat rental limit has been criticised by various groups. The Building Owners and Managers Association of Australia Ltd recommended that instead of a rental level exemption limit two threshold definitions of size should apply:

(i) Identity of the tenancy. Department stores, discount department stores, supermarkets and the like occupying more than 1 000 square metres of space should be exempt.

(ii) Business control test. Tenants forming part of a chain consisting of not less than three retail stores which are controlled by the same individual firm or corporation using the description or definition contained in section 5 of the Companies Code in respect of control of 'related companies' should be exempt.

There is no doubt that this legislation was introduced to assist the small business person. However, by simply imposing a flat rental limit, all types of tenants are covered by this arbitrary limit. I therefore recommend for your attention and discussion the following:

(i) that the monetary limit be increased to $80 000 per annum;

(ii) that public companies and their subsidiaries which lease premises pursuant to Commercial Tribunal agreement [be exempted, I assume];

(iii) that department stores, discount stores and supermarkets and the like occupying more than 1 000 square metres of space be excluded; and

(iv) that proprietary limited companies which lease more than three shop premises also be excluded.

It is not intended to delay the introduction of the amendments to the Act while the amendments to the regulations effecting an increase to the monetary limit are negotiated. The two matters can be considered. It is intended that the regulations are given ample and thoughtful discussion. I would therefore be pleased to receive any submissions on the proposed amendments to the regulations concerning the ambit of the legislation at your earliest convenience.

So, the question of how to deal with the appropriate criteria for the application of this Act, whether by an increase of the rental limit or by some other method outlined in that letter to interested parties, is still under consideration.

With respect to the question of the accounting period, raised by the Hon. Mr Griffin, in discussions held with various groups, it is quite clear that there can be several accounting periods such as:

(a) commencement of lease to 12 months accounting period;

(b) financial year accounting period;

(c) completion of building of shopping centre accounting period; and

(d) calendar year (January to December) accounting period.

To enable the implementation of this new proposal it was necessary to introduce it with a flexible period but thereafter the accounting period would be based on a 12-month period. Therefore, the 18 months is a transitional period and is the exception rather than the rule.

With respect to the definition of shop premises, this point was raised when the Statutes Amendment (Commercial Tenancies) Act 1985 was first introduced. Recent submissions received on this amendment Act have re-focused the issues. The only source of criticism has come from landlord organisations, who wish to continue the operation of the Act to a narrower range of tenancies, as is the case in Queensland and Western Australia. In practice, no problem has been experienced by landlords or tenants in dealing with this definition, save for the applications of the Act to 'mixed tenancies'. Clause 4 *(a)* of the Bill addresses this problem by including in the definition under section 55 premises which consist of shop premises and an adjacent dwellinghouse.

As to the application to premises which are vacant or where a change in use of the premises occurs, it is most often the case that the commercial tenancy agreement will specify (very early and clearly) in the lease the nature or the use of the premises, and in many cases the tenant is not able to change the use of the premises without the permission of the landlord.

With respect to operating expenses, quite rightly there is concern about the operating costs that are to be borne by the tenant. The definition of 'maintenance cost' has been drafted to take into consideration the usual types of operating costs inserted in commercial tenancy agreements. The definition has been drafted broadly enough to cover capital cost replacement items as well as structural cost replacement and renovation items. However, this provides no real change to the existing definition except that it provides for a more structured definition.

The point is that the definition is being altered because of the undesirable practice whereby leases state simply that the tenant is to bear all costs associated with the running and operation of the premises. This was and is particularly the case with leases to shopping centres. The landlord is now required to be more precise in giving information about operating expenses and this new definition will help landlords to specify exactly what the nature of the operating expenses will be.

With respect to shopping complexes, concern about whether there are two or five or more premises is not the issue. The definition is concerned with the problem of disclosure of operating costs to tenants and, in particular, the common costs to be shared by tenants who are subject to the same administrational control. In South Australia many tenants lease premises in 'strip shopping centres', that is, shopping centres where only two or three shops are situated on a main road. Two is no more arbitrary than five.

The issue is that when amenities are provided by the landlord for the use or enjoyment of the tenants, or a caretaking and cleaning service is provided, then the tenant should be entitled to some verification as to the operating expenses that are to be shared in common. The question of where the recovery of costs starts and ends is precisely the issue that these amendments are aimed at.

However, the Bill is simply aimed at verification, so that tenants can compare and contrast costs of operating, in particular shops, hopefully before entering into a lease. The Bill does not alter the balance of bargaining position; nor does it alter the responsibility for costs to be forced onto tenants.

With respect to clause 10, which relates to whether the operating expenses are a gross figure or are to be itemised in relation to the shopping complex or a particular tenancy, this point was discussed at length with certain groups. A problem arises in relation to the expense of providing itemised operating expenses to a particular tenancy in a shopping complex.

The thrust of the provision is to enable a landlord to state the gross figure, but to indicate to the tenant the percentage amount which he or she will be expected to bear. The estimate of expenses is to be given only in relation to the accounting period. It is true that it would be impossible to give any reasonable estimates of water rates, council rates or any other expenses which are determined by a third person at the commencement of the lease period, but this is the problem which the Bill seeks to cure with the existing section 62a (iii).

