## LEGISLATIVE COUNCIL

Tuesday 10 November 1987

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

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

## QUESTIONS ON NOTICE

### RESEARCH STUDIES

32. **The Hon. R.I. LUCAS** (on notice) asked the Attorney-General: In relation to the Department of Correctional Services—

1. What market research studies/consultancies have been commissioned in 1985-86, 1986-87 and are budgetted to be commissioned in 1987-88?

2. Which companies were appointed to undertake the research study or consultancy?

3. Were any other companies invited to tender for the contract?

4. What is the estimated cost for each contract?

5. *(a)* Are the results of such studies or consultancies publicly available?

*(b)* If not, why not?

33. **The Hon. R.I. LUCAS** (on notice) asked the Attorney-General: In relation to the Department of Labour—

1. What market research studies/consultancies have been commissioned in 1985-86, 1986-87 and are budgetted to be commissioned in 1987-88?

2. Which companies were appointed to undertake the research study or consultancy?

3. Were any other companies invited to tender for the contract?

4. What is the estimated cost for each contract?

5. *(a)* Are the results of such studies or consultancies publicly available?

*(b)* If not, why not?

34. **The Hon. R.I. LUCAS** (on notice) asked the Attorney-General: In relation to the Attorney-General's Department—

1. What market research studies/consultancies have been commissioned in 1985-86, 1986-87 and are budgetted to be commissioned in 1987-88?

2. Which companies were appointed to undertake the research study or consultancy?

3. Were any other companies invited to tender for the contract?

4. What is the estimated cost for each contract?

5. *(a)* Are the results of such studies or consultancies publicly available?

*(b)* If not, why not?

35. **The Hon. R.I. LUCAS** (on notice) asked the Attorney-General: In relation to the Department of Public and Consumer Affairs—

1. What market research studies/consultancies have been commissioned in 1985-86, 1986-87 and are budgetted to be commissioned in 1987-88?

2. Which companies were appointed to undertake the research study or consultancy?

3. Were any other companies invited to tender for the contract?

4. What is the estimated cost for each contract?

5. *(a)* Are the results of such studies or consultancies publicly available?

*(b)* If not, why not?

36. **The Hon. R.I. LUCAS** (on notice) asked the Attorney-General: In relation to the Corporate Affairs Commission—

1. What market research studies/consultancies have been commissioned in 1985-86, 1986-87 and are budgetted to be commissioned in 1987-88?

2. Which companies were appointed to undertake the research study or consultancy?

3. Were any other companies invited to tender for the contract?

4. What is the estimated cost for each contract?

5. *(a)* Are the results of such studies or consultancies publicly available?

*(b)* If not, why not?

37. **The Hon. R.I. LUCAS** (on notice) asked the Attorney-General: In relation to the Ethnic Affairs Commission—

1. What market research studies/consultancies have been commissioned in 1985-86, 1986-87 and are budgetted to be commissioned in 1987-88?

2. Which companies were appointed to undertake the research study or consultancy?

3. Were any other companies invited to tender for the contract?

4. What is the estimated cost for each contract?

5. *(a)* Are the results of such studies or consultancies publicly available?

*(b)* If not, why not?

38. **The Hon. R.I. LUCAS** (on notice) asked the Attorney-General: In relation to the Department of the Premier and Cabinet—

1. What market research studies/consultancies have been commissioned in 1985-86, 1986-87 and are budgetted to be commissioned in 1987-88?

2. Which companies were appointed to undertake the research study or consultancy?

3. Were any other companies invited to tender for the contract?

4. What is the estimated cost for each contract?

5. *(a)* Are the results of such studies or consultancies publicly available?

*(b)* If not, why not?

39. **The Hon. R.I. LUCAS** (on notice) asked the Attorney-General: In relation to the Department of the Treasury—

1. What market research studies/consultancies have been commissioned in 1985-86, 1986-87 and are budgetted to be commissioned in 1987-88?

2. Which companies were appointed to undertake the research study or consultancy?

3. Were any other companies invited to tender for the contract?

4. What is the estimated cost for each contract?

5. *(a)* Are the results of such studies or consultancies publicly available?

*(b)* If not, why not?

40. **The Hon. R.I. LUCAS** (on notice) asked the Attorney-General: In relation to the Department of State Development and Technology—

1. What market research studies/consultancies have been commissioned in 1985-86, 1986-87 and are budgetted to be commissioned in 1987-88?

2. Which companies were appointed to undertake the research study or consultancy?

3. Were any other companies invited to tender for the contract?

4. What is the estimated cost for each contract?

5. *(a)* Are the results of such studies or consultancies publicly available?

*(b)* If not, why not?

41. **The Hon. R.I. LUCAS** (on notice) asked the Minister of Health: In relation to the Housing Trust—

1. What market research studies/consultancies have been commissioned in 1985-86, 1986-87 and are budgetted to be commissioned in 1987-88?

2. Which companies were appointed to undertake the research study or consultancy?

3. Were any other companies invited to tender for the contract?

4. What is the estimated cost for each contract?

5. *(a)* Are the results of such studies or consultancies publicly available?

*(b)* If not, why not?

42. **The Hon. R.I. LUCAS** (on notice) asked the Minister of Health: In relation to the Department of Fisheries—

1. What market research studies/consultancies have been commissioned in 1985-86, 1986-87 and are budgetted to be commissioned in 1987-88?

2. Which companies were appointed to undertake the research study or consultancy?

3. Were any other companies invited to tender for the contract?

4. What is the estimated cost for each contract?

5. *(a)* Are the results of such studies or consultancies publicly available?

*(b)* If not, why not?

43. **The Hon. R.I. LUCAS** (on notice) asked the Minister of Health: In relation to the Highways Department—

1. What market research studies/consultancies have been commissioned in 1985-86, 1986-87 and are budgetted to be commissioned in 1987-88?

2. Which companies were appointed to undertake the research study or consultancy?

3. Were any other companies invited to tender for the contract?

4. What is the estimated cost for each contract?

5. *(a)* Are the results of such studies or consultancies publicly available?

*(b)* If not, why not?

44. **The Hon. R.I. LUCAS** (on notice) asked the Minister of Health: In relation to the Department of Agriculture—

1. What market research studies/consultancies have been commissioned in 1985-86, 1986-87 and are budgetted to be commissioned in 1987-88?

2. Which companies were appointed to undertake the research study or consultancy?

3. Were any other companies invited to tender for the contract?

4. What is the estimated cost for each contract?

5. *(a)* Are the results of such studies or consultancies publicly available?

*(b)* If not, why not?

45. **The Hon. R.I. LUCAS** (on notice) asked the Minister of Health: In relation to the Department of Recreation and Sport—

1. What market research studies/consultancies have been commissioned in 1985-86, 1986-87 and are budgetted to be commissioned in 1987-88?

2. Which companies were appointed to undertake the research study or consultancy?

3. Were any other companies invited to tender for the contract?

4. What is the estimated cost for each contract?

5. *(a)* Are the results of such studies or consultancies publicly available?

*(b)* If not, why not?

46. **The Hon. R.I. LUCAS** (on notice) asked the Minister of Health: In relation to the Department of Community Welfare and South Australian Health Commission—

1. What market research studies/consultancies have been commissioned in 1985-86, 1986-87 and are budgetted to be commissioned in 1987-88?

2. Which companies were appointed to undertake the research study or consultancy?

3. Were any other companies invited to tender for the contract?

4. What is the estimated cost for each contract?

5. *(a)* Are the results of such studies or consultancies publicly available?

*(b)* If not, why not?

47. **The Hon. R.I. LUCAS** (on notice) asked the Minister of Health: In relation to the Department of Environment and Planning—

1. What market research studies/consultancies have been commissioned in 1985-86, 1986-87 and are budgetted to be commissioned in 1987-88?

2. Which companies were appointed to undertake the research study or consultancy?

3. Were any other companies invited to tender for the contract?

4. What is the estimated cost for each contract?

5. *(a)* Are the results of such studies or consultancies publicly available?

*(b)* If not, why not?

48. **The Hon. R.I. LUCAS** (on notice) asked the Minister of Health: In relation to the Department of Lands—

1. What market research studies/consultancies have been commissioned in 1985-86, 1986-87 and are budgetted to be commissioned in 1987-88?

2. Which companies were appointed to undertake the research study or consultancy?

3. Were any other companies invited to tender for the contract?

4. What is the estimated cost for each contract?

5. *(a)* Are the results of such studies or consultancies publicly available?

*(b)* If not, why not?

49. **The Hon. R.I. LUCAS** (on notice) asked the Minister of Health: In relation to the State Transport Authority—

1. What market research studies/consultancies have been commissioned in 1985-86, 1986-87 and are budgetted to be commissioned in 1987-88?

2. Which companies were appointed to undertake the research study or consultancy?

3. Were any other companies invited to tender for the contract?

4. What is the estimated cost for each contract?

5. *(a)* Are the results of such studies or consultancies publicly available?

*(b)* If not, why not?

50. **The Hon. R.I. LUCAS** (on notice) asked the Minister of Health: In relation to the Department of Housing and Construction—

1. What market research studies/consultancies have been commissioned in 1985-86, 1986-87 and are budgetted to be commissioned in 1987-88?

2. Which companies were appointed to undertake the research study or consultancy?

3. Were any other companies invited to tender for the contract?

4. What is the estimated cost for each contract?

5. *(a)* Are the results of such studies or consultancies publicly available?

*(b)* If not, why not?

51. **The Hon. R.I. LUCAS** (on notice) asked the Minister of Tourism: In relation to the Woods and Forests Department—

1. What market research studies/consultancies have been commissioned in 1985-86, 1986-87 and are budgetted to be commissioned in 1987-88?

2. Which companies were appointed to undertake the research study or consultancy?

3. Were any other companies invited to tender for the contract?

4. What is the estimated cost for each contract?

5. *(a)* Are the results of such studies or consultancies publicly available?

*(b)* If not, why not?

52. **The Hon. R.I. LUCAS** (on notice) asked the Minister of Tourism: In relation to the Department of Tourism the Department of Local Government and the Ministry of Youth Affairs—

1. What market research studies/consultancies have been commissioned in 1985-86, 1986-87 and are budgetted to be commissioned in 1987-88?

2. Which companies were appointed to undertake the research study or consultancy?

3. Were any other companies invited to tender for the contract?

4. What is the estimated cost for each contract?

5. *(a)* Are the results of such studies or consultancies publicly available?

*(b)* If not, why not?

53. **The Hon. R.I. LUCAS** (on notice) asked the Minister of Tourism: In relation to the Office of Employment and Training—

1. What market research studies/consultancies have been commissioned in 1985-86, 1986-87 and are budgetted to be commissioned in 1987-88?

2. Which companies were appointed to undertake the research study or consultancy?

3. Were any other companies invited to tender for the contract?

4. What is the estimated cost for each contract?

5. *(a)* Are the results of such studies or consultancies publicly available?

*(b)* If not, why not?

54. **The Hon. R.I. LUCAS** (on notice) asked the Minister of Tourism: In relation to the Department for the Arts—

1. What market research studies/consultancies have been commissioned in 1985-86, 1986-87 and are budgetted to be commissioned in 1987-88?

2. Which companies were appointed to undertake the research study or consultancy?

3. Were any other companies invited to tender for the contract?

4. What is the estimated cost for each contract?

5. *(a)* Are the results of such studies or consultancies publicly available?

*(b)* If not, why not?

55. **The Hon. R.I. LUCAS** (on notice) asked the Minister of Tourism: In relation to the Department of Marine and Harbors—

1. What market research studies/consultancies have been commissioned in 1985-86, 1986-87 and are budgetted to be commissioned in 1987-88?

2. Which companies were appointed to undertake the research study or consultancy?

3. Were any other companies invited to tender for the contract?

4. What is the estimated cost for each contract?

5. *(a)* Are the results of such studies or consultancies publicly available?

*(b)* If not, why not?

56. **The Hon. R.I. LUCAS** (on notice) asked the Minister of Tourism: In relation to the Department of Mines and Energy—

1. What market research studies/consultancies have been commissioned in 1985-86, 1986-87 and are budgetted to be commissioned in 1987-88?

2. Which companies were appointed to undertake the research study or consultancy?

3. Were any other companies invited to tender for the contract?

4. What is the estimated cost for each contract?

5. *(a)* Are the results of such studies or consultancies publicly available?

*(b)* If not, why not?

57. **The Hon. R.I. LUCAS** (on notice) asked the Minister of Tourism: In relation to the Department of Education—

1. What market research studies/consultancies have been commissioned in 1985-86, 1986-87 and are budgetted to be commissioned in 1987-88?

2. Which companies were appointed to undertake the research study or consultancy?

3. Were any other companies invited to tender for the contract?

4. What is the estimated cost for each contract?

5. *(a)* Are the results of such studies or consultancies publicly available?

*(b)* If not, why not?

58. **The Hon. R.I. LUCAS** (on notice) asked the Minister of Tourism: In relation to the Department of Further Education—

1. What market research studies/consultancies have been commissioned in 1985-86, 1986-87 and are budgetted to be commissioned in 1987-88?

2. Which companies were appointed to undertake the research study or consultancy?

3. Were any other companies invited to tender for the contract?

4. What is the estimated cost for each contract?

5. *(a)* Are the results of such studies or consultancies publicly available?

*(b)* If not, why not?

59. **The Hon. R.I. LUCAS** (on notice) asked the Minister of Tourism: In relation to the Children's Services Office—

1. What market research studies/consultancies have been commissioned in 1985-86, 1986-87 and are budgetted to be commissioned in 1987-88?

2. Which companies were appointed to undertake the research study or consultancy?

3. Were any other companies invited to tender for the contract?

4. What is the estimated cost for each contract?

5. *(a)* Are the results of such studies or consultancies publicly available?

*(b)* If not, why not?

60. **The Hon. R.I. LUCAS** (on notice) asked the Minister of Tourism: In relation to the Office of Aboriginal Affairs—

1. What market research studies/consultancies have been commissioned in 1985-86, 1986-87 and are budgetted to be commissioned in 1987-88?

2. Which companies were appointed to undertake the research study or consultancy?

3. Were any other companies invited to tender for the contract?

4. What is the estimated cost for each contract?

5. *(a)* Are the results of such studies or consultancies publicly available?

*(b)* If not, why not?

**The PRESIDENT:** The answer to questions on notice Nos 32 to 60, asked of the Attorney-General, the Minister of Health, and the Minister of Tourism is as follows:

Information requested by the honourable member in parts 1, 2, 4 and 5 of his questions concerning market research studies/consultancies for 1985-86 and 1986-87, and information concerning the consultants who undertook these studies has been provided to the Leader of the Opposition by way of answer to House of Assembly Questions on Notice Nos 135 and 390. Copies of these answers follow.

In relation to 1987-88, a number of Government agencies have made provision in their budgets for planning and research programs which may include survey research. At this stage decisions concerning the detailed research programs are yet to be made.