In respect of clause 10 (5), in answer to the concern about the statement of actual expenses, again the thrust is aimed at full disclosure of the total amount of expenses incurred by the landlord and the amount payable by the tenant. The chief concern to tenants has been the practice of landlords billing tenants individually without reference to the total cost incurred. It is very difficult for a tenant to dispute their apportionment when they do not know the actual amount incurred. I do not perceive any real concern with a tenant giving formal instructions to the landlord to either refund the excess to the tenant or, with the consent of the tenant, credit the excess against future liabilities of the tenant in relation to operating expenses. However, I am prepared to concede that the procedure may be more effective if the refunding is an automatic procedure. This would also overcome the three-month period problem, and perhaps that matter needs some further consideration.

The next issue relates to proposed section 62a (4), namely, the letter 'a' in the formula referred to therein. Clearly the 'a' refers to the amount to be paid by the tenant as his or her contribution to operating expenses during the accounting period. The Parliamentary Draftsman is in no doubt that 'a' can stand alone.

With respect to the definition of operating expenses in section 62a, during discussion with interested parties the Law Society indicated that it would be unfair for

landlords to have to estimate the consumption by the tenant of such things as gas, water, electricity, telephone or other services. Therefore, it was felt that such expenses, albeit to be paid by the tenant, should not be included in the statement of estimates which had to be given by the landlord.

However, that is not to say that such items should not be included to distinguish such payments from rent. Rent is defined as an amount payable by a tenant to a landlord under a commercial tenancy agreement in consideration of the right to occupy the premises to which the agreement relates (but does not include any amount payable by the tenant under the agreement in respect of operating expenses).

Next, as to the concern about the accuracy of the statement, the requirement that the landlord provide fully audited statements to the tenant was contained in an early draft of the Bill and was examined in some detail. The apparent cost of requiring a landlord to provide audited statements, a cost which in the final analysis would be passed onto the tenant, was felt unwarranted. If a tenant wishes to test the veracity of the statements provided by the landlord at the end of the accounting period, he or she may make an application to the Commercial Tribunal to determine the matter. By invoking the jurisdiction of the Commercial Tribunal, the tribunal has power to order the production of documentary evidence of the details of the operating expenses incurred by the landlord.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: My advice is that the Commercial Tribunal does have that jurisdiction, but that can be examined before the Committee stage. I believe this procedure will be the cheapest and most effective means of keeping landlords honest. It will also facilitate the detection of any offences.

The next point relates to section 61, the stage at which the tenancy has come to an end. This issue arises only pursuant to section 61 where there has been an application made to the Commercial Tribunal for a refund of the security bond paid into the tribunal. The security bond is a prepayment for damages and is paid into the tribunal at the commencement of the tenancy period. The security bond can be sought by a landlord during the currency of the lease if a tenant is in default under the lease. However, a tenant is prohibited from seeking a refund of the bond from the tribunal unless the landlord also consents to the refund or the tenancy has come to an end and the tenant has vacated the premises.

The operation of section 61 therefore has limited, if any, impact on the question of the right to recover unforeseen expenses from a tenant. There is no practical problem experienced by the Commercial Tribunal with the operation of this section. The issue is a legal nicety which rapidly dissolves in the commercial leasing world.

In conclusion, and by way of a general comment, I am glad the Opposition supports the need for full disclosure. It has been increasingly evident especially since the introduction of the legislation and the involvement of the Department of Public and Consumer Affairs that landlords and tenants are increasingly concerned about the issues between them. In particular commercial tenants are very wary of the costs incurred by landlords effectively on their behalf—the decisions being made without due commercial consideration of the tenants who are faced in the current economic climate with fluctuating fortunes.

The problems of small businesses will not be made any easier in current economic circumstances and their concerns need to be addressed by landlords to ensure that tenants remain economically competitive in their businesses. This Bill will remove one of the most contentious areas of concern and problems between landlords and tenants, namely, verification of the costs incurred. This problem has been identified because of the involvement of the commercial tribunal and the Department of Public and Consumer Affairs. There may be other areas of concern highlighted in the report of the Registrar of the tribunal to Parliament pursuant to new section 73a.

One final point raised by the Hon. Mr Griffin which must be addressed is the question of shopping hours. Section 65 of the Act already prohibits any provision of a commercial tenancy agreement which purports to impose on a tenant an obligation to have his or her premises open for business at particular times or during particular periods. However, this provision is limited in its operation to a group of premises constructed or adapted to accommodate five or fewer separate businesses. Perhaps it is time to review this limitation, but it will require further consideration before any move to amend the section can be made.

Bill read a second time.

LONG SERVICE LEAVE (BUILDING INDUSTRY) BILL

Adjourned debate on second reading.

(Continued from 3 November. Page 1552.)

The Hon. C.J. SUMNER (Attorney-General): I thank honourable members for their support for the Bill. A number of issues have been raised which now seem to be the subject of amendments. I suggest that those issues be addressed when the amendments are moved by honourable members.

Bill read a second time.

In Committee.

Clauses 1 to 13 passed.

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

A quorum having been formed:

Clause 14—'Effective service entitlement.'

The Hon. I. GILFILLAN: I move:

Page 7, line 30—After 'disability' insert 'and no right to preservation of the effective service entitlement arises under this Act.'

This amendment is incidental to my more substantial amendment (proposed new clause 17a), relating to an employee's long service leave eligibility where the time of employment includes both a job in the industry and a period of self-employment. At this stage, as these amendments are related, I will outline the whole matter. The building industry is somewhat unpredictable and employment in it can be fragmented.

For the time that an employee is in the industry a contribution is paid by the employer to the fund on his or her behalf and that is accepted as part of the overall emolument received by that employee. If through circumstances beyond an employee's control he or she is dismissed or his or her services are terminated and the next period of employment involves work in the industry as a self-employed subcontract carpenter, bricklayer or whatever, I do not believe that that employee should be disqualified from obtaining the benefit of the long service leave credit previously built up over the period of time spent as an employee in the industry.

My proposed new clause 17a provides a fair bit of detail in specifying how this is to work. Before proceeding, may I ask, Mr Acting Chairman, whether it would be appropriate for me to put the whole argument for this measure now before the actual vote on the amendment to clause 14 is taken?

The ACTING CHAIRMAN (Hon. T. Crothers): As the other amendment is tied to the amendment presently before the Committee, it would seem sensible for the honourable member to do that.

The Hon. I. GILFILLAN: If passed, new clause 17a would enable a person who has been employed and who has an accrued long service leave credit for perhaps a period of two or three years and who has then spent a period of time, say, two years, as a self-employed subcontractor (thus totalling up to a seven-year overall period) to obtain the long service leave benefit *pro rata* for the time that he spent as an employee. This seems to me to be fair; it is a relatively simple process to calculate, and it means that a person who has been involved in the building industry is not disqualified from what I believe is that person's entitlement to a share of a long service leave benefit.

Proposed new clause 17a (2) provides a formula for the calculation, and it is relatively simple and the explanation is spelt out: 'A' is the amount payable, 'OWP' is the ordinary weekly pay for work of the kind last performed by the person as a building worker as at the day of payment, and 'E' is the effective service entitlement. It is intended that the person will benefit at the time when the long service leave benefit becomes available at the rate which applies at that time. It simply means that there will be a specific allowance for a person genuinely involved in the building industry—having regard to all the complicated ramifications that that form of employment and activity entails due to the very character of the industry.

It does not embrace, as did the original Bill, an employer or a self-employed person. That is the principle to which I objected and that is why I have moved the amendment. It seems that it does not disadvantage the person and that it does not compromise the system by having self-employed people involved in it.

The Hon. K.T. GRIFFIN: The Opposition does not support the amendment and or proposed new clause 17a. It imports into the legislation the whole concept of a person who no longer is an employee being entitled to some long service leave benefit. Even in the building industry, long service leave is related to a minimum period of service. If one goes to the point and says, 'Even if you have a short period of service as an employee in the building industry, but then you become self-employed, you are still entitled to some benefit for the period that you are an employee', it seems that that opens up tremendously wide fields which previously have not been the subject of any advantage for so-called long service.

Really, it is akin to somebody who works in a shop and then buys the shop and who has not served a minimum period as an employee in the shop. They could run the shop and thereby become a self-employed person and somehow or other retain some entitlement, after being an employee self-employed running the shop for a minimum period of time and getting the benefit from it. It is a little like a lawyer who is an employee and who does not accrue the minimum period of entitlement for long service leave then becoming a self-employed practitioner and expecting to get some credit if he or she continues in practice as a self-employed practitioner for a minimum period of time in aggregate with the period of time for which he or she was employed and expecting a benefit.

I think that is an unreal concept and totally foreign to any notion of long service leave as an employee. You are beginning to recognise and provide a reward for something that is not employment. I think that that is unrealistic and it opens the field as a precedent to perhaps a wide range of other benefits that might be payable under the Long Service Leave Act, under industrial awards or whatever. I do not believe that we ought to support such a broadening of the conept of long service leave beyond that which presently applies to employees. I very strongly oppose the amendment to clause 14, along with the insertion of new clause 17a.

The Hon. C.J. SUMNER: The Government supports the Hon. Mr Gilfillan's amendment which goes some way towards preserving a worker's entitlement to long service leave and is designed to overcome the problem of an employee who, for one reason or another, finds himself subsequently as a subcontractor for a period of time, but not for an unlimited period of time.

The Hon. K.T. Griffin: Well, it is unlimited.

The Hon. C.J. SUMNER: On my advice, you can only be a subcontractor for less than three years. If you were a subcontractor for more than three years after having been an employee, then you lose your entitlement.

The Hon. K.T. Griffin: Have a look at paragraph *(c)* of proposed section 17a (1), which provides:

> Where—the person commences work as a self-employed contractor in the building industry within 36 months after cessation of his or her employment as a building worker;

That seems to be the only relevant fact.

The Hon. C.J. SUMNER: The three year period relates to a person who has been employed in the building industry and who then does some other work not involved with the building industry, provided that the person then returns to the building industry as an employee within the three years—

The Hon. K.T. Griffin: It can be a self-employed contractor.

The Hon. C.J. SUMNER: —or as a self-employed contractor—and he is then entitled to contribute to the fund and thereby receive the benefits of the Act.