In addition, the Government has established a Government Research Program. Australian National Opinion Polls Pty Ltd has been appointed to undertake the research program following the evaluation of proposals from 24 individuals and companies. The tenders were received following press advertisements on 9 May 1987. The tenders were assessed by a panel comprising the Director of Cabinet Office, the Deputy Commonwealth Statistician, a senior consultant to the Office of the Government Management Board and the Professor of Marketing from the Elton Mayo School of Management.

In relation to part 3 of the honourable member's question all contracts for research were let in accordance with proper procedures.

*Copy of Reply to Question on Notice No. 135 asked by Mr Olsen.*

Since the announcement on 1 May 1984 there have been 29 proposals for market research, submitted to the State Statistical Priorities Committee.

The departments/agencies submitting the proposals, the purpose of the survey and the cost of the surveys are listed below.

| Department/ Agency | Purpose | Cost $ |
|---|---|---|
| Community Welfare | research in the general area of children | 9 000 |
| Mines and Energy | to evaluate the promotion and utilisation of the Energy Information Centre | 2 450 |
| | to survey public awareness of the Energy Information Centre | 2 400 |
| Environment and Planning | to assist in the provision of population projections for all non-metropolitan LGAs | 21 000 |
| | surveying community attitudes towards the State's heritage and heritage conservation matters | 2 050 |
| | surveying the community attitudes towards the greening of Adelaide | 525 |
| | survey seeking knowledge, views on native vegetation clearance | 2 450 |
| | survey of the farming community | 3 000 |
| State Transport Authority | passenger survey on usage of (i) periodical tickets (ii) system wide travel | 8 000 |
| | survey to assess public attitudes to and awareness of public transport and the STA | 15 000 |
| Local Government Department | survey was part of a project 'to increase the opportunities for all groups to participate in local government affairs and in particular to achieve an increase in voter turnout in the May 1985 election' | 25 000 |
| Tourism | surveying intentions to holiday in South Australia | 8 750 |
| | monthly surveys to measure the level and characteristics of day trip activity by residents of Adelaide | 8 000 |
| | Grand Prix visitors survey | 15 000 |
| | surveys of South Australians, interstate and overseas visitors | 150 000 |
| | survey of Perth tourism market relating to the awareness of the SA Travel Shop in Perth | 1 800 |
| Health Commission | motivational research into smoking behaviour | 4 450 |
| | survey of the perception of tar levels of cigarettes | 5 580 |
| Transport | surveying motorist attitudes to red light cameras | 2 500 |
| | evaluation of the Mr Hyde Road Safety Campaign | 9 000 |
| | evaluation of increased penalties for drink driving offences | 6 000 |
| | rural roadside survey of drink driving patterns, occupant restraint use and travel patterns | 125 000 |
| | survey to determine attitudes to a graduated driver licensing system | 20 000 |
| | survey to determine the knowledge, attitudes and behaviour of parents to child restraint use | 5 000 |
| Drug and Alcohol Service Council | survey of drug use and associated problems in Whyalla | 30 000 |
| | survey of alcohol use amongst persons aged 12 to 23 | 20 000 |
| Coast Protection Board | survey of beach users within the metropolitan Coast Protection District | 37 000 |
| Engineering and Water Supply | survey on community attitudes on services provided by E&WS | 40 000 |
| Transport Department (part funded by STA and Highways) | survey on travel behaviour in metropolitan area to be used for planning Adelaide's transport system | 260 000 |

*Copy of Reply to Question on Notice No. 390 asked by Mr Olsen.*

The table below sets out the consultants employed to conduct surveys referred to in Question No. 135. Of the 29 surveys the results of nine have been either released or incorporated in other published material. These are:

1. Perception of tar levels: The Health Commission prepared an article from the consultant's report. The article titled 'smokers understanding of cigarette yield tables' was published in the Medical Journal of Australia (Volume 145, 20 October 1986).

2. Survey of beach users: A report titled 'Adelaide metropolitan beaches—beach user study' was prepared but because of limited funds it was only generally distributed to relevant departments and local government authorities.

3. Survey of drug use and associated problems in Whyalla: A report titled 'survey of drug problems in Whyalla' was

prepared by Profile (SA). The report was dated December 1985. A summary report titled 'survey of drug problems in Whyalla; conclusions and recommendations' was also published.

4. Survey of alcohol use amongst persons aged 12 to 23: A report titled 'SA survey of alcohol use amongst persons aged 12 to 23' dated March 1987 was prepared by Peter Steidl and Associates.

5. Research in the general area of children: The Children's Interest Bureau commissioned a survey. The final report titled 'Research Report—What young teenagers say about decision making, authority and discipline' was released in July 1985.

6. Day trip activity by residents of Adelaide: A published report in the form of a data card titled 'Day trips from Adelaide, 1985-86, Travel Data Card No. 4' was prepared.

7. Grand Prix visitors survey: The department published a report titled 'Adelaide Formula 1 Grand Prix, Adelaide 1985, Survey of Visitors'. Data from the survey also was used in a book published by the South Australian Centre for Economic Studies.

8. Survey of attitudes to red light cameras: A report titled 'red light camera trial attitude survey' was published.

9. Population projections for all non-metropolitan LGAs: Data from the study was used as input into various reports published by the Interdepartmental Forecasting Committee and the department. For example, Population Projections for Non-metropolitan Local Government Areas in South Australia 1981-1996.

The remainder were used for internal purposes and are not in a form which would be appropriate to publish.

| Consultant | Dept/Agency | Purpose | Cost $ |
|---|---|---|---|
| Cam Rungie & Associates | Community Welfare | research in the general area of children | 9 000 |
| Ian McGregor Marketing Pty Ltd | Mines and Energy | to evaluate the promotion and utilisation of the Energy Information Centre | 2 450 |
| | | to survey public awareness of the Energy Information Centre | 2 400 |
| Flinders University—School of Social Sciences | Environment and Planning | to assist in the provision of population projections for all non-metropolitan LGAs | 21 000 |
| Ian McGregor Marketing Pty Ltd | | surveying community attitudes towards the State's heritage and heritage conservation matters | 2 050 |
| Ian McGregor Marketing Pty Ltd | | surveying the community attitudes towards the greening of Adelaide | 525 |
| Ian McGregor Marketing Pty Ltd | | survey seeking knowledge, views on native vegetation clearance | 2 450 |
| Ian McGregor Marketing Pty Ltd | | survey of the farming community | 3 000 |
| McGregor Harrison Marketing Pty Ltd | State Transport Authority | passenger survey on usage of (i) periodical tickets (ii) system wide travel | 8 000 |
| Ian McGregor Marketing Pty Ltd | | survey to assess public attitudes to and awarenesss of public transport and the STA | 15 000 |
| Peter Steidl | Local Government Department | survey was part of a project to increase the opportunities for all groups to participate in local government affairs and in particular to achieve an increase in voter turnout in the May 1985 election | 25 000 |
| Ian McGregor Marketing Pty Ltd | Tourism | surveying intentions to holiday in South Australia | 8 750 |
| Ian McGregor Marketing Pty Ltd | | monthly surveys to measure the level and characteristics of day trip activity by residents of Adelaide | 8 000 |
| South Australian Centre for Economic Studies | | Grand Prix visitors survey | 15 000 |
| Research International Australia Pty Ltd (incorporated in New South Wales) | | surveys of South Australians, interstate and overseas visitors | 150 000 |
| Reark Research Pty Ltd (Melbourne) | | survey of Perth tourism market relating to the awareness of the South Australian Travel Shop in Perth | 1 800 |
| Mike Bowden & Associates | Health Commission | motivational research into smoking behaviour | 4 450 |
| Profile (SA) | | survey of the perception of tar levels of cigarettes | 5 580 |
| Peter Steidl | Transport | surveying motorist attitudes to red light cameras | 2 500 |
| Peter Steidl | | evaluation of the Mr Hyde Road Safety Campaign | 9 000 |
| McGregor Harrison Marketing Pty Ltd | | evaluation of increased penalties for drink driving offences | 6 000 |
| Cam Rungie & Associates | | rural roadside survey of drink driving patterns, occupant restraint use and travel patterns | 125 000 |
| (not approved) | | survey to determine attitudes to a graduated driver licensing system | 20 000 |
| Harrison Market Research | | survey to determine the knowledge, attitudes and behaviour of parents to child restraint use | 5 000 |

| Consultant | Dept/Agency | Purpose | Cost $ |
|---|---|---|---|
| Profile (SA) | Drug and Alcohol Services Council | survey of drug use and associated problems in Whyalla | 30 000 |
| Peter Steidl and Associates | | survey of alcohol use amongst persons aged 12 to 23 | 20 000 |
| McGregor Harrison: Hassell Planning Consultants | Coast Protection Board | survey of beach users within the metropolitan coast protection district | 37 000 |
| McGregor Harrison | Engineering and Water Supply Department | survey on community attitudes on services provided by E&WS | 40 000 |
| | Transport Department (part funded by STA and Highways) | survey on travel behaviour in metropolitan area to be used for planning Adelaide's transport system | 260 000 |

## Mr G. GREY

67. **The Hon. I. GILFILLAN** (on notice) asked the Attorney-General:

1. Did the following police vehicles attend at or about 3 Leah Street, Forestville on the following days in relation to Mr Gerry Grey of 3 Leah Street, Forestville—

Friday 20 March UQE 688, UQJ 078, UQC 763 (unmarked yellow), 8.30 p.m.-11.45 p.m.

Sunday 22 March UQJ 496, UQJ 078, UQJ 757, 8.45 p.m.-1.00 a.m.

Monday 23 March UQE 688, UQJ 757, UQJ 078, 10.25 a.m.-11.45 p.m.

Thursday 26 March UQH 877, 8.45 a.m.-9 a.m.

Friday 27 March UQJ 757, UQJ 496, 8.05 a.m.-8.45 a.m.

Friday 3 April UQJ 757, UQH 877, UQJ 078, UQJ 496, 10.40 p.m.-11.45 p.m.

Sunday 5 April UQJ 496, UQJ 757, 6 p.m.-11.30 p.m.

Tuesday 7 April UQJ 757, 11.45 p.m.-1.00 a.m.

Thursday 9 April UQJ 496 and one unmarked car, 7.15 p.m.-9.00 p.m.

Thursday 23 April UQE 688, UQJ 496, UQJ 757, UQJ 078, 11.30 p.m.-2.00 a.m.

Monday 27 April UQJ 757, 9.30 p.m.-11.30 p.m.

Saturday 9 May UQJ 757, 5.55 p.m.-7.30 p.m.

Sunday 10 May UQJ 757, UQH 877 (Van), 6.00 p.m.-7 p.m.

Sunday 27 September, a police vehicle, 8.30 a.m.?

2. Would you please advise me of the reason and nature of these visits?

3. What were the matters which gave rise to these visits?

4. Was Mr Grey charged with any offence and, if so, what was it, or were they?

5. What were the reasons for the attendance of more than one car at any one time?

**The Hon. C.J. SUMNER:** Mr Grey is currently before the court on a number of breaches of restraint orders and other charges. Consequently the principal facts surrounding this matter are *sub judice*. In addition complaints have been made on behalf of Mr Grey to the Police Complaints Authority in respect of police conduct in their dealings with Mr Grey. The conventions of the Police (Complaints and Disciplinary Proceedings) Act prohibit the disclosure during the course of an investigation by the authority, as to do so could pre-empt his findings.

## GOVERNMENT MANAGEMENT BOARD

95. **The Hon. R.I. LUCAS** (on notice) asked the Attorney-General: In relation to the Government Management Board:

1. What market research studies/consultancies have been commissioned in 1985-86, 1986-87 and are budgeted to be commissioned in 1987-88?

2. What companies were appointed to undertake the research study or consultancy?

3. Were any other companies invited to tender for the contract?

4. What is the estimated cost for each contract?

5. *(a)* Are the results of such studies or consultancies publicly available?

*(b)* If not, why not?

6. In relation to the survey program referred to on page 10 of the board's 1986-87 report:

*(a)* What specific role will the board have in relation to selecting the market research firm and funding the program?

*(b)* What is the estimated cost of the program?

*(c)* Has the firm been selected and were tenders called?

*(d)* Have individual agencies been consulted about this proposal and have they supported it?

**The Hon. C.J. SUMNER:** The honourable member is referred to the answer provided to him in relation to Questions on Notice Nos 32 to 60.

## COOPER BASIN

97. **The Hon. M.J. ELLIOTT** (on notice) asked the Minister of Tourism:

1. What was the total gas loss during the recent gas blow-out in the Cooper Basin?

2. What is the official reason given for the blow-out?

3. Is the Department of Mines satisfied with the standards of pipes, valves, welding, etc., and that a similar occurrence is unlikely?

4. *(a)* How long after the blow-out occurred was it reported?

*(b)* Why wasn't it immediately reported?

5. Does Santos's licence require review to ensure that the resource is safeguarded?

**The Hon. BARBARA WIESE:** The replies are as follows:

1. The actual gas lost is not known, but it is estimated to be less than 2 million cubic metres, an amount which would supply the average South Australian gas demand for approximately five hours.

2. No investigation of the cause of the blow-out has yet been possible, however, it appears that corrosion may have been the cause.

3. All equipment and procedures used in the petroleum industry in the Cooper Basin comply with internationally recognised codes and specifications and the Petroleum Act 1940 and regulations. The potential for similar occurrences in the future is being evaluated by both Santos Limited and the Department of Mines and Energy.

4. A chart recorder at the Della No. 1 wellsite indicates that the problem began at 6 p.m. on 15 September. It was discovered by a Santos field operator during the morning of 16 September and reported to the Department of Mines and Energy later that morning.

5. No. The requirements of the Petroleum Act and regulations are considered adequate to safeguard the resource.

## PAPERS TABLED

The following papers were laid on the table:

By the Attorney-General (Hon. C.J. Sumner):

*Pursuant to Statute—*

Children's Court Advisory Committee—Report, 1986-87.

Department of Correctional Services—Report, 1986-87.

Correctional Services Advisory Council—Report, 1986-87.

By the Minister of Consumer Affairs (Hon. C.J. Sumner):

*Pursuant to Statute—*

Liquor Licensing Act 1985—Regulations—Liquor Consumption at Adelaide.

By the Minister of Corporate Affairs (Hon. C.J. Sumner):

*Pursuant to Statute—*

Companies (Application of Laws) Act 1982—Regulations—Insurance and Superannuation Commission.

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

*Pursuant to Statute—*

Citrus Board of South Australia—Report, year ended 30 April 1987.

Greyhound Racing Control Board—Report, 1986-87.

South-Eastern Drainage Board—Annual Report, 1986-87.

Highways Act 1926—Regulations—Highways Fund.

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

*Pursuant to Statute—*

Children's Services Office—Report, 1986-87.

## QUESTIONS

### BOWEL CANCER TESTS

**The Hon. M.B. CAMERON:** I seek leave to make a short statement prior to directing to the Minister of Health a question on do-it-yourself bowel cancer tests.

Leave granted.