The Hon. K.T. GRIFFIN: I draw the Attorney's attention to what I see is a major problem, apart from the principle to which I have referred. If somebody has an effective service entitlement (and 'effective service' means a period of service as a building worker credited under this Act), then proposed section 17a applies. It provides:

> 17a (1) Where—
> *(a)* a person who has an effective service entitlement ceases to be employed as a building worker;
> *(b)* the person is not entitled to long service leave or a payment for *pro rata* long service leave;

That is, no minimum period has been served. It further provides:

> *(c)* the person commences work as a self-employed contractor in the building industry within 36 months after cessation of his or her employment as a building worker;
> and
> *(d)* the person provides notice of his or her work as a contractor to the board in accordance with the regulations,
> the effective service entitlement is preserved.

That means that, if you have a very short period of effective service, whether it is immediately after ceasing to be an employee or within 36 months after cessation of employment as a building worker, if you go back as a self-employed worker in the building industry, then this section applies.

It is correct that ultimately you get out of it only a *pro rata* entitlement for the period during which you were an employee, but the fact is that once there is an effective service entitlement as an employee, it does not matter how long you work as a self-employed contractor in the building industry. That is a technical problem and is separate from the question of principle.

The Hon. I. GILFILLAN: What the Hon. Trevor Griffin has outlined is my understanding of the amendment and the intention of the amendment. The amendment provides that there must be an accumulation of 84 months before there is any entitlement at all. I also understand that the

person who accepts the long service leave must not then be engaged in the building industry; the occupation must be forgone during the period of the long service leave. In the minuscule number of situations that may be the basis of the Hon. Trevor Griffin's complaints at this stage, employment may be forgone by someone who is 10 years down the track and is a reasonably successful contractor; people will not take the obligation for that. But, even if they do, I have no trouble with the principle that there has been a contribution to the fund on behalf of that person for the time he was employed. The other alternative, as applies under other awards, would be to build a long service leave factor into the payment when the work is carried out.

The Hon. K.T. Griffin interjecting:

The Hon. I. GILFILLAN: In the shearing industry and in other areas, these factors are built into it, and there is no time factor for that matter. They can be employed for only one year and they will still benefit. However, in this case people must serve seven years in the industry. I believe it is quite unfair that a person forfeits entitlement to long service leave. It could be that there is no ongoing job so that a person cannot remain as an employee, but as a carpenter, a brickie, or any other sort of subcontractor that person may work for a full seven years in the industry. I would not lose any sleep at all if that person benefited from the accrual of long service leave in relation to which there was a contribution on his behalf when he was an employee. I do not feel uneasy about the way in which the amendment is drafted or intended.

The Hon. K.T. GRIFFIN: I regard this as a very important matter and, notwithstanding the Government's indication of support, if the question is carried on the voices I intend to call for a division.

The Committee divided on the amendment:

Ayes (10)—The Hons G.L. Bruce, T. Crothers, M.J. Elliott, M.S. Feleppa, I. Gilfillan (teller), Carolyn Pickles, T.G. Roberts, C.J. Sumner, G. Weatherill, and Barbara Wiese.

Noes (9)—The Hons M.B. Cameron, L.H. Davis, Peter Dunn, K.T. Griffin (teller), C.M. Hill, J.C. Irwin, Diana Laidlaw, R.I. Lucas, and R.J. Ritson.

Pair—Aye—The Hon. J.R. Cornwall. No—The Hon. J.C. Burdett.

Majority of 1 for the Ayes.

Amendment thus carried; clause as amended passed.

Clause 15 passed.

Clause 16—'Long service leave entitlement.'

The Hon. K.T. GRIFFIN: I raised questions about this clause during the second reading stage, and I referred particularly to the drafting. Are subclauses (2) and (3) clear enough to indicate that the person referred to is the building worker and not the employer? As I understand the scheme, the employer only makes a regular contribution to the fund and carries no liability when the employee takes long service leave. In fact, during the period of long service leave the board pays the worker. I wonder whether the drafting is adequate to satisfy that scenario.

The Hon. C.J. SUMNER: Parliamentary Counsel has considered the honourable member's point and believes that the matter is clear—that it does refer to the person as a building worker.

The Hon. K.T. GRIFFIN: I want to try to avoid some liability attaching to the employer at the point at which the worker is granted long service leave. My perusal suggests that it is quite a bit clearer in the present Act than it is in this Bill.

The Hon. C.J. SUMNER: Parliamentary Counsel advises that the point has been considered and he believes that the clause is clear, namely, that the employer gives the leave and the board pays the amount of money to cover the period of leave.

The Hon. K.T. GRIFFIN: I have raised it so it is on the record, and if there is a problem we will pick it up later.

The Hon. C.J. SUMNER: That is fair enough. The intention is clear: it is a drafting matter, and we will see whether any problems arise.

Clause passed.

Clause 17 passed.

New clause 17a—'Preservation of entitlements in certain cases.'

The Hon. I. GILFILLAN: I move:

Page 7, after clause 17—Insert new clause as follows:

17a. (1) Where—

(a) a person who has an effective service entitlement ceases to be employed as a building worker;

(b) the person is not entitled to long service leave or a payment for *pro rata* long service leave:

(c) the person commences work as a self-employed contractor in the building industry within 36 months after cessation of his or her employment as a building worker;

and

(d) the person provides notice of his or her work as a contractor to the board in accordance with the regulations,

the effective service entitlement is preserved.

(2) Where the person, or his or her personal representative, satisfies the board that the aggregate period of work in the building industry (as a building worker and subsequently as a contractor) total 84 months or more, the board must pay to the person (or his or her personal representative) an amount calculated as follows:

$$A = \frac{OWP \times E \times 13}{120}$$

where

A—is the amount payable;

OWP—is the ordinary weekly pay for work of the kind last performed by the person as a building worker as at the day of payment;

E—is the effective service entitlement.

The Hon. K.T. GRIFFIN: I reiterate the Opposition's very strong opposition to the principle which this new clause is bringing into the area of long service leave. I am very concerned that it may be establishing a very dangerous precedent in the wider area of long service leave to encompass persons other than those who are, in fact, employees and who have achieved a minimum period of service before they are entitled to take any accrued long service leave.

I think it is dangerous and I oppose it most strongly. I indicate that, depending on what the Government is going to do, I regard the division on clause 14 as the vote on the principle of the matter, so if the clause is carried on the voices I will not for that reason be proceeding to a division.

The Hon. I. GILFILLAN: I think it is important to put on the record that my intention in moving this amendment is that this legislation is specific to the building industry and, quite obviously, the building industry is regarded as a separate environment for employment. I do not therefore believe that this is an overall precedent. My moving this amendment is no signal that it is a precedent for a general distribution of this principle into other forms of employment. The fact that this Act is specific for the building trade—

The Hon. K.T. Griffin interjecting:

The Hon. I. GILFILLAN: The precedent has already been set. There is a specific Act for long service leave for the building industry. One cannot argue that what is good for the goose is good for the gander. We already have a separate Act.

The Hon. K.T. Griffin interjecting:

The PRESIDENT: Order!

The Hon. I. GILFILLAN: I have made it plain, however, that I do not regard this as a pacesetter for other arenas of employment.

The Hon. K.T. GRIFFIN: The Hon. Mr Gilfillan is quite naive, with respect, because he is now opening up the area of long service leave even if it is in an industry which has been treated differently with respect to a fund for itinerant employees. However, he is naive to believe that the broadening of it to those who are not employees will not create a precedent. We have seen precedents created under workers compensation: they want to extend it to contract drivers and a whole range of people who are not employees. I suggest that the sort of precedent that the honourable member is now moving to insert in the legislation will in fact create a precedent.

The Hon. C.J. SUMNER: I may not have given the completely correct impression earlier when discussing this issue, in that I indicated that a person, having gone from being an employee to a subcontractor, would after three years as a subcontractor lose his entitlement to long service leave. That is not correct. If he stays out of the industry completely for three years doing something else, then he loses all his entitlement. The important point that needs to be made is that the employee or the person is only entitled to long service leave for the period during which he was an employee.

The Hon. K.T. Griffin: Even if that does not satisfy any minimum period; that is all right.

The Hon. C.J. SUMNER: But he is not being paid long service leave for being a subcontractor, which was the Government's original proposal.

The Hon. K.T. Griffin: I am alert to that.

The Hon. C.J. SUMNER: So the Hon. Mr Gilfillan's amendment is a reduction in the original proposal put forward by the Government, and it only entitles a person to long service leave for the period during which he was an employee. However, the period actually working in the industry as a subcontractor can count as building up the number of years to seven to qualify the person for *pro rata* payment for the period that that person was an employee. I think that the critical point to be made is that the individual receives nothing in terms of long service leave for being a subcontractor during the period that he is a subcontractor. Being a subcontractor can only be used—and that is a subcontractor working in the industry—to build up the individual's time, which then entitles him to *pro rata* long service leave, but only for the period during which he was working as an employee. That seems to me to be a significant compromise.

The Hon. K.T. Griffin: It is quite different from the Government's proposal.

The Hon. C.J. SUMNER: Yes, and it is a reduction of entitlement in terms of what was in the Government's original proposal. As I said, it only operates, in terms of the actual period that long service leave applies, for the periods during which the individual works as an employee. I would not have thought that that should generate the same objection from the honourable member as it apparently has.

I emphasise that point and clarify that the three-year period to which I referred earlier relates to the period for which that person must be completely out of the industry before losing his entitlement to come back and be part of the scheme.

The Hon. K.T. GRIFFIN: I am alert to that, and that is my understanding of it. However, I think there is still some confusion because the Government's proposal in clause 37 did not confer any benefits for previous employment as a building worker. Clause 37 allowed a self-employed person to make application to participate in the scheme, and it had no relationship to previous employment within the building industry. I think that the two are quite different.

I am concerned about the Hon. Mr Gilfillan's proposition because it allows a benefit to accrue, even if it does not in itself accrue, to a minimum level of seven years. So, there may be a year which is there and which can be claimed once a former building worker, as an employee, who is subsequently self-employed within the building industry, spends in aggregate a minimum of seven years in the building industry.