**The Hon. M.B. CAMERON:** Yesterday, there was an article in the *Advertister* about a do-it-yourself test claimed to be useful for the early detection of bowel cancer. The system 'Ez Detect', produced by the Melbourne-based company of Middlewood Biotechnology Pty Ltd, is said to involve small biodegradable paper pads which are dropped into the toilet following a bowel movement. The article claims that the presence of blood in the motion (which can indicate gastrointestinal disorders such as cancer of the colon and rectum) is indicated when a blue-green cross appears on the paper pads.

Mr Graeme Kent, who is Marketing Manager for Austpharm, Middlewood's representative in South Australia, has claimed the test is undergoing an accreditation trial at the Queen Elizabeth Hospital where, the article claimed, it has been shown to be 100 per cent accurate. The claim was also made that the test has been approved by the US Food and Drug Administration for use in that country. The accuracy figure claimed by Mr Kent I find somewhat extraordinary, even with my very limited medical knowledge.

From the information I have received, it appears that the test might be only 5 per cent accurate in identifying bowel cancer in general population screening. Some medical practitioners have expressed concern about the effectiveness of the test and point out that no back-up documentation has been supplied to support claims about the product. The Ez Detect system is, I understand, from information I have received, a chemical test which is notoriously inaccurate. In fact, I am told that toilet cleaning compounds can even interfere with the effectiveness of the test. It concerns me that the public could be lulled into a false sense of security if they used the test and obtained a negative result, particularly if they had read about the supposed infallibility of the test.

My questions to the Minister are: first, has an accreditation trial on this test been performed at the Queen Elizabeth Hospital and, if so, can the Minister provide the Council with the results of that accreditation trial? Secondly, does the South Australian Health Commission support views expressed in the article which suggest that by dropping a piece of paper in a toilet bowl people can determine if they have bowel cancer and, if not, will the Minister provide the public with information on the likely accuracy of such tests?

**The Hon. J.R. CORNWALL:** I am not in a position to answer all those questions forthwith. Obviously, I have asked for a brief, which is not yet in my possession. When that is available I will be pleased to respond to all four questions. In the meantime, if the public health authorities think that for any reason the article, as reported, may not be accurate or that it may have contained information which would tend to mislead the public or, as Mr Cameron suggests, give them some sort of sense of false security, then obviously the public health authorities in this State will issue a warning. Also, I imagine that the matter would be drawn to the attention of the Commissioner for Consumer Affairs. However, as I said, I am not making any judgment one way or the other at this stage because I have not received the necessary advice.

### LIBRARY RESOURCE COLLECTION

**The Hon. L.H. DAVIS:** I seek leave to make a brief explanation before asking the Minister of Local Government, representing the Minister of Education, a question about a library resource collection.

Leave granted.

**The Hon. L.H. DAVIS:** Although I direct this question to the Minister in her capacity as Minister representing the Minister of Education, I am sure that she is aware of this matter. Last year I expressed concern that the education library, which is based at the head office of the Education Department in Flinders Street, had been closed, thus making Adelaide the only capital city without a central education library. At that time the suggestion had been made that the State Library would take over some of the books and distribution of the books, but that does not seem to have occurred.

The Education Department also has a library resource collection of 40 000 to 50 000 books, with a current replacement value of $1 million. This collection is a vital resource for primary and secondary schools in both the country and the city. This extensive collection of fiction and non-fiction books has been established to supplement the resources of school libraries. It is an essential and valuable aid which provides many children with the opportunity to read good books that would otherwise be unavailable to them. This collection is also used for reference work, and is a particu-

larly important resource in small country schools. Following receipt of a complaint I have established that this collection of 40 000 to 50 000 books, worth $1 million, has been lying unused and unread in boxes for the whole of 1987. I understand that many complaints are being received, particularly from country areas. Teachers are frustrated and angry because this collection has not been available for 12 months.

My questions to the Minister are: first, can the Minister ascertain the reason for the failure to make this resource collection available during the whole of 1987? Secondly, when does the Minister expect to rehouse this library resource collection, thus allowing primary and secondary students throughout South Australia to use it?

**The Hon. BARBARA WIESE:** If the facts are as outlined by the Hon. Mr Davis then, indeed, it is a matter of some concern that a large collection of books has not been made available to young people in our State. However, I am sure that there is a very good reason for this situation, if it has occurred. I shall be happy to refer the question to my colleague in another place and bring back a reply.

## POLICE OFFICERS

**The Hon. K.T. GRIFFIN:** I seek leave to make an explanation before asking the Attorney-General a question about procedures for charging police officers.

Leave granted.

**The Hon. K.T. GRIFFIN:** I have been informed that this morning in the Adelaide Magistrates Court a former police officer in the Drug Squad, Mr I.J. Sampson, appeared in unusual circumstances charged with offences arising from a National Crime Authority investigation. He was charged on summons, which I understand was issued last Saturday, but his name did not appear on the published cause list for this morning. It was only by a coincidence of a media reporter being in court at the time that the appearance of Mr Sampson came to the attention of the media. Normally, the names of those who are to appear in court are published in the cause list which is on display at the court entrance, unless there has been a late arrest. So, the absence of the name of Mr Sampson from the list this morning appears to be unusual. This though is the third matter to arise in unusual circumstances.

After being charged the first senior police officer (whose name is suppressed) was brought to the court at about 4.30 p.m. well after the court doors had been closed and without any notice to the media. On that occasion the media gained access after banging on the locked court doors to draw attention to their presence. In respect of that case, when the question of a suppression order went on appeal to the Supreme Court, Mr Justice Prior stated:

> The procedures taken to bring the respondent before the court do bear the suggestion of a whitewash. There should never ever be any hint of that.

In respect of the second matter, that of Assistant Commissioner Harvey, he was charged at 4 p.m., again at the time the doors of the courts normally were closed but he was waiting for three other offenders ahead of him to be dealt with and his presence came to the attention of the media only as a result of a call from a court official. No formal contact was made to the media to inform them of the appearance.

I understand that whenever any other well-known person is to appear in court, or a person charged with a crime which has attracted public attention appears, information is always given to the media by the police in advance of the appearance or the names otherwise appear on the cause list at court prior to the time when most people charged are required to appear. The difficulty with each of the three cases to which I have referred is that it creates a perception of those responsible for laying charges giving special treatment to police officers or former police officers against charges which have been laid. Rather than reducing the amount of public exposure, it actually increases it.

In these sorts of matters, I think the observation would be that you cannot play games with the media or anybody else. My questions are:

1. Will the Attorney-General investigate the circumstances surrounding the appearances of these three persons in court to determine why they appear to have been treated differently from other persons appearing in court?

2. Will the Attorney-General ensure that normal procedures are followed in future in all cases?

**The Hon. C.J. SUMNER:** I do not accept that normal procedures were not followed. The honourable member has made cerain assertions about which I am not in a position to comment one way or the other. At this stage of the proceedings the Crown Law Department is not responsible for laying charges, although the Crown Prosecutor or the Crown Solicitor may give advice in relation to charges from time to time. As I understand it, the most recent charges, to which the honourable member referred arose from National Crime Authority investigations. I would not expect that, because people are police officers, they should be treated any differently from other members of the public. I would view with concern any suggestion that they were being dealt with in some way differently from other members of the public. I am not aware of the details of the allegations made by the honourable member in relation to these matters or, in particular, in relation to a matter that apparently was dealt with today in the courts, but I will make some inquiries and bring back a reply.

In so far as it is up to me (and I suppose it is not really up to me, anyway) I will try to ascertain whether any different procedures were followed and, if they were, to put it to the people with the responsibility for laying charges and dealing with these matters that my view is that police officers when charged should not be dealt with in any different or preferred way from other members of the public.

## GENETIC DIVERSITY

**The Hon. M.J. ELLIOTT:** I seek leave to make a brief explanation before asking the Minister of Health representing the Minister of Agriculture a question on genetic diversity of agricultural plants and animals.

Leave granted.

**The Hon. M.J. ELLIOTT:** An article in the most recent *Farmer and Stockowner* looks at problems in relation to the genetic base of grain crops in Australia. The article makes the point that by the end of this century this planet will have to feed an extra one billion people and there will have to be a constant upgrading of our agricultural products, particularly grain crops. One way in which those developments can be achieved is by genetic improvement. The fear expressed in this article was that, in fact, the genetic base of many of our crops has been reduced because now throughout Australia we have just a few varieties accounting for most of the crop. In fact, around the world some varieties are now supplying most of the crop and many local varieties, which used to exist, have been lost. Of course, this is not happening only with grain crops: it happens with many of the vegetable crops as well. Plant variety rights have as a matter of course accelerated that process of loss

of regional varieties which maintain the gene pool. I asked questions last year in relation to the long-term impact of the breeding programs with animal herds and also the impact of embryo transfer, which in the long run will accelerate the narrowing of genetic base. In responding to my questions, the Minister said the Department of Agriculture was maintaining a flock of hens to maintain genetic diversity but, as far as any animal was concerned, he said they were looking at the question. What action, rather than thinking, is this State Government taking in relation to the maintenance of gene pools for the long-term health of agriculture in South Australia?

**The Hon. J.R. CORNWALL:** I will refer that question to the Minister of Agriculture and bring back a reply.

## ANAESTHETIC MORTALITY COMMITTEE

**The Hon. R.J. RITSON:** I seek leave to make an explanation before directing a question to the Minister of Health about the Anaesthetic Mortality Committee.

Leave granted.

**The Hon. R.J. RITSON:** This is a slightly reversed dorothy dixer. I was not promoted to ask this question, but it is a question of which I gave the Minister informal notice because it is non-partisan and complicated and I wanted to obtain an authoritative answer on the record.

The Anaesthetic Mortality Committee has been established pursuant to statute and it researches the causes and promotes future avoidance of the causes of anaesthetic incidents and accidents. It does so by inviting medical practitioners to volunteer material to it from their own experience and professional practice. The old Health Act, which has since been rewritten, provided for total secrecy of the material gathered by the committee and also for statutory inadmissibility, as evidence before courts or tribunals, of any material gathered by the committee.

When the Health Act was rewritten the old wording disappeared. The matter was then dealt with in the latest amendment to the Health Commission Act but the wording was changed. The wording in the Health Commission Act Amendment Act still has the provision for secrecy but appears not to have any explicit provision for the inadmissibility of documentary evidence.

As a result of that change a number of practitioners have felt less inclined to volunteer information to the committee for its research purposes. They appear to have lost some confidence in the protection against possibly testifying against themselves. I emphasise that the anaesthetists are not seeking indemnity. Any matter properly before any court on other evidence will be proceeded with. The mere fact that they have volunteered the same information to the committee will not give them protection and they do not want protection.

A number of legal opinions have been sought. Advice I have received has been to the effect that the secrecy is absolute and the inadmissibility of the evidence is implicit, having regard to rules of evidence. I do not understand rules of evidence; I have to accept them on faith. Other barristers have said that it is not so and that maybe courts could subpoena the material. I have asked the Minister to research this matter and ask him now to consider whether it is not better perhaps to have legislation that is clearly understood by non-legally trained professionals that have to work with it, given that the old wording worked well and may be better. Therefore, a simple amendment might help. Will he provide the Council and the practising medical profession with suitable reassurance that the new wording is as secure as the old wording? Does the Minister consider that any amendment to the matter in question is worthwhile and, if not, why not?

**The Hon. J.R. CORNWALL:** The Hon. Dr Ritson did indeed give me what he described as informal notice of his intention to raise this matter and I consequently happen to have handy copious and relevant notes. It is a very important issue, although somewhat complicated. The Hon. Dr Ritson asked whether it is not possible to write the law so that it is readily understood by average reasonable people, including anaesthetists: that matter should be referred to the Attorney-General.

*The Hon. M.B. Cameron interjecting:*

**The Hon. J.R. CORNWALL:** We all have our codes, I guess. The Faculty of Anaesthetists has expressed concern over the confidentiality of material collected in the course of research by the Anaesthesia and Intensive Care Committee and its various subcommittees. It is most important that confidentiality of that material be protected and protected absolutely to the extent possible if they are to continue to function effectively. These committees and their predecessors were previously covered by the confidentiality provisions, Part IXC of the Health Act 1935, as Dr Ritson knows.

However, Part IXC of the Health Act was repealed on 1 July 1987 and replaced with new section 64d of the South Australian Health Commission Act, which came into operation on the same day. The Faculty of Anaesthetists obtained private legal advice, which expressed doubt as to whether section 64d provided adequate protection in terms of confidentiality privilege. The Chairman of the South Australian Health Commission sought Crown Law advice which, in essence, clarifies that section 64d is satisfactory. I have been authorised by the Crown Solicitor to make this advice public.

The three questions addressed in the Crown Solicitor's advice were as follows: first, whether persons authorised under section 64d of the Act can be compelled to give evidence in court of confidential information obtained in the course of research. The Crown Solicitor is of the opinion that the terms of section 64d (3) of the Act are clear and unambiguous and better drafted than the previous provision in section 146s of the Health Act. In her opinion a court cannot require an authorised person to divulge confidential information.

The Crown Solicitor referred to a Victorian decision on a similar provision in the Payroll Tax Act 1971 of Victoria (see R.v. Clarkson (No. 2) (1982) VR 522). The Crown Solicitor pointed out that the section may not be effective in preventing an authorised person from being compelled to give evidence in an interstate court or a federal court where proceedings are commenced interstate. Furthermore, the confidentiality provision may not prevent information having to be produced where a Commonwealth statute requires production. However, as the Crown Solicitor pointed out, these qualifications have not proved of practical importance under the Health Act and, in any event, the State Parliament does not have the power to 'protect' the information in these circumstances. Authorised persons therefore have the same protection under the new provision as under the Health Act.

The second question directed to the Crown Solicitor was, can the Governor validly give an authorisation to 'members for the time being' of the various committees? The Crown Solicitor observed that historically the administrative practice within the Commonwealth Government has been to make delegations and authorisations to the holders from time to time of particular positions or offices. This practice

has been upheld and applied by the courts on a number of occasions (see Owendale Pty Ltd v Anthony (1967) 117 CLR 539; Barton Croner Trading Pty Ltd (1984) 54 ALR 541; Korczynski v Quik Foods Pty Ltd & Others (1985) 59 ALR 272). In the Crown Solicitor's opinion, particularly as section 64d (1) refers to 'a class of persons', the Governor can give a valid authorisation to members for the time being.

Question 3 was, do authorisations given under section 64d of the Act need to be gazetted? The Crown Solicitor advises that, while the authorisations are not required to be gazetted, it would be easier to prove an authorisation had been made if they were gazetted. The Health Commission is therefore arranging for all the current authorisations to be gazetted as soon as possible. A copy of the Crown Solicitor's opinion will shortly be made available to the committee for its information. I thank the Hon. Dr Ritson for drawing these matters to the attention of the Council.

## RENT RELIEF

**The Hon. I. GILFILLAN:** I seek leave to make a brief explanation before asking the Minister of Community Welfare a question relating to rent relief for the young.

Leave granted.