So, it is the retention of the benefit which I suggest is a significant departure from what is normally regarded as long service leave and normally permitted to be accrued under industrial awards and the Long Service Leave Act of this State. That is the problem as I see it, and that is the reason why I strongly oppose the amendment proposed by the Hon. Mr Gilfillan.

New clause inserted.

Clause 18—'Employment during leave.'

The Hon. I. GILFILLAN: I move:

Page 10, line 32—After 'in' insert 'any other employment in place of his or her'.

The amendment is designed to prevent a worker who is actually benefiting from a local service leave accrual from continuing to work as a building worker or in any other regular occupation that would be undertaken in lieu of previous employment in the building industry. It varies slightly from the intention of the Hon. Trevor Griffin—in his comments at least—in that if there is a blanket prohibition on any form of employment it could unfairly interfere with what might have been a sporadic and trivial activity, such as babysitting, in which a person had been engaged in, maybe on weekends, or in the evening. I do not want to remove that option for someone in relation to long service leave. So, I feel that my amendment substantially prevents an abuse of the scheme and allows some form of tolerance so that persons can continue with what are probably reasonable activities and a quite acceptable part of their relaxed lifestyle.

The Hon. K.T. GRIFFIN: I have an amendment on file. Indeed, I think it may have been on file first. I raise this question because, under the Long Service Leave Act which was dealt with the week before last, there is a complete embargo upon working in any other employment during a period of long service leave. It seems to me that this legislation ought to have the same sort of embargo. That is why it seemed appropriate to me to move the much more stringent amendment that I have on file. I prefer my amendment because it is consistent with the Long Service Leave Act.

The Hon. I. GILFILLAN: My advice is that my amendment is consistent with legislation in other States.

The Hon. C.J. SUMNER: The Government supports the Hon. Mr Gilfillan's amendment on the basis that it is advised by the Parliamentary Counsel that the Hon. Mr Gilfillan's amendment is consistent with the State Long Service Leave Act and accommodates the point made by the Hon. Mr Griffin.

The Hon. K.T. GRIFFIN: The principle is similar, so I am not too fussed about it.

The Hon. I. Gilfillan's amendment carried.

The Hon. K.T. GRIFFIN: My amendment is no longer appropriate and accordingly I do not seek to move it.

Clause as amended passed.

Clause 19 passed.

Clause 20—'Investment of the fund.'

The Hon. I. GILFILLAN: I move:

Page 11, after line 24—Insert new subclause as follows:

(3) Subject to considerations of security in investment, money should be invested under this section so as to obtain the highest possible rate of return.

This is a relatively innocuous amendment which I consider is worth moving. Clause 20 deals with the investment of the Long Service Leave Fund. As the Bill is drafted, the board may invest money that is not immediately required for the purposes of the fund in such manner as the Treasurer may from time to time approve. Subclause 2 provides:

An approval of the Treasurer for the purposes of subsection (1) may be given in relation to a particular investment or dealing or in relation to investments or dealings of a particular kind.

I do not have any reason to be suspicious of the board or the manner in which the Treasurer would approve of the placement of funds, but I think it is important to separate funds which are accumulated for a specific purpose from any danger of being used for perhaps other purposes or placed in a manner which is not to the best advantage of the fund. So I think it is important to spell it out in the Bill in the form of new subclause (3) which I have moved to insert. My amendment is similar to an amendment that I moved successfully in relation to workers rehabilitation and compensation legislation. Although, as I say, it is not a particularly significant amendment as such, I believe it is a principle and intention which should be reiterated where funds for a particular purpose are accumulated under the control of the Government.

The Hon. C.J. SUMNER: The Government opposes the amendment. The formulation in the Bill has existed since 1975. There has been no problem with it and the Government does not see the amendment as being necessary.

The Hon. K.T. GRIFFIN: During the second reading debate I asked where the funds would be invested. I had hoped to be given that information so that I could make a decision on how I would vote on this amendment. I have some sympathy with the amendment but, on the other hand, the present formulation has generally applied adequately. However, if money is invested through the South Australian Financing Authority at a lower rate of interest, I would have second thoughts about the amendment. I do not know where the money will be invested or at what rate of return. I would like to have that information. If the information is not readily available, I suggest that I will support the amendment for the moment and it can go backwards and forwards between the Houses. If we receive information during that period, it may be possible to then review the position.

The Hon. C.J. SUMNER: I am advised that the present policy is to invest in authorised trustee investments. It may be possible to provide the honourable member with a list, but I suppose it is arguable that, if this is passed and Treasury policy of investing in authorised trustee investments continued, it would not be in accordance with the Act because it may not be the highest possible return. In any event, the Government takes the view—and I am not sure that a great deal turns on it—that the policy that has operated since 1975 should continue. There is no real basis for changing it, and for that reason we oppose the amendment.

The Hon. I. GILFILLAN: I think it is very comfortable for a Government and perhaps ourselves to be indifferent to this, but the fact is that, if we obtain the highest possible rate of return with sound security and investment, it diminishes the amount that employers will be required to pay into a fund for the provision of long service leave. I think that is to the advantage of South Australian employment and the industry at large. I see no reason why there should not be some incentive in the Bill to encourage the placement of money where it will produce the best return. I have acknowledged the security and investment—that is obvious. We are not going to invest in Ariadne or IEL.