**The Hon. I. GILFILLAN:** An excellent and informative article appeared in this morning's *Advertiser* under the by-line of Peter Haynes which quoted some critical comments from a report commissioned by the Government about rental accommodation, particularly for low income earners. The report entitled 'Beyond Tent City' is reported as criticising the rent relief scheme. The report states that, because of the way in which rent relief is calculated, people earning the least receive the least and it gave an example of a 17-year old on $50 a week who receives $10.25 in rent relief compared with a 24-year old, earning $104.75 a week, who receives $20.50 in rent assistance. The report further recommended special aid of a maximum of at least $30 a week for 16-year olds and 17-year olds with income less than $51 a week, provided rent does not exceed 80 per cent of income.

The Minister of Housing and Construction (Mr Hemmings) is quoted as saying that it is one of the most comprehensive reports compiled in Australia on the issue of youth housing and that the Government is considering its many recommendations and, in the meantime, invites public comment. I am sure members would realise from the situation spelt out by the report that there is such a low level of support for homeless youth with the greatest need that they cannot wait for further discussion or public comment. It is with that in mind that I ask the Minister of Community Welfare, who I am sure is deeply concerned about this issue in this International Year of Shelter for the Homeless: does he believe that the result as spelt out in this article is accurate? Does he believe that it was the intention of the rent relief scheme to work in this way? If not, will he urge immediate adjustment of the scheme to ensure that relief is given according to need, particularly for those 16-year-olds and 17-year olds on $50 or so a week who are mentioned in the report?

**The Hon. J.R. CORNWALL:** The Hon. Mr Gilfillan is quite correct in saying that I am concerned about these matters—wearing my various hats as Minister of Health, Minister of Community Welfare, Chairman of the Human Services Subcommittee of Cabinet and as Minister directly responsible for the social justice strategy, among other duties. It does not come as any surprise to me, let me say. Ever since I have been Minister of Community Welfare I have been very concerned with questions regarding private rental accommodation. It is particularly highlighted with regard to young people in the report that has been referred to.

However, it should not come as news to the Hon. Mr Gilfillan or to anyone else that those people who are most disadvantaged in our community are generally those on low incomes and in private rental accommodation. In this State we have easily the best public housing authority in the country, notwithstanding that difficulties are encountered despite its efforts to keep up with the demand. The fact is, however, that if one is in concessional public rental accommodation, that is, accommodation provided through the Housing Trust, one is very significantly better off than are people on low incomes who are forced to rent in the private sector, notwithstanding that various measures have been taken by this Government to provide some measure of rent relief to tenants in the private sector. Indeed, one of the compelling reasons why I put forward what I suppose has to be described as my ill-fated social justice tax, or property tax—

**An honourable member:** Robin Hood.

**The Hon. J.R. CORNWALL:** Yes, Robin Hood. Chuckle away if you will, but one of the main reasons for putting that forward was that I perceived, on a good deal of research that had been done for me, specifically by a senior officer with first-class economic credentials, that there was a very real need in the private rental sector. Indeed, at that time in the ill-fated proposition two-thirds of the amount that would have been raised—in other words, $10 million of the $15 million—would in the first instance have gone to support low income earners, and particularly young peopole on low incomes in the private rental market.

**The Hon. M.B. Cameron:** Are you bringing it up again?

**The Hon. J.R. CORNWALL:** No, it received no support; it certainly received no support from the Liberal Party.

**The Hon. M.B. Cameron:** Nor from the Premier.

**The Hon. J.R. CORNWALL:** Nor from the Premier, but this is the Liberal Party which suddenly professes concern for the low income earners and the poor in our society. At the time it was a matter of great derision; members opposite could not jump on it quickly enough from a great height. On my recollection, and to his credit, I do not think that the Hon. Mr Gilfillan was leading the pack, as were the Hons Mr Cameron, Mr Lucas and Mr Davis, as well as others. I realise and recognise that it is very difficult, of course, to have the best of both worlds, and we have heard a great deal from members of the Opposition who are suddenly rediscovering their concern in this matter. We have heard a great deal from the Opposition about small government; we have heard a great deal from it about the necessity to lower taxes and State charges.

Members opposite never relent, but at the same time, with this new found pose, this new found profession of concern and pretence that they are genuinely concerned about the lower income earners in our community, they nevertheless still preach that we must have lower taxes and charges. I really think that they have to make up their minds, just as they have to make up their minds as to who is running the Party. One thing is pretty clear to everyone: it is not the little rural rump in the city. When the chips were down it was Ren DeGaris, two years out of politics, who was standing in the foyer outside their convention—not allowed in, of course, because it was a non-smoking convention—organising the numbers. It was the old LM revisited, with Mr Cameron pulling knives out of his back throughout the convention; Steele Hall smarting in the wings, while thumper MacDonald got the numbers; Joan Hall wearing her purple frock; and Martin himself the very next

week coming into this Parliament with his purple tie on. So, let us not hear too much from members opposite about their concern—this new-found concern, this pose that they are somehow concerned about low income earners.

In response to the honourable member, I indicate that, yes, I am concerned and, no, I have not yet had a chance to read the report. It was available only yesterday, as I understand it, and my colleague, Terry Hemmings, has the primary carriage of it, as he should have, especially in this International Year of Shelter for the Homeless. But, I am very concerned indeed and I will be doing what I can, wearing the various hats to which I have referred.

**The Hon. R.I. Lucas:** Not much.

**The Hon. J.R. CORNWALL:** The Hon. Mr Lucas interjects 'Not much'. Let me say that as a senior Minister of Government I can do immeasurably more than the Hon. Mr Lucas is likely to do or be given the opportunity to do for at least the next 10 years.

*Members interjecting:*

**The Hon. J.R. CORNWALL:** The Hon. Mr Lucas interjects again; I know I should not respond to his soprano-like interjections but, nevertheless, on occasions I find them a smidgin provocative. He says that I am retiring.

**The Hon. R.I. Lucas:** Next June.

**The Hon. J.R. CORNWALL:** 'Next June', he says. What a remarkable and strange young man he is. Let me assure this Council, and anyone else who cares to listen, and particularly in the light of the fact that preselections will be coming up in the next four or five months, that I have no intention whatsoever of retiring in the foreseeable future.

**The Hon. M.B. Cameron:** It is bad luck for the Labor Party!

**The Hon. J.R. CORNWALL:** It is very bad luck indeed for the Party—for the Liberal Party.

**The Hon. I. GILFILLAN:** By way of a supplementary question: will the senior and informed Minister answer the question whether he believes that the example given in the paper about the lower relief being given to those in the lower income group is in fact correct? Does the Minister know that? If that is the case, will he give an undertaking to have that situation reversed?

**The Hon. J.R. CORNWALL:** I do not have the primary carriage of this matter; as I have said, it belongs, quite correctly with my friend and colleague the Minister of Housing and Construction. However, yes, I do believe that it is correct and, in relation to any initiative which my colleague and I might be able to undertake within the parameters of the State budget that would correct that apparent anomaly, not only will I support it vigorously but also I will solicit and urge support for it from all my colleagues. In many of these matters, despite what the young Mr Lucas might say, I have winning ways.

## MEMBERS' TRAVEL ARRANGEMENTS

**The Hon. PETER DUNN:** I seek leave to ask you, Madam President, a question on the matter of authorisation of payment for travel arrangements.

Leave granted.

**The Hon. PETER DUNN:** I am fully aware of the Public Service Association ban which precludes members of that union arranging payment for travel while it is in place. However, there is confusion amongst parliamentary members as to travel arrangements and their authorisation during the ban and after it has been lifted. My questions are, first, whether you, Madam President, will explain your position to the Council regarding the matter of the use of members' travel funds while bans are in place? Secondly, will you authorise payment of travel, hire car, taxis, etc., during the ban? Thirdly, can members privately arrange travel with the South Australian Travel Centre or elsewhere while the bans are in place and, if so, will you authorise payment for that travel when the ban is lifted?

**The PRESIDENT:** The honourable member asked, first, what was my position regarding the matter of use of members' travel funds while bans are in place. I have not imposed or authorised any bans. The imposition or lifting of bans is not a matter that is under my control. I understand that, at the request of the union, the staff members in the Council who normally make arrangements for members' travel have a ban on making such travel arrangements, but that this does not extend to country members who need to make arrangements to come to and go from Adelaide in order to attend sittings of Parliament.

Members can, of course, make travel arrangements through the Government Travel Centre at any time, but, as I understand, no order numbers will be processed by staff while the bans are in existence. Therefore, any members who make arrangements for travel—other than country members who make arrangements to go to and from their homes for the sittings of Parliament—will be responsible themselves for payment for any such travel that they wish to organise.

As far as a retrospective refund after the bans have been lifted is concerned, I understand that in the past when a request for a refund has been made, for any number of reasons, the authorisation of the Clerk has been sought before any such retrospective refund is made from the travel fund, presuming that there are sufficient funds in a member's travel account for payment of the travel to be met from the fund.

The Clerk has informed me that when the bans are lifted he will be happy to authorise refunds for travel arrangements which have been made by individual members while bans are in force, provided that the normal conditions of travel arrangements have applied, in other words, provided the travel arrangements have been made through the Government Travel Centre, except in circumstances where authorisation from the Presiding Officer is required to make them through a source other than the Government Travel Centre. In other words, the normal rules for travel arrangements will apply. I hope that that answers the honourable member's questions.

## FAMILY WELFARE

**The Hon. DIANA LAIDLAW:** I seek leave to make a brief explanation before asking the Minister of Community Welfare a question about family welfare.

Leave granted.

**The Hon. DIANA LAIDLAW:** In recent statements on Government policy in relation to the policy and practice of the Department for Community Welfare, the Minister has repeatedly noted that the department's principal goal is to promote the welfare of the family as the basis of welfare of the community. A discussion paper entitled 'The Department for Community Welfare: the next five years' released in September 1987 is littered with similar references to the family and families in general. I note on page 6 a comment under the heading 'Needs in policy development', as follows:

> The continuing emphasis being placed on the importance of the family in the public and social policy arena will further underline the need for the department's services to have a significant family orientation.

These goals and objectives are certainly endorsed by the Liberal Party. In view of all this fine sounding rhetoric from the Minister, which is also incorporated in this discussion paper, I was somewhat surprised to learn last week from officers in the Queensland Department of Family and Youth Services that South Australia was the only State which did not send a delegate to the national conference in Brisbane in July this year organised by the Australian Family Association.

Apparently the association wrote to each State Community Welfare Department asking for a grant to subsidise the air fare of one delegate from each State to attend the Brisbane conference. It was put to me that this did not seem to be an unreasonable request given the supposed concern of the various Governments for family welfare. I understand that, with the exception of South Australia, every State Government—including Western Australia, which had to send its delegate the greatest distance—willingly granted this subsidy to send one delegate.

I therefore ask the Minister, in view of the fact that the air fare to Brisbane costs approximately $600, and given the Government's professed concern for the family being the underlying theme of policy and practice development within DCW for the next five years—if not at present—why the State Government of South Australia was the only Government to turn down a request to send a delegate to the family conference in Brisbane in July this year?

**The Hon. J.R. CORNWALL:** My recollection is not perfect because this matter is now some months old. However, as far as I can recollect, the situation is that the Australian Family Association did not ask the Department for Community Welfare to send a delegate. It wrote to the department and said that it had either sent—or was about to send—a delegate itself and that it would like a grant to cover all or part of the air fares. The department assessed the *modus operandi* and the *bona fides* of the Australian Family Association and recommended to me that, in view of the many competing priorities, the request should not be supported.

As I say, my recollection of even the office bearers and the patrons is not perfect, so I shall say no more at this stage. However, that was the advice given to me, and I followed it. The Government indeed has a deep concern about supporting families. It is very much more effective, in terms of maintaining a viable society and making communities and neighbourhoods work again, to support families and to be involved in early intervention wherever possible, rather than picking up the pieces at the other end. The whole thrust of the policies and the practices which have been developed since I have been Minister of Community Welfare have been designed primarily in this direction.

**The Hon. Diana Laidlaw:** That is why I was rather surprised when I was given—

**The Hon. J.R. CORNWALL:** I suggest that you have a look at the office bearers and the patrons and the general thrust of the philosophies underlying the AFA. Having done that, you might agree with me that the advice given to me by the Department for Community Welfare was good advice, which I was pleased to take.

## AIDS

**The Hon. J.C. IRWIN:** I seek leave to make a short explanation before asking the Minister of Health a question about AIDS.

Leave granted.

**The Hon. J.C. IRWIN:** Once again, our attention has been drawn to the AIDS problem by an article by Barry Hailstone which appeared in the *Advertiser* of 4 November and which was headed 'Increase in AIDS cases in South Australia'. I mention a number of points raised in that article. First, 218 people in this State carry the AIDS virus—almost all of them male. Secondly, this is an increase of 21 since last month. Thirdly, homosexual and bisexual males make up 70 per cent of that total. Fourthly, 16.9 per cent were intravenous drug users. Fifthly, only three cases were reported to be transmitted by heterosexual practices and, sixthly, not enough long-term data is available to make accurate predictions about how many of the 218 cases in South Australia would become full blown category 1.

In statistics from overseas (and now including Australia) we continue to see that AIDS is overwhelmingly a disease suffered by those who practice sodomy—mainly homosexuals—and, to a lesser extent, IV drug users. Because of the tremendous cost of health care alone, can Governments afford to continue to ignore the main cause for the spread of AIDS, and can Governments, on behalf of the people, ignore the reason why this disease is spreading? Recently one of the arms of the Armed Services took action to stop the spread within its ranks. This action may be seen to be a breach of civil liberties, but surely it is better that a liberty is breached rather than more people being unknowingly and fatally affected. Civil liberties are no good to a dead person. Surely this is the same principle as applies to random breath testing and seat belt legislation.

Professor Penington has said that the AIDS risk is 1 000 times greater from anal intercourse than is the case for normal intercourse. My questions to the Minister are: first, is the Minister aware of any direction given by the AIDS Council of South Australia to the newspapers in South Australia not to link AIDS with homosexual behaviour and not to use the term 'high risk group'? Secondly, is the Minister or the Government any closer to accepting the option of testing everyone for AIDS just as we had compulsory TB testing and polio vaccination, to give just two examples of compulsion?

**The Hon. J.R. CORNWALL:** I must say that at times I am amazed, almost stunned, by the performance of the Hon. Jamie Irwin. He has revealed to this breathless audience today that AIDS is spread principally by male homosexuals and intravenous drug abusers. He went on to say that surely Governments can no longer ignore the cause. I would have thought that anybody who followed the strategies that have been developed in this State, in this country and internationally would realise that from the outset Australia has been among the countries that have been very much at the forefront and, certainly within Australia, the record of the public health authorities has been quite outstanding.

In South Australia we have something less than 2 per cent of the sero positives, with about 9 per cent of the population, so we have done well indeed for a number of reasons. It is not accidental that to date South Australia has done better in coping with AIDS than any other State and, I might say, literally than almost any other western democracy. That has been because we have sought, and to a significant extent we have been given, the active support of the gay community in spreading the word to ensure that there was not only public education in the sense of presenting the facts, but also health education in the sense of beginning to modify lifestyles.

It is a fact that according to our surveys, a percentage of male homosexuals, for reasons ranging from hedonism to fatalism, still do not practice safer sex. However, we have

been sensible about it and we have sought and obtained the active support of the overwhelming majority of gay men. As a result of that, and because we implemented strategies quickly, we have done very well. That does not mean that we can rest on our laurels. At this stage it is impossible to predict at what stage we will reach a plateau. However, it is pretty clear that that is still some years away. In downtown San Francisco, with an estimated 70 000 gay males, it has now reached a plateau of 35 000, or 50 per cent of those gay males infected. I hope that we will do immeasurably better than that. We certainly have to date and there are good reasons to be relatively optimistic.

AIDS remains overwhelmingly a disease of the specified at risk groups. It is perfectly true that to this point only three cases of 218 sero positives in South Australia are heterosexuals, so it is still overwhelmingly a disease of male homosexuals, bisexuals and intravenous drug abusers. Turning to the specific questions as to whether I am aware of a direction from the AIDS Council of South Australia to the newspapers not to refer—what was the extraordinary claim—to—

**The Hon. J.C. Irwin:** At risk groups.

**The Hon. J.R. CORNWALL:** —at risk groups, that is a most remarkable assertion, to put it mildly. It is patently ridiculous and outrageous. I am sure that the editors and proprietors of our two metropolitan newspapers will be outraged by the suggestion—and so they ought to be. Population testing is a wonderful way to drive it underground. It is a first class way to ensure that people evade the tests, and that we lose the cooperation of the at risk groups which to date we have had and which has enabled us to keep the incidence relatively so very low vis-a-vis the other States and other countries.

*The Hon. Peter Dunn interjecting:*

**The Hon. J.R. CORNWALL:** It is an interesting thing that the two farmers want this. What are you advocating—a test and slaughter policy? Do you think that we are talking about foot and mouth disease? That is how outrageous your suggestion is for population testing for a disease for which there is no cure. It is all very well for Mr Irwin to say that we ought to have population testing just as we did with tuberculosis, but the simple fact of life is that, by the time we population tested for tuberculosis, we also had drugs like Streptomycin and PAB. It was a treatable and curable disease. If we had adequate treatment for AIDS, then it would be a vastly different matter to start talking about population testing, but at the moment it would achieve nothing. It would be entirely counter productive and it would be a very good way to ensure that, instead of keeping the disease under control in the very effective and efficient manner that we have been able to up to this stage, all of that strategy would fall on the ground. The questions are absolutely outrageous.

## REPRODUCTIVE TECHNOLOGY BILL

Adjourned debate on second reading.

(Continued from 4 November. Page 1665.)

**The Hon. J.R. CORNWALL (Minister of Health):** The last time this Bill was before the Council I sought leave to conclude my remarks. I do not have a great deal to say. I do not intend to go through each of the contributions of members opposite and Ms Pickles. However, I thank them for their thoughtful contributions, which I believe have all been made according to their own consciences. I appreciate that in this vexed area each of us will be attempting to do what we think is best without regard to taking Party whips on matters which are clearly matters of conscience.

However, let me make two points very clear: the Bill was designed very deliberately to be enabling legislation; that was done on the recommendation of the select committee. As I recall, that was a unanimous decision, or certainly a majority decision. There are two outstanding reasons for this: one is that as a Government—and I believe as a select committee, if one looks at the recommendations—we were very anxious that as soon as reasonably practicable we move to national uniform standards. It would be very foolish for us, as a State with a population of something less than 9 per cent of the Commonwealth, not to design the legislation so that we were able to adopt recommendations made by the proposed national body on bioethics by reference, and able to bring, through the vehicle of this proposed Act, regulations into this place which would see us proceeding down the road to national uniformity. I have had brief discussions with my Federal colleague, Susan Ryan, on this matter and she is very anxious that we cooperate so that as soon as is reasonably practicable we ought to be able to move to national uniformity. For that reason, a number of specific areas have quite deliberately not been addressed in this Bill. It is essentially enabling legislation.

The second point is that, although in many of these matters there was unanimity and in very many of the matters there was majority support for the recommendations, again the Government and I believe that it is highly desirable to get an informed second opinion. The interim Reproductive Technology Council has already been established, and is already examining many of the thorny issues raised in the select committee report. It is looking at such things as invasive and noninvasive research, destructive and nondestructive research on the embryo, and they are currently looking at the question of identifying information.

There are a number of issues on which we ought to proceed, through the enabling legislation, to a series of proposed regulations. It is not my intention that we bring back the entire set of recommendations as one regulation. Members will be given the opportunity, once the Reproductive Technology Council has completed its deliberations, to look at the recommendations in a series of regulations rather than one large regulation which would either have to be allowed or disallowed. I believe that is a better and more constructive way of going about it.

For that reason, and not because there is any move to deny our members conscience votes in these areas, I will be noting very closely how the Democrats intend to vote. If they give an indication that on some of these matters of conscience they prefer to vote at this time rather than leave it until the regulations come back from the Reproductive Technology Council as the select committee recommended, then obviously I would have to adjourn and take advice from my Cabinet and Caucus colleagues. The proposition I am making is that we ought to regard this as an enabling Bill and have a full debate at a later time on the matters which are clearly conscience issues.

Of course, there are some other areas which are not conscience issues but which are simply matters of policy. For example, I see that after a very long gestation period there are a series of amendments on file now from the Hon. Mr Cameron. The Hon. Mr Lucas has amendments which require an even longer gestation period because even two months after the Bill was introduced into the Chamber parturition has not taken place. However, I understand it is imminent. I hope that the Hon. Mr Gilfillan is listening.

**The Hon. I. Gilfillan:** Yes, I am.

**The Hon. J.R. CORNWALL:** The Hon. Mr Cameron, for example, has an amendment on file which talks about regulations having to lay before the House of Parliament for 14 sitting days. I think that is a very sensible amendment and I would indicate that it is our intention to accept that. That is not a matter on which anyone needs to exercise conscience, and I certainly intend to accept it. On the other hand, he has an amendment on file which seeks to insert in this Bill the question of surrogacy. I suggest that that is a matter of clear Government policy. The Cabinet and the Caucus have taken a decision that the question of surrogacy ought to be addressed in legislation by the Attorney-General. So it would certainly be our intention not to support that.

The Hon. Mr Cameron has a series of amendments on file concerning confidentiality. I have not yet had a chance to consider the import of all those amendments but, with regard to the amount of the maximum penalty, it seems to be more consonant with the penalty that we approved in the amendments to the South Australian Health Commission Act in the last session and, as such, as far as the quantum of the penalty goes, I am attracted to it. As to the full import of the amendments, I have not yet had a chance to examine them, so I cannot comment on that.

However, as to embryo freezing, embryo thawing, whether the IVF program ought to be available to *de facto* couples or whether it should be limited to married couples (whether in fact, as the Hon. Mr Lucas indicated in his second reading, it should be available to couples who would qualify under the same conditions as the Family Relationships Act), I submit they are matters which at this stage we would prefer not to address. I think those matters would be far better addressed as a series of regulations when they come back with what is, in fact, a learned opinion from the proposed Reproductive Technology Council.

We do not wish in any way to deny our members a conscience vote. Let me make it crystal clear that every member of the Labor Caucus will be able to exercise their conscience on matters such as embryo freezing, embryo thawing and so on. However, in any of these matters which are matters of conscience, provided that I have the support of the Democrats, and therefore the numbers, I believe it would be much better to do this in the way originally proposed by the select committee.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—'Commencement.'

**The Hon. R.I. LUCAS:** As this is an open clause, I raise the point that I have been advised by Parliamentary Counsel that my amendments are on the way, but as yet have not arrived. Secondly, the Minister in his closing of the second reading debate outlined two courses of action in relation to the Committee stages of this Bill. I am wondering whether either he or the Hon. Mr Gilfillan is in a position to indicate what course of action we are to adopt. Is the Government or the Australian Democrats generally opposing at this stage the conscience vote issues in the Bill? The alternative course of action referred to was that the Democrats were prepared to vote on matters of conscience in Committee and therefore the Minister at some appropriate stage of the Committee debate will be seeking to adjourn for further Cabinet and Caucus consideration.

**The Hon. J.R. CORNWALL:** I make very clear that, provided that the Hon. Mr Gilfillan indicates that he supports the proposition that I have outlined, it would be my intention that we proceed throughout the Committee stage. However, if it becomes obvious that Mr Gilfillan wishes to proceed on matters of conscience at this point, it would certainly be my intention to seek to adjourn proceedings anyway. I make clear that I am not resisting amendments which refer to administrative matters that we can all handle very well and sensibly. It is my intention to move an amendment to clause 5, but it is not yet on file.

It is our intention to support the Hon. Ms Laidlaw's amendment, as it is sensible. The Hon. Ms Laidlaw has an amendment on file which states that, as near as practicable, the council should be comprised equally of women and men. That is appropriate with this legislation. It should not be seen as a precedent because there will be, in general terms, a number if not many occasions on which, for a variety of reasons, that would not be desirable. We are talking here about something very special; we are talking about IVF, which is a very invasive technology for women but relatively simple technology as far as the male is concerned. In the special circumstances it is an appropriate amendment.

I foreshadow that in accepting the amendment I am no longer prepared to be tied by the nominee of each of the six organisations who are nominated. I will be moving a further amendment requiring each body—the councils of the universities, the learned colleges, the heads of churches and the Law Society—to put forward two names for the Minister's consideration, one being a man and one being a woman. The reason for doing that is to further extend the spirit and intent of the Laidlaw amendment.

I have already been through the process of appointing an interim council and the simple fact is that of the six bodies which were required to nominate, five nominated men while only one nominated a woman. It really does mean that I have to take very special care and pay very special attention to ensuring that I found an overwhelming majority of women as ministerial nominees. We have been able to do that in the current situation, but that may not be necessarily possible for Ministers in the future.

**The Hon. R.J. Ritson:** It is 'as far as practicable.' It is not meant to overwhelm.

**The Hon. J.R. CORNWALL:** 'As far as practicable' may only be window dressing unless we extend it right across the board and not just say that the Minister will have an imbalance in the people he appoints to the council because he is already stuck with five out of six men in the areas in which he is unable to move. That could happen in the future.

**The CHAIRPERSON:** Perhaps a full debate on this matter could wait until clause 5.

**The Hon. J.R. CORNWALL:** Maybe it could. However, this is not a matter of conscience but an administrative and policy issue. I am giving a clear indication, albeit at some length (and I thank you for your indulgence, Ms Chair), on matters that can proceed very sensibly, *vis-a-vis* matters such as embryo freezing and so on which I would like to have the learned second opinion of the council which we propose to appoint.

In a sense, clause 5 and the amendments to it go to the heart of the submission that I am making and, for that reason, I ask for further indulgence for a few moments. Nobody cavils at the spirit and intent of Ms Laidlaw's amendment, and it has the full support of the Government. However, simply saying 'as near as practicable' could mean that at some future time there may be as few as two or three women on the council if, in fact, the nominees of the six institutions were all men and there were particular and special reasons why the Minister of the day wanted to appoint two or three males who brought special skills or understanding to bear on the Reproductive Technology

Council. For that reason I intend to move a further amendment.

That is the sort of thing that we can address sensibly and in a tripartisan way. Nobody has to agree with every amendment; that is part of a robust debate. However, they are the sorts of things that we can address. I would prefer not to have to address during this part of the debate those issues that are generally regarded in my Party, at least, as conscience issues. I would far prefer to bring back a series of regulations and, when we have the recommendations of the Reproductive Technology Council, we will be better informed. That, in turn, will result in more informed debate. I realise that in doing this through the subordinate legislation process, amendments will not be able to be made, but we will ensure that a series of regulations are brought back so that there will be great flexibility in the development of an endorsement or disallowance of those regulations. It is my very strong view that that is the preferred way of doing it.

**The Hon. M.B. CAMERON:** In terms of regulations, I agree to some extent with the Minister, particularly if they are to be brought back in the form that he said. However, some matters should be considered by the Committee at this stage and those are matters on which the Parliament will clearly have a view, based on members' conscience and views. We can short-circuit a lot of problems that will occur in the whole process if, in those issues that I have identified, we give the council some direction to follow, because otherwise the council will spend an awful lot of time preparing a set of recommendations for the Parliament on which regulations will be based and find that we throw them back in its face and say that we were not going to do that anyway. I have indicated to the Minister privately, and I say it publicly now, that it is not the Opposition's intention to hold up this Bill in any way. As the Minister quite rightly points out, this matter has been around for some time. There have been some difficulties with amendments because it is a difficult area, and not the least of which is trying to put medical technology into law. Trying to get lawyers and medical people together is never easy.

Because this point, whether matters of conscience are to be considered now or in the manner outlined by the Minister, must be determined before we go very far, it might be as well to cease debate for a period long enough to discuss the matter. It seems to me that we will get ourselves into a bind if we go on with the Bill at this stage if some members have not made up their mind as to the appropriate course of action. Obviously, some discussions will have to take place. Members can make an indication on that matter themselves.

**The Hon. R.J. RITSON:** I support what the Hon. Martin Cameron has said about the importance of Parliament considering this matter. Had these amendments not been put on file and the Bill were passed in its present state, these matters would not have been considered by Parliament because they were not in the Bill; that is, they would have been left to the council because the Government chose not to put them in the Bill. If they were put to the vote of this Chamber and successfully opposed, the matters would be left to the council, because Parliament decided that, not because the Government decided and did not include them in the Bill. That is a very important principle on which I ask Mr Gilfillan to give wise consideration.

One principle is that the Government determined that this matter should be left to the council and did not put it in the Bill. The other principle is that some things may or may not be left to the council because Parliament decided to leave certain matters to the council. For that reason it is important that Parliament considers the amendments one by one and not accept the principle that these matters should be left to the council to tell us what we will be able or unable to veto in future by way of subordinate legislation.

As regards the conscience vote, I understand the Minister's distinction between administrative matters which may have some politics, not ideology, and those matters of true conscience vote. I ask the Committee, especially the Hon. Mr Gilfillan, to consider getting on with the Bill and allow Parliament to determine or reject the handful of issues that I was surprised not to see in the Bill. There are 61 recommendations and a further 12 pages of commentary and we are asking that those matters which gave rise to the many committees of inquiry across Australia and of great public controversy be considered by the Parliament. To my mind the most important issues are the marital status of recipients of the service, the question of experiments detrimental to embryos and the question of surrogacy. They caused the inquiry; yet they are not in the Bill.

Along with the Hon. Martin Cameron, I seek to have those cardinal conscience points which gave rise to controversy in the first place considered by the council by decision of this Parliament. I ask Mr Gilfillan to consider that principle, and if as a result Government members need a short break to discuss the conscience questions before they are required to vote on them then we should have that short break. There is a great need to get on with this legislation. The sunset clause takes effect at the end of this month, and people have been nominated to the council. I ask the Hon. Mr Gilfillan to allow the Committee to proceed and vote on the handful of conscience issues, which have been circulated by way of amendment and which were the reason for the inquiry in the first place.

Apart from that handful of matters, some of which may not be agreed to by the Committee and some of which may, the other 60-odd recommendations and 12 pages of commentary will, doubtless, be examined by the council, which will do a very good job, and we look forward to seeing subordinate legislation on the vast body of this material in due course.

**The Hon. J.R. CORNWALL:** That is to completely misunderstand the nature of the subordinate legislation process and what is involved. These matters will not be determined by the council at all; no-one has ever suggested that they would be determined by the council. The council will make recommendations as a learned second opinion; they will come back into this place, or indeed into both Houses of Parliament, as a series of regulations; there will be a full-scale debate; and members will vote according to their consciences. I have made clear that they will not come back as one great regulation and that one would be forced to throw out the whole thing if there were one minor point in that entire regulation with which one disagreed. It will be done as a series of regulations. It is stupid, and one misunderstands deliberately or otherwise the subordinate legislation process, for one to say that these decisions will be made by the council.

All I am saying is that the spirit and the clear intent of the recommendations of the select committee is that we should have the benefit of that learned second opinion so that we can have a more informed debate in both Chambers on a conscience basis on conscience issues when they come back from the council. We can certainly deal with administrative and policy matters in the Bill that is currently before us, and I have already indicated a number of those. Quite frankly, I think at this stage that it would be far better to adjourn this matter and wait for the rest of the amendments to turn up. I will be able to have some discussions

with the Hon. Mr Gilfillan, and following that, hopefully within an hour or so, we will be ready to proceed.

**The Hon. I. GILFILLAN:** I think it is important that I enter the discussion at this stage. I felt that the work of the select committee was extraordinarily valuable and done in a very constructive climate and that relations between members of the committee were commendable. I do not therefore want to be a party to any deterioration of that at the point of considering the legislation here.

It is important to point out that I have not had an opportunity to discuss the overall strategy of the legislation with either the Minister or the Leader of the Opposition in this place. I am not laying any blame for that; it just has not occurred. I think that for the more efficient use of our time in this place it is important that the debate be adjourned—probably not for an extensive period of time—so that those discussions, which more properly should have taken place before we reached the Committee stage and were confronted with the amendments, can be undertaken.

Looking quickly at the Hon. Mr Cameron's amendments that are on file, it appears to me that the amendment to clause 13 would be a conscience vote, as would the amendment to clause 14, proposed new clause 17a and parts of clause 18. I cannot profitably use any more time of the Committee at this stage, and I suggest to the Minister and the Leader of the Opposition that it would be to the Committee's advantage for us to have some private discussions on procedure rather than the substance of the Bill.

Clause passed.

Progress reported; Committee to sit again.

## ABORIGINAL HERITAGE BILL

Adjourned debate on second reading.

(Continued from 3 November. Page 1570.)

**The Hon. L.H. DAVIS:** The Aboriginal and Historic Relics Preservation Act 1965 was the first attempt to recognise the importance of protecting and preserving Aboriginal heritage. However, looking at this legislation today one realises that it is very inadequate for the task for which it was formulated, notwithstanding that back in 1965 it was historic legislation. The South Australian Heritage Act of 1978 has supplanted the Aboriginal and Historic Relics Preservation Act in respect of the protection of European relics, in the sense that that legislation (and subsequent amendments) provides much broader protection for those items, and it has meant that Aboriginal relics, sites and objects have trailed well behind.

This Bill seeks to provide what amounts to equivalent protection in particular to Aboriginal sites, objects and remains. However, I should indicate at this early stage of the second reading debate that the Opposition opposes the legislation. We believe that it is deficient in several respects, and during the course of my contribution I will highlight those defects.

We have come a long way in a short time in our recognition of the importance of Aboriginal culture and, indeed, the importance of Aborigines. I was looking through some information in respect of Aborigines, and I came across a publication by the Aboriginal Friends Association of 1958. The publication, headed 'Advance Towards Assimilation' was written by the Reverend Gordon Rowe, and was dated 1958, barely 30 years ago. It highlighted the fact that Federal and State members of Parliament adopted assimilation of Aborigines as an Australia-wide policy at a conference held in September 1951. That replaced the policy of segregation of Aborigines which had been introduced many years before to protect them from further exploitation and to save them from further decline in numbers. 'Assimilation' is defined in this pamphlet to mean, in practical terms:

> In course of time it is expected that all persons of Aboriginal blood or mixed blood in Australia will live like white Australians do. It is, of course, realised that this will take a long time because of stages of development among the Aborigines ranging from near primitive in culture and custom to civilised.

The whole tone of the pamphlet is patronising. No mention is made of the importance of Aboriginal culture, of their tradition or of their recognition of the land and the spiritual qualities that it has for them. That was the attitude in the 1950s, and it was a view that was espoused by most people—caring people at that—in the community.

It is hard to believe 30 years on that those attitudes existed at that time. One does not have to go back much further than that to remember the time when half-caste Aboriginal children were removed from their parents, quite often without their parents being aware—they were taken while at school and did not see their parents for many years. With attitudes like that, it is hardly surprising that very little recognition was given to the importance of the preservation of Aboriginal relics, sites and objects.

If there was one trigger which heightened people's awareness of the importance of the Aboriginal culture it was the debate on land rights. It is recognised that in South Australia we have had a bipartisan approach to land rights. Successive Governments recognised the importance of land rights, and it was the Tonkin Liberal Government that put in place the highly successful Pitjantjatjara land rights legislation. It is appropriate, therefore, just a few years on from that historic legislation, to recognise the importance of Aboriginal culture and the need to provide proper protection for that culture.

The second reading explanation claims that this Bill has been introduced because Aborigines did not have sufficient input to the 1965 Act; nor did that 1965 Act give sufficient protection to actual features of the landscape that were of significance to the Aborigines. Certainly that is true. Certainly, it is true also that the 1979 Aboriginal Heritage Act, which was passed by Parliament but not subsequently proclaimed, was inadequate in many respects. Certainly, I concede that a lot of time has been put in by the Government to prepare this piece of legislation. Yet, sadly it fails for many reasons, and one of the reasons is, quite clearly, failure by the Government to adequately consult the many interested parties and to recognise the importance of their contribution to determine the important sites and objects at the local level where those sites and objects are located.

The Bill seeks to recognise and protect Aboriginal sites, objects and remains. Those definitions are covered in clause 3, as follows:

> 'Aboriginal object' means an object:
> *(a)* of significance according to Aboriginal tradition; or
> *(b)* of significance to Aboriginal archaeology, anthropology or history,

The same definition is given to an Aboriginal site, as follows:

> 'Aboriginal site' means an area of land:
> *(a)* that is of significance according to Aboriginal tradition; and
> *(b)* that is of significance to Aboriginal archaeology, anthropology or history,

'Aboriginal remains' are defined as meaning:

> ... the whole or part of a skeletal remains of an Aboriginal person but does not include remains that have been buried in accordance with the law of the State.

Those are the three areas which the Bill seeks to protect: Aboriginal objects, sites and remains.

Clause 5 establishes the function of the Minister. In particular, clause 5 *(b)* says that the function of the Minister is 'to conduct, direct or assist searches for the purposes of discovering Aboriginal sites or objects'. That provision, taken together with clause 5 *(a)*, which states that the function of the Minister is 'to take such measures as are practicable for the protection and preservation of Aboriginal sites, objects and remains', establishes that the Minister has far-reaching powers under this Act. Indeed, under clause 5 *(c)* the Minister also has the power 'to conduct, direct or assist research into the Aboriginal heritage and to carry out any other function assigned to the Minister under this Act'. In fulfilling those functions, the Minister must consider any relevant recommendations of the Aboriginal Heritage Committee, which is established under clause 7.

Clause 7 is a very broad clause. It requires an Aboriginal Heritage Committee to be established, but it does not mention the size of the committee. It requires that the committee should consist of Aboriginal persons appointed by the Minister to represent the interests of Aborigines in the protection and preservation of the Aboriginal heritage. The legislation is silent on how one determines the significance of an Aboriginal object or site which is of significance to Aboriginal archaeology, anthropology or history. As I have mentioned, it makes quite clear that an Aboriginal site or object which is of significance according to Aboriginal tradition is to be encompassed by this legislation and, quite clearly, Aborigines are in a position to determine, generally speaking, whether or not a site or an object is of significance according to Aboriginal tradition.

However, to include in the definition of a site or an object something which is of significance to Aboriginal archaeology, anthropology or history is, in many cases, I would argue, going beyond the capacity of Aborigines to determine. For example, one can take the many discoveries that have been made by the museum on Aboriginal sites which are of archaeological importance in areas where Aborigines no longer reside. So, we see immediately that there is a double problem with this Bill. In the first instance, clause 7 (2) provides:

> The committee consists of Aboriginal persons appointed by the Minister to represent the interests of Aboriginal people in the protection and preservation of the Aboriginal heritage.

So, for a specific area Aborigines from many areas throughout the State will make a judgment on a site or an object which is of significance to Aboriginal tradition, and I would submit that a committee of Aborigines representative of the whole State is not the best vehicle for making that judgment. Surely it is much better to use the people in that area, who understand their tradition and culture, when making a judgment on a site or object which may be significant in that particular area to that particular group of Aborigines.

The second defect is that there is no specific provision for determining the criteria for establishing the significance of Aboriginal archeology, anthropology or history. Quite clearly, that Aboriginal Heritage Committee will not always be in a position to make that judgment. Clause 7 does not give any power of delegation. It is permitted to establish subcommittees, but that is hardly a power of delegation.

Let us take some specific examples. Looking at the Museum of South Australia, it has a record of concern and interest in examining Aboriginal history, archeology and anthropology, I refer to the 1985-86 annual report and I note that during that year the Museum presented an art and land exhibition of toas, which was a highly regarded exhibition involving small sculptures of wood which had come from the western part of South Australia. It was quite a unique exhibition of objects which would qualify for protection under this Bill. The Museum had those objects in its safekeeping. The Museum also has audio tapes and film of Aboriginal language and song that has been put together over the past 50 or 60 years. It has been to the fore in investigating a major Aboriginal archeological site in the Lower Murray Valley at Roonka and that includes examining prehistoric tombs, dating the site by radiocarbon and other techniques. It has received grants for that project.

Further, it has undertaken field trips and carried out consultations with Aborigines. It has discussed the Museum's secret and sacred collections. In recent times it returned to the traditional owners some restricted items which are recognised as being sacred to Aboriginal tribes. Recently the Museum has had several discussions with Aborigines about secret and sacred objects and sites. Members can see from that that the Museum had a clear interest and expertise in this area, but the Bill does not require the Minister to take advice from the Museum or other people with respect to determining the significance of Aboriginal archeology, anthropology or history, and surely, if a judgment is to be made as to the significance of an Aboriginal site or object, according to the definition in clause 3, that is a prerequisite.

Let us be frank about this: as much as we would like it, in South Australia no Aborigines are trained in anthropology, archeology or history or are qualified to undertake that work. Would it be so, but it is not so. The question also has to be asked: does the Department of Environment and Planning, through its Heritage Branch, have the necessary expertise to carry out this work? Again, I suspect the answer is, 'No, it does not'. Therefore, it comes back to the Museum having that expertise and certainly it has that expertise in archeology, anthropology or history but, in carrying out his functions under clause 5, the Minister is not required to take advice on any matter such as those I have raised. Quite clearly, the Aboriginal Heritage Committee is ill equipped to cope with all the requirements of the Bill.

The Aboriginal Heritage Committee, as proposed in clause 7, does not have the support of many Aborigines, who see it as an inappropriate vehicle for determining the important Aboriginal objects, sites and remains which would come under the ambit of this Bill. There is no denying the fact that this is a sensitive and difficult subject, but it would seem sensible to require the Minister and/or the Aboriginal Heritage Committee to seek information and advice on sites or objects of significance to Aboriginal archeology, anthropology or history, if it is outside the capacity of that committee to make a determination.

**The Hon. T.G. Roberts:** What about 7 (5)?

**The Hon. L.H. DAVIS:** I have talked about subcommittees. One of the other problems that emerges from the Bill relates to Aboriginal tradition. As defined in clause 3, it means:

> . . . traditions, observances, customs or beliefs of the people who inhabited Australia before European colonization and includes traditions, observances, customs and beliefs that have evolved or developed from that tradition since European colonization.

It is difficult to determine and it is certainly a problem of definition. I do not begrudge the difficulty that goes with defining these various areas such as Aboriginal objects, Aboriginal tradition, etc., but 'Aboriginal organisation' means:

> . . . an association, body or group comprised, or substantially comprised, of Aboriginal persons having as its principal objects the furtherance of interests of Aboriginal people.

What is a group? What is meant by 'substantially'? What are 'principal objects'? In clause 3 a 'traditional owner' is defined as 'an Aboriginal person who, in accordance with Aboriginal tradition, has social, economic or spiritual affiliations with, and responsibilities for, the site or object'.

Who determines who is a traditional owner and who is not a traditional owner?

We turn now to the power of the Minister. As I mentioned, the Minister has enormous powers under this Act, and this is one of the central objections we have to this Bill. The functions of the Minister as set out in clause 5 are 'to take such measures as are practicable for the protection and preservation of Aboriginal sites, objects and remains; to conduct, direct or to assist searches for the purpose of discovering Aboriginal sites or objects'. Not only are there powers there but they are spread throughout the Act. Those powers of the Minister seem to be paramount and override the powers of the Aboriginal Heritage Committee.

The second reading explanation claims that the Government has sought in this Bill to give Aborigines an opportunity to make a contribution to determining those important sites, objects and remains which should come within the ambit of the Bill, but throughout the Act it would seem otherwise—that the Minister has the power rather than the Aborigines themselves. Certainly clause 5 requires the Minister to consider any relevant recommendations of the committee, but that is not mandatory and certainly that committee will not have the capacity to make decisions on sites, objects and localities, when people on that committee may not necessarily have the expertise.

It seems odd that the Minister has this power to conduct research. That is one of the functions he has and the officers policing the protective provisions of the Act will need to be well informed. It is not suggested that all relevant research should shift to the Museum, but I am deeply concerned that no reference has been made to the fact that some expertise should be provided to the Minister in determining some of these very difficult questions.

I have talked about the defects in the Bill regarding the Minister and his powers. We are also concerned about the establishment of a register. There seems to be a paradox here because, on the one hand, the Act requires that the objects and sites must remain secret. Clause 35 provides:

> Except as authorised or required by this Act, a person must not, in contravention of Aboriginal tradition, divulge information relating to—
>
> *(a)* An Aboriginal site, object or remains; or
>
> *(b)* Aboriginal tradition.

The penalty for that is $10 000 or imprisonment for six months and such information may only be divulged with the authority of the Minister.

However, in establishing the register, of course, people are required to divulge information, which may come from a variety of sources. For example, someone in the Outback may know of an Aboriginal site or object, but the disclosure of such a site or object in itself is an offence under the Act.

The Bill gives the Minister for Environment and Planning, if he chooses, the power to define out of existence any site or object of Aboriginal heritage. We think that power is totally inappropriate and it is not impossible to imagine a situation in which a Minister may determine that a site with mineral interests may be important for those mining interests and, even though it is a site which perhaps deserves ranking on the world heritage list, he may well be able to define the site or object out of existence for the purposes of this Act.

The next point that should be made is that this Bill is very paternalistic in its approach. The Bill seeks to give Europeans the power to determine the identity of the Aboriginal heritage and culture and, although the Government has sought in this second reading explanation to argue that it is giving this power to Aborigines, in fact, that is not true: the Minister holds the power.

He, under clause 5, has the power to research. It is the Minister who has the power to deny a site or object appearing on the register; it is the Minister who has the power to authorise prosecution; it is the Minister who controls the Aboriginal Heritage Fund established under this Act. It is the Minister who can appoint the committee—a committee which is not enumerated. It is a number to be determined by the Minister himself or herself. The committee will be comprised of Aborigines, but they will not necessarily have the expertise to define what is a site or object that will qualify for recognition under the Act. The Minister's powers are also overriding the rights of the Aborigines in clause 23, where it states:

> A person must not, without the authority of the Minister—
> *(a)* damage, disturb or interfere with any Aboriginal site;
> *(b)* damage any Aboriginal object;.

No reference is made to the local community and no recognition given to the fact that those sites or objects are Aboriginal sites or objects; rather, that power is vested with the Minister. The power of the Minister also is enormous under clause 31 where it provides:

> (1) The Minister may—
> *(a)* acquire an Aboriginal object or record by purchase;
> or
> *(b)* compulsorily acquire an Aboriginal object or record in accordance with this section.

The Minister can, if he pays into the court the amount of valuation, where an owner is unwilling to sell the object to the Minister, have the title of that object vested in the Minister. Clause 29 also is curious, as it requires:

> (1) A person must not, without the authority of the Minister—
> *(a)* sell or dispose of an Aboriginal object;
> or
> *(b)* remove an Aboriginal object from the State.

There has been rapidly growing interest in this area. Legislation was recently passed federally to restrict the export of cultural items out of Australia. I accept the importance of that and believe that that legislation had bipartisan support.

Clause 29 requires that a person must not, without the authority of the Minister, sell or dispose of an Aboriginal object or remove an Aboriginal object from the State. This attempt to put into practice an unrealistic provision because we first have to establish what is being sold, whether it is an Aboriginal object which perhaps was acquired in the Northern Territory, Western Australia or Queensland. Does clause 29 mean that if someone has bought something in Queensland and then brought it to South Australia, where many years ago it was put on the register, can it then not be sold or removed from the State? The authority of the Minister in that case will determine the issue.

Looking at the value of objects, as set out in clause 31, who on earth is going to make the determination of what is the valuation that the Minister may pay for an Aboriginal object or record which the Minister acquires because of a court order? Very few people in South Australia are able to put a valuation on Aboriginal objects. The cost of obtaining valuations is absolutely enormous. We are talking not only of paintings but also of crafts. We are talking of basketware, and so on. Many objects may qualify under clause 31.

I am at a loss to understand how the Government will police this section as there has been an explosion of interest in Aboriginal artefacts, but few people are equipped to put a proper commercial value on them. That is one of the problems of this legislation. It contains many provisions which will not be able to be enforced. Although the Bill is very limited in its provisions for research and advice on Aboriginal archaeology, anthropology or history, I would imagine that if the Museum is brought in to give advice (although there is no specific provision for such advice) it

will require an enormous number of people to be involved in giving that advice. It will involve enormous resources from the Government.

We have had no advice from the Government on how it will cope with the administration of the legislation. In clause 29 a person must not, without the authority of the Minister, dispose of or sell an Aboriginal object or remove it from the State, which could result in enormous demands being made on Museum staff because individuals in businesses would seek to sell artefacts or take them interstate to avoid the fine or imprisonment that may flow from a breach of the provisions of clause 29. The Minister for Environment and Planning does not have the expertise to value the portable items of Aboriginal heritage, apart from the archaeological materials. Who will do the valuation? That matter is of great concern to me.

To summarise, the Bill rests on the definitions, which we have pointed out are defective. It rests on the advisory committee, which has been rejected by the Aboriginal people as being inappropriate and unacceptable. A committee comprising Aboriginal persons appointed by the Minister to represent the interests of Aboriginal people will not guarantee that the sites and objects deserving protection will necessarily be protected. It will not ensure that the expertise that can be better given at local level will necessarily be given. As it now stands, it will not ensure that Aboriginal sites and objects of significance to Aboriginal archaeology, anthropology or history will be covered. The Opposition has also highlighted the defect of the register; that the secrecy provisions create a paradox.

Finally, of course, the Opposition is concerned that this is not a Bill designed to give Aborigines the powers to determine the sites and objects of significance to them but, rather, is an exercise in giving to a Minister powers which in many cases will not be able to be administered properly. It is for those reasons that the Opposition opposes the Bill that is now before the Council.

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

## ARCHITECTS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 5 November. Page 1715.)

**The Hon. DIANA LAIDLAW:** The Liberal Party supports this Bill and recognises the need for a number of changes to the Architects Act. The Opposition also accepts the Minister's statement that it is desirable that a comprehensive review of the Act be undertaken over the next 12 months. The aim of that review is to seek the consolidation of the Act and to propose a number of major amendments. I am aware that, in respect of the work to be pursued on the new Act, it can be argued whether an Architects Act is required at all. We have the Builders Licensing Board and each local council requires that specifications be met to conform with the Building Act. I have some sympathy with the argument that the Architects Board is no longer required, and in these times of deregulation, that avenue should be investigated further. However, I appreciate that the board itself supports the continuation of the legislation and, with the concurrence of the Minister, a comprehensive review of the Act. It is proposed that, within 12 months a new Bill will be introduced. In the meantime, a short Bill of four clauses is before the Council.

Clause 1 amends section 32 of the principal Act to delete an option that the board has enjoyed to register applicants who have passed a special examination prescribed under by-laws of the board if he or she did not qualify under some other part of this section. The Minister argues that this provision is no longer necessary as all South Australian architects are appropriately qualified and, with respect to architects with overseas qualifications, a national subcommittee checks their credentials. I understand that this provision has been used only once in 22 years.

The Liberal Party agrees with the deletion of this measure but my personal view is that it is a great pity to see this option or flexibility lost to the board. I make those comments because a couple of years ago I was asked by the board to speak at the presentation of prizes to architecture graduates. I was asked to speak on the theme of women in architecture. The literature that I read and the statements that I made at the time highlighted the fact that architecture is very strongly a male profession. The South Australian figures do not reflect nearly as favourably as those in New South Wales, but I will highlight some of the facts in that regard. In New South Wales about 50 per cent of architectural students at university are women and yet women make up only 4 per cent of that State's architectural register.

The figure is not as promising in South Australia and I wonder whether it is not shortsighted of the Parliament and the board to be getting rid so readily of this provision, which allows the board to register persons who have not completed a full tertiary degree in architecture but who may have undertaken part of that course or other courses in design or engineering and who with practical experience in the field and/or with the benefit of an examination by the board are able to be registered as architects. If it is a goal at some later stage to increase the number of women who are registered as architects, this provision may well be of great benefit. My personal view is that it is a great pity to delete this provision on the basis that it has rarely been used. When it comes to the registration of professionals, in this case and in many other measures before this Parliament and federally, steps should be taken to see that as much flexibility and as many options as possible are provided by the legislation.

The second clause deals with professional misconduct and 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. Apparently South Australia is the only State that prohibits professional advertising by architects, and that means that a number of South Australian architects who wanted to advertise their qualifications, services, skills and designs for the purpose of a bicentennial publication for international circulation were prevented from doing so because of this provision in the legislation and the accompanying by-laws.

There is, however, some confusion on this score. I note that the by-laws gazetted on 15 August 1985 contain, under section 6, a heading 'Promotion of services', under which is noted:

> An architect shall not give or offer to any person any consideration for securing or attempting to secure for him any architectural work.

Then, under section 7 and the heading 'Public communication', quite a number of examples from *(a)* to *(f)* are noted where public communication could be carried out in a professional and responsible manner. Those sections overturned the by-laws passed in 1977 relating specifically to bad public advertising. So, from the by-laws gazetted on 15 August 1985 it would seem to me that already by means of this Parliament we had gone some way towards encouraging advertising. Certainly, the Opposition endorses the further move provided in this Bill. However, we note that the amendments to the legislation do not fully accomplish the

purpose of condoning advertising, because we have yet to see the by-laws that will accompany this measure. Therefore, many of the conditions that will accompany this provision are unknown to us at present.

Clause 4 provides for the insertion of new sections 47a and 47b. Proposed new section 47a requires the board to submit to the Minister its annual report on the administration of the Act. The Liberal Party accepts this provision. Proposed new 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 this Act.

When these provisions were debated in the other place, the matter of discrepancies between this liability provision and that in the Bills that the Government has recently introduced concerning the National Parks and Wildlife Service and local government, as well as a variety of other measures, was highlighted and referred to at some length, in particular by the member for Elizabeth. The Liberal Party accepted his arguments in respect of liability and also the amendment that he moved. I understand that the Australian Democrats will move a similar amendment in this place. If they do so, the Liberal Party will support it.

This Bill deals with just a few measures, and they are late in coming, considering that they are smallish in nature and that they have been the subject of discussions between the Minister and the board for over 12 months. We will now wait another 12 months, however, for the full consolidation of the Act and other major amendments. In these circumstances, it was of some surprise to me to find that many architects with whom members of the Opposition have spoken over the past week were unaware of this Bill. I highlight that point again, because it is frequently the case that the Opposition is the first to advise many people of legislation that is to be presented in this place by the Government. Without the work of the Opposition many people to be affected by legislation would remain unaware of the ramifications of Government proposals.

Again, on this occasion, I highlight this point with this admittedly small Bill but, nevertheless, it will have important consequences for the profession. In terms of the rush of legislation that will be prepared by the Government in the next few weeks for consideration by Parliament before the Christmas break, I hope that the Government will give priority to consultation with those people on whom proposed legislation will impact. With those words, I again indicate the Opposition's support for the second reading.

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

## LOCAL AND DISTRICT CRIMINAL COURTS ACT AMENDMENT BILL (No. 2)

Adjourned debate on second reading.

(Continued from 3 November. Page 1566.)

**The Hon. C.J. SUMNER (Attorney-General):** I thank the Opposition for its support of this Bill. Some points were made in relation to it by the Hon. Mr Griffin. The first point (which was also made by the Law Society) was that there could be a substantial increase of the volume of cases as a result of the increase in jurisdiction, in conjunction with the amendments to the Wrongs Act which dealt with the limitation on non-economic loss that could be obtained in motor vehicle accidents. The Deputy Chief Magistrate has advised officers of the Attorney-General's Department that in his estimate the increase is likely to be about two trials a week, which is not all that many.

The second point raised by the Hon. Mr Griffin related to the lack of pre-trial conferences in the limited jurisdiction. This is something that will need to be discussed with the Law Society, with consideration given to whether pre-trial conferences would be cost efficient in the limited jurisdiction. Certainly it is something that can be examined.

*The Hon. K.T. Griffin interjecting:*

**The Hon. C.J. SUMNER:** Yes, it can, I appreciate that—but as part of the procedures of the District Court, which has a significantly higher jurisdictional limit than $20 000. Whether or not pre-trial conferences will be useful in the limited jurisdiction is something that can be examined.

The third point, which was raised by the Law Society, relates to whether the pleadings required for limited actions will be adequate given the increase in jurisdiction. Frankly, I think that the pleadings for the limited jurisdiction are adequate. If the pleadings are done properly in the limited jurisdiction they contain most of the relevant points and counterpoints. The Senior Judge and the Deputy Chief Magistrate have already had preliminary discussions on what changes to the rules will be needed. I hope that those changes will not add greater complexity to the litigation process. Unfortunately, that can occur when it is suggested that the rules need to be more detailed.

*The Hon. K.T. Griffin interjecting:*

**The Hon. C.J. SUMNER:** I agree with the Hon. Mr Griffin that the object should be to ensure that the issues are clear. However, I sometimes think that in making things more detailed one in fact derogates from simplicity and clarity. I hope that any necessary amendments to the pleadings enhance simplicity and clarity and do not make the situation more complicated than it needs to be. Frankly, I think that the pleadings which exist for the limited jurisdiction are in the main adequate, even though there has been an increase in the jurisdictional limit to $20 000.

The fourth point is that the legal fee structure is inadequate for cases up to $20 000. I think it would be conceded that that matter needs to be examined and that it will be an issue for the Law Society to make appropriate representations to the Senior Judge through the Chief Magistrate to examine whether rules dealing with the fee structure for cases up to $20 000 have to be amended. Certainly, I do not disagree that that matter needs to be examined.

I think most of the issues raised by the Hon. Mr Griffin and the Law Society have been, or will be, addressed. I appreciate that the Law Society does not agree with the increase to $20 000 but, apart from that, their objections and the issues that they have raised will be examined.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Commencement.'

**The Hon. K.T. GRIFFIN:** As I indicated in the second reading debate, the Opposition has some reservations about the increase in jurisdictional limit from $7 500 to $20 000. Apart from expressing those reservations, we do not propose to move any amendment to this clause. I am pleased that the issues which I raised during the second reading debate have been the subject of responses by the Attorney-General.

I acknowledge that simplicity of procedures should be the keynote of actions in the Local Court but, as I interjected during the course of the Attorney's reply, I do think it is important that the issues are clearly defined, remembering, of course, that claims between $7 500 and $20 000 are presently dealt with in the District Court in accordance with pleading requirements, which do require a fairly precise

definition of the issues between the parties. That does not require a lot of work; it just requires some clarity of thinking on the part of the parties, and I would like to think that that same clarity will be required in the local court of limited jurisdiction. Also, I make the point that the question of costs needs to be examined—and I am pleased that the Attorney-General has an open mind on this matter—in the event that a submission will be made by the Law Society.

The other issue is the question of delays in the courts. I am interested to hear the information supplied by the Deputy Chief Magistrate that it is not likely that this change will increase significantly the waiting time for cases. We must remember that at 31 August this year the waiting time in the Adelaide Local Court of limited jurisdiction was 18 weeks. I would be somewhat surprised if there was not some extension to that in the light of the number of matters which might be transferred from the District Court to the Adelaide Local Court of limited jurisdiction.

There is nothing worse than having matters continually adjourned for no reason other than that the matters are not reached in a particular list in which they are set down. There is nothing likely to increase costs more than having long delays and adjournments resulting from a number of cases which are not reached in any list in any given week. Subject to those observations, the Opposition is, as I said, with some reservations prepared to go along with the proposal in clause 3.

Clause passed.

Clause 4 and title passed.

Bill read a third time and passed.

## EXPIATION OF OFFENCES BILL

Adjourned debate on second reading.

(Continued from 3 November. Page 1554.)

**The Hon. C.J. SUMNER (Attorney-General):** I thank members for their support of this Bill. During the Committee stage we will debate the specific issues by way of amendment. However, I will reply in a general way to some of the Hon. Mr Griffin's points. He made some points about inconsistent amounts set for expiation fees for offences carrying the same maximum penalties. While that may be a point that can be made, it must be borne in mind that the inconsistencies are not so much a function of this Bill, but rather of the Parliament's earlier inconsistencies with regard to appropriate maximum penalties set in relation to the offences in the several Acts. For example, failure to furnish a return under the Financial Institutions Duty Act carries a maximum penalty of $10 000 as does discharge of waste under the Public and Environmental Health Act, but the former is an offence that potentially is less serious for public health and safety than the latter.

If Parliament wanted to differentiate, it should have set different maxima in the first place, but it did not, so by setting differential expiation fees ($200 for the Financial Institutions Duty Act and $300 for the Public and Environmental Health Act) this Bill really tries to reflect the different potential gravities of the two offences. This legislation tries to do perhaps what Parliament should have examined in the first place, namely, to set different and not the same penalties for offences of different gravity.

This Bill attempts to be consistent for similar offences; for example, failing to furnish a return under the FID and the Stamp Duties Acts carries expiation fees of $200 when the maximum penalties are $10 000. It may be considered that there is inconsistency in the FID and Stamp Duties Act, in relation to the same substantial offence of failing to keep proper records of books. The expiation fee in the FID Act is $200, but under the Stamp Duties Act it is $100. Again, the problem lies with the original penalties imposed by Parliament. The maximum penalty in the former Act is $10 000 and in the latter only $500.

The draftsman has tried desperately to rationalise the fees as nearly as possible given the 20-fold difference in penalties in the first place. While there may be these differences, it highlights the need for rationalisation and systemising head penalties. The Government is addressing that issue at present and I expect that, reasonably soon, it will be the subject of legislation so that categories of offence, fine and imprisonment will be graded, depending on the seriousness of the offence. It will enable Parliament, when assessing an appropriate penalty for an offence in a Bill before it, to fit the offence into a range of penalties which then hopefully will achieve greater consistency as between different offences in different legislation.

It is proposed to set out 12 categories of offence with different fines and imprisonment attaching to each of them. We have set that as the framework for the imposition of penalties, and Parliament then will be able to determine what penalty it considers appropriate for any given offence within that broad framework, so we are working on rationalising penalties. It is something that needs to be done, but obviously this is not the Bill in which to do it.

The Hon. Mr Griffin asked questions about the number of offences under the various Acts which have been covered by the expiation procedure outlined in this legislation. I do not have the details with respect to the Boilers and Pressure Vessels Act, but with respect to the Commercial Motor Vehicles (Hours of Driving) Act, there were 698; the Education Act, three; Enfield General Cemetery Act, none; the Financial Institutions Duty Act, none; the Land Tax Act, none; the Pay-roll Tax Act, none; the Public Environmental and Health Act, not applicable as it is not yet in operation; the South Australian Metropolitan Fire Service Act, none; the Stamp Duties Act, none; the Tobacco Products Control Act is not really applicable because it came into operation only on 1 July 1987; the Unclaimed Moneys Act, none; the Valuation of Land Act is not available at present; and the West Terrace Cemetery Act, none. The other matters are contained in a Department of Labour and Industry summary of prosecutions which have proceeded under various Acts. It is statistical and I seek leave to have it inserted in *Hansard* without my reading it.

Leave granted.

PROSECUTIONS FOR BREACHES OF ACTS AND REGULATIONS—1 JULY 1985 TO 30 JUNE 1986

| | PROSECUTION COMPLAINTS | | | PROSECUTION COMPLAINTS—ANALYSIS | | | |
|---|---|---|---|---|---|---|---|
| Act/Regulation/Code | Carried Forward From June 1985 | Proceeded 1.7.85 | Totals | Convictions Recorded | Complaints Dismissed | Complaints Withdrawn | Complaints Pending 30.6.86 |
| Industrial Conciliation and Arbitration Act | 2 | 57 | 59 | 19 | 1 | 2 | 37 |

| Act/Regulation/Code | PROSECUTION COMPLAINTS Carried Forward From June 1985 | Proceeded 1.7.85 | Totals | PROSECUTION COMPLAINTS—ANALYSIS Convictions Recorded | Complaints Dismissed | Complaints Withdrawn | Complaints Pending 30.6.86 |
|---|---|---|---|---|---|---|---|
| Industrial Safety, Health and Welfare Act Provisions under the Act | 7 | 58 | 65 | 48 | 2 | 7 | 8 |
| Regulations pursuant to the Act Industrial Safety Code Regulations | 9 | 20 | 29 | 5 | | 20 | 4 |
| Construction Safety Code | | 20 | 20 | 9 | 5 | 2 | 4 |
| Rural Industries (Machine Safety) Regulations | | 1 | 1 | 1 | | | |
| Industrial Code (Bread Baking) | | 11 | 11 | 11 | | | |
| Long Service Leave Act | | 3 | 3 | 1 | | 1 | 1 |
| Shop Trading Hours Act | 3 | 4 | 7 | 4 | | 3 | |
| Workers Compensation Act | 2 | 1 | 3 | 2 | | 1 | |
| Lifts and Cranes Act | | 3 | 3 | 3 | | | |
| Motor Fuel Distribution Act | | 1 | 1 | | | | 1 |
| Explosives Regulations | | 1 | 1 | 1 | | | |
| Dangerous Substances Act | | 1 | 1 | | | | 1 |

| Act/Regulation/Code | No of Convictions | Amount of Fines $ |
|---|---|---|
| Industrial Safety, Health and Welfare Act | 48 | 9 790 |
| Industrial Safety Code Regulations | 5 | 940 |
| Construction Safety Code Regulations | 9 | 790 |
| Rural Industries (Machine Safety) Regulations | 1 | 200 |
| Lifts and Cranes Act | 3 | 230 |
| Explosives Regulations | 1 | 100 |
| Industrial Conciliation and Arbitration Act | 19 | 1 285 |
| Industrial Code (Bread Baking) | 11 | 1 775 |
| Workers Compensation Act | 2 | 200 |
| Long Service Leave Act | 1 | 50 |
| Shop Trading Hours Act | 4 | 3 000 |
| TOTAL | 104 | 18 360 |

**The Hon. C.J. SUMNER:** The next point raised by the Hon. Mr Griffin related to anticipated savings as a result of this procedure. It is very difficult to estimate the savings in court time. However, as can be seen from the figures that I have just outlined, expiation in relation to the Commercial Motor Vehicles (Hours of Driving) Act alone may ensure that up to approximately three to four cases per week will not need to be listed before the courts.

The savings effected under the various industrial Acts will also not be altogether insignificant. Further, direct cost savings will also accrue to Government departments in the following areas: the issue and service of summonses; court fees and costs; and cost of time involvement and travel of departmental officers in investigating and preparing matters for court hearing. Further, it is very difficult to quantify the across-the-board savings as they would depend on the proportion of offenders to whom infringement notices are issued who would pay the fee by the due date. However, the Commissioner of Highways has indicated that net cost gains could be about $45 000 in a financial year.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Preliminary.'

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

Page 1, line 25—Leave out 'any other person or body to which' and insert 'the Chief Executive Officer of an administrative unit under the Government Management and Employment Act 1985, to whom'.

My amendment deals with the definition of responsible statutory authority. As presently drafted it is the Minister responsible for the administration of the Act or any other personal body to which the Minister has delegated his or her power to issue expiation notices. I want to limit that to the Chief Executive Officer of an administrative unit under the Government Management and Employment Act. It seems to me that that limitation is appropriate because the very real risk with expiation notices is that some person who is not well up the hierarchy will decide that a notice should be issued without necessarily having regard to the appropriateness of that decision, or on the other hand a notice will not be issued.

If the decision about the issuing of an expiation notice is put in the hands of a senior officer there is less potential for abuse of the system and less of a prospect of it being used as a revenue raising exercise and the merits of each particular case will be more carefully considered. I do not think that in terms of the prosecution of particular offences anyone less than the Chief Executive Officer is the appropriate person or body to make that decision.

**The Hon. C.J. SUMNER:** I have no objection.

Amendment carried; clause as amended passed.

Clause 4—'Expiation notice may be issued.'

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

Page 2, line 5—Leave out 'a form approved by the Minister' and insert 'the prescribed form'.

My amendment deals with the form of the expiation notice. Under this clause the expiation notice must be in a form

approved by the Minister. It seems to me that while that may achieve some uniformity it is more appropriate that the form of an expiation notice, in fact, be uniform and that it, in fact, be prescribed so it is there on the public record and members of the public do not have to go fishing around to find out where and when the form was approved or varied by the Minister. It is also subject to scrutiny by the Subordinate Legislation Committee. That is a much more satisfactory way of dealing with the question of expiation notices. My amendment seeks to provide for that form to be prescribed rather than merely approved by the Minister.

**The Hon. C.J. SUMNER:** The Government does not believe that this amendment is necessary. We followed the same procedure that applies for the traffic infringement notice procedure. In section 64 (4) of the Summary Offences Act dealing with traffic infringement notices the forms are approved by the Minister. If my recollection is correct, that Bill was introduced into the Parliament by the honourable member's Government.

**The Hon. I. Gilfillan:** You've had your memory refreshed, have you?

**The Hon. C.J. SUMNER:** Yes. I remember it very well, I was just trying to get the precise—

**The Hon. K.T. Griffin:** You were on a revenue raising exercise.

**The Hon. C.J. SUMNER:** That is irrelevant to this point. When the honourable member was a member of the Government of another political persuasion between 1979 and 1982 he introduced a proposal for traffic infringement notices (TINS) and the legislation provided—without quibble, I might add, from the Opposition at the time—that the form should be approved by the Minister. I do not see that this is an area where you need to go to regulation. It is not a matter of major moment for the operation of this scheme. The fact that the form is approved by the Minister has not caused any major problems for the traffic infringement notice system and there is no reason why it would cause any concern here.

**The Hon. I. GILFILLAN:** I have sympathy with the somewhat pedantic way in which the Hon. Trevor Griffin proceeds so that there is a minimum area for confusion, but I do not want to saddle the Subordinate Legislation Committee with any more work than it already has. So, we will oppose the amendment.

**The Hon. K.T. GRIFFIN:** In view of that indication, if I lose my amendment on the voices, I will not divide. However, let me say that with the traffic infringement notice scheme one did not really envisage the expansion of the scheme to a whole range of offences under a variety of different pieces of legislation under the responsibility of a variety of Ministers, as is contemplated in this legislation.

Therefore, it seems to be more appropriate to have one form prescribed by regulation under this Act which every Government department that administers legislation allowing expiation notice under this Bill is required to follow. It is a much more appropriate way of dealing with it.

Amendment negatived; clause passed.

Clauses 5 to 8 passed.

New clause 9—'Regulations.'

**The Hon. K.T. GRIFFIN:** I do not wish to proceed with this amendment, as it was dependent upon the question of the form being approved by the Minister or to be prescribed. I will therefore not proceed with the regulation making power.

Schedule.

**The Hon. K.T. GRIFFIN:** This is the most important part of the Bill, as it identifies the offences to which the legislation will apply. During the second reading debate I made the point that a number of the offences which are referred to in the schedule relate to matters of public safety. I have some very grave concerns about applying expiation notices and fees to those sort of offences, particularly in the context of current practice where there may be some minor breach of a safety requirement which is remedied within a very short time after it has been identified and for which presently proceedings are not issued but for which the now Chief Executive Officer of the department will be more inclined to issue an expiation notice on the basis that it is a fee which the person against whom the notice is issued is more likely to pay than to worry about the costs of having to take the matter to court. It is in that context that I have some concern.

I also have concern about some of the offences, because on the schedule that the Attorney-General has provided and in the various other offences to which he referred in his reply it is clear that there have been no prosecutions for a number of the offences referred to in the schedule. So, if there have been no prosecutions and no convictions, there can be no argument that some of these offences being the subject of expiation fees will save anybody's time. If we look at offences under the Explosives Act on the schedule that the Attorney-General has had incorporated in *Hansard*, for the period from 1 July 1985 to 30 June 1986, there was one prosecution and one conviction recorded.

A number of other industrial-type prosecutions are referred to on that schedule, but nothing dealing with the Boilers and Pressure Vessels Act, where the offences do relate to matters of public safety. I have a recollection, from what the Attorney-General read out, that under the Financial Institutions Duty Act, from memory, there have been no prosecutions launched and no convictions recorded. The Public and Environmental Health Act is not yet in operation. The Tobacco Products Control Act has been in operation since 1 July this year only, and there have been no prosecutions under the Valuation of Land Act.

So, I suggest that a persuasive argument does not exist that expiation fees should be introduced, where the number of prosecutions launched and convictions recorded is nil or a very small number. There is an even less persuasive argument (if that is possible) with respect to those matters that relate to the Boilers and Pressure Vessels Act and other legislation which impinges upon public safety.

I have a very strong view that where an offence relates to a matter of public safety it ought to be prosecuted rather than being the subject of an expiation notice. In that context, therefore, I desire to delete a number of the offences referred to in the schedule. I will be guided on the way in which we deal with it, but I would propose that it may be appropriate to take the amendments individually and vote on each one according to its respective merits. I therefore move:

Leave out all the items under the heading 'Boilers and Pressure Vessels Act 1968'.

**The Hon. I. GILFILLAN:** The Democrats appreciate the argument that the Hon. Trevor Griffin has put forward in regard to amending the schedule. There are, in our opinion, certain offences that ought not to be expiable by the simple payment of a fee. In our judgment the majority of those listed in the amendment would fit into that category. I would not support the amendment to section 104, relating to insulting a teacher, or regulation 6.01—6.12 regarding packing and labelling under the Explosives Act. I would not support its removal. Also, I would not be persuaded to support the Public and Environmental Health Act provision, section 16 (1), which relates to causing or allowing an

insanitary condition. The remainder seem to be more appropriately left outside the range of potential expiations by ordinary payment of a fee. That is my contribution to the discussion at this stage.

**The CHAIRPERSON:** I understand that the Hon. Mr Griffin has moved only the first part of his amendment.

**The Hon. K.T. GRIFFIN:** Yes, and I understand that the Hon. Mr Gilfillan will support the rest of the amendments.

**The Hon. I. GILFILLAN:** I indicated that this was the way that the Democrats felt about it, but we did not specify details.

**The Hon. C.J. SUMNER:** With respect to the Commercial Motor Vehicles (Hours of Driving) Act, the honourable member puts it on the basis that it will not have any great financial implication. If the provision relating to exceeding hours of driving is taken out of the schedule, one of the most significant areas in which expiation fees are appropriate and in which there would be significant savings is removed. That is a driving or traffic offence and in that area a traffic infringement notice system already operates. Why do members opposite seek to exclude the provision concerning exceeding hours of driving when there are traffic infringement notices for speeding? If the criterion