The Hon. C.J. Sumner: What about Bell Resources?

The Hon. I. GILFILLAN: They could come back.

The Hon. K.T. GRIFFIN: I note what the Attorney-General has said about trustee investments. I think that is an appropriate form of investment but, so that we do not hold things up unnecessarily in view of other difficulties, I indicate that for the moment I will support the Hon. Mr Gilfillan's amendment; if in the meantime the Attorney is able to provide a list of the current investments and perhaps an outline of investment policy, the matter can be reviewed in the process.

Amendment carried; clause as amended passed.

Clauses 21 to 24 passed.

Clause 25—'Returns as to employment of workers.'

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

Page 12, line 17—Leave out 'three' and insert 'five'.

This clause deals with returns as to employment of workers and such a return and written notice containing prescribed particulars must be provided by an employer who engages a building worker who works for an employer for three or more working days in any month. I believe a period of five or more working days in any month is an appropriate period, because that is effectively the qualifying period for participation in the fund. In the experience of most people, five days is a normal working week.

The Hon. C.J. SUMNER: The Government opposes this amendment. The minimum of five working days is too long a period for the Long Service Building Industry Board to lose revenue. It could cause a problem over two months: three days in one month and two days in the next. The three days is a fair period for both workers and employers.

The Hon. I. GILFILLAN: The Democrats oppose this amendment. We believe that the Bill as drafted is satisfactory.

The Hon. K.T. GRIFFIN: If I lose the vote on the voices, I will not call for a division in these circumstances.

Amendment negatived; clause passed.

Clause 26—'Monthly returns and contributions.'

The Hon. K.T. GRIFFIN: As my amendment on file is no longer relevant, I no longer seek to move it.

The Hon. I. GILFILLAN: I move:

Page 13, lines 9 to 11—Leave out all words in these lines and insert:

(a) an employer fails to furnish a return under subsection (1);.

My amendment is linked to a shared concern that the Hon. Mr Griffin and I expressed in our second reading speeches about so-called double jeopardy, and I am assured my amendment is the most efficient way to protect an employer who is liable under clause 28 (if I might look that far ahead). It looks as if an employer could, through not having paid the contribution, have a penalty of interest imposed, which is fair enough. There could be a board imposed fine not exceeding twice the amount assessed and the employer could also be liable to a criminal offence. That could then be tried in a court and a fine imposed. My amendments attempt to isolate the failure to pay the levy—to actually contribute—and, if that is the only misdemeanour, it would be subject to a board fine. It takes the issue of non-payment of the contribution out of the criminal category. I believe that that is what the amendment does, and I hope it will have the support of the Committee.

The Hon. C.J. SUMNER: The Government supports the amendment.

Amendment carried.

The Hon. I. GILFILLAN: I move:

Page 13, after line 13—Insert new word and paragraph as follows: 'or

(c) an employer fails to comply with a requirement imposed under subsection (3) or (4),'

This amendment is in the same category as the amendment for which I have just argued.

Amendment carried; clause as amended passed.

Clause 27 passed.

Clause 28—'Penalty for late payment.'

The Hon. K.T. GRIFFIN: The amendments which were moved by the Hon. Mr Gilfillan and successfully carried pre-empted my amendment, and in view of that it is no longer appropriate for me to proceed with my amendment.

Clause passed.

Clause 29—'Power to require information, etc.'

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

Page 14, after line 30—Insert new subclause as follows:

(4a) A person is not obliged to answer a question under this section if the answer would tend to incriminate that person of an offence, or to produce a book, document or record if it or its contents would tend to incriminate that person of an offence.

In clause 34, which deals with appeals, subclauses (1) and (2) provide that the tribunal may, for the purposes of an appeal, from a decision of the board, do certain things, as stipulated. However, subclause (3) provides that:

A person is not obliged to answer a question under this section if the answer would tend to incriminate that person of an offence, or to produce a document, record or material if it or its contents would tend to incriminate that person of an offence.

There is no similar provision in clause 29, and I believe that there ought to be, because if on an appeal the protection against self-incrimination is there it also ought to be available in the first instance. Thus, new subclause (4a) reflects the protection against self-incrimination already provided in the Bill at clause 34.

Amendment carried; clause as amended passed.

Clause 30—'Recovery of contributions.'

The Hon. K.T. GRIFFIN: Again, the amendment to this clause that I have on file is no longer appropriate in view of an earlier amendment of Mr Gilfillan's being carried.

Clause passed.

Clauses 31 to 36 passed.

Clause 37—'Extension of Act to self-employed persons.'

The Hon. K.T. GRIFFIN: I indicate my opposition to this clause. From what the Attorney-General said earlier, I presume that he will not insist on it. It is related to the question of whether or not self-employed persons ought to be entitled to participate in the fund, almost as a sort of holiday saving benefit, and for the reason that I oppose the principle I oppose the clause.

The Hon. C.J. SUMNER: The Government accepts that, in the light of new clause 17a.

The Hon. I. GILFILLAN: I want to make quite plain that the Democrats oppose this clause. In fact, we have an amendment on file to have it deleted—similar to the Hon. Trevor Griffin's. It seems quite anomalous that legislation involving long service leave for employees should extend virtually without restriction to a self-employed person coming into the scheme. That is inappropriate in this legislation, and the Democrats oppose this clause.

Clause negatived.

Clauses 38 to 44 passed.

New clause 44a—'Expiation of offences.'

The Hon. I. GILFILLAN: I move:

Page 19, after line 18—Insert new clause as follows:

44a. (1) An offence against any of the following sections is expiable—

Section 18
Section 25
Section 26.

(2) Where it is alleged that a person has committed an expiable offence, the board may cause to be served personally or by post on that person a notice to the effect that he or she may expiate the offence by payment to the board of the expiation fee specified in the notice within 60 days of the date of the notice and, if the offence is so expiated, no proceedings will be commenced in a court with respect to the alleged offence.

(3) The expiation fee payable in respect of an expiable offence is as follows:

Section 18—$100
Section 25—$200
Section 26—$250.

This proposed new clause puts into effect the expiation aspect of the offences that are listed in sections 18, 25 and 26. It is self-explanatory. The amounts proposed are spelt out in proposed new subclause (3), which follows the principle that the Democrats adhere to as far as we can, that specifics will be put into legislation and not left to regulation. On that basis I look for support from all members of the Committee and I hope it conforms with what has been a shared attitude with the Hon. Trevor Griffin on many occasions.

The Hon. K.T. GRIFFIN: I have a growing concern about the extent to which expiation fees are being provided in legislations and such expiation fees being fixed by regulation for offences to be identified by regulation. I think that this proposed new clause is preferable to clause 45 (3). Personally, I would prefer to have clause 45 (3) deleted and no new clause 44a. For the moment that will be my position. However, if it is a choice of having clause 45 (3) left in, then obviously I have to give preference to the Hon. Mr Gilfillan's amendment as a more desirable position than leaving clause 45 as it is.

The Hon. C.J. SUMNER: We will not oppose the amendment.

New clause inserted.

Clause 45—'Regulations.'

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

Page 19, lines 29 to 35—Leave out subclause (3).

It is now necessary, as a result of new clause 44a being passed, to move to delete this subclause. As I indicated, I would have preferred no clause 44a and no clause 45 (3). However, I bow to the majority view.

Amendment carried; clause as amended passed.

Schedules and title passed.

Bill read a third time and passed.

ARCHITECTS ACT AMENDMENT BILL

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

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

Members of the Council will know that the Architects Act is administered by an Architects Board. This board comprises architects elected from the architectural fraternity as well as other people appointed by the Government. I have met with the Architects Board on a number of occasions and in discussion we have agreed that a number of changes are necessary to the Architects Act. I should say that I believe the Act and subsequent amendments are in need of consolidation into one Act and that there is a need for a number of other changes to be made other than those

that are here before us today. Accordingly, I have asked the board to carry out a comprehensive review of the Act over the next 12 months and I thus intend to bring before the Council, in due course, a new Bill, consolidating the Act and its amendments.

With regard to this Bill, there are a number of changes which need to be made which I and the board believe are in the best interests of the architectural profession—in particular, a change which, I believe, will have profound impact on the architectural profession in this State. I believe it is an anachronism that the architectural profession is unable to advertise their abilities in Australian and world journals. There is a great deal of developmental activity in which Australian architects should be involved, but which South Australian architects are precluded because of our Architects Act which prohibits advertising. For instance, I am aware that members of the profession in South Australia were unable to advertise in a bicentennial publication aimed at the world market.

The Bill before the Council will change this situation. I believe this change will lead to a more dynamic and competitive approach to architecture which should lead to benefits for this State. This Bill also has a number of other changes. I am now asking the board to report to the Minister annually and for the Minister to table that report before the Council. I am also amending the Act to remove the power of the board to prescribe special examinations for the accreditation of architects. I and the board believe that this role is more appropriate for the academic institutions in conjunction with the architectural bodies.

Finally, this Bill provides legal protection for the board where the board acts in good faith in the carrying out of its functions. This provision will be similar to the limitation of liability of other statutory authorities appointed by the Government. I believe these changes are necessary and will be of value to the profession in the immediate future. I do not feel it is appropriate to leave these changes for the major consolidation of the Act and accordingly I ask the Council for its support.

Clause 1 is formal.

Clause 2 amends section 32 of the principal Act. This section deals with the qualifications of architects for registration under the Act. The amendment removes subparagraph (iv) of paragraph *(b)* in subsection (1) which required an applicant for registration to have passed the special examinations prescribed by the by-laws of the board if he or she did not qualify under some other part of the section.

Clause 3 amends section 35 of the principal Act which is the provision dealing with professional misconduct. The amendment is designed to protect a registered architect from charges of professional misconduct if he or she advertises in accordance with the by-laws of the board.

Clause 4 inserts into the principal Act sections 47a and 47b. Section 47a requires the board to submit to the Minister an annual report on the administration of the Act. The Minister must have the report tabled in both Houses of Parliament. Section 47b gives persons engaged in the administration of the Act immunity from liability for an honest act or omission in the exercise or purported exercise of a power or function under the Act.

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

SUPREME COURT ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

ADJOURNMENT

At 5.26 p.m. the Council adjourned until Tuesday 10 November at 2.15 p.m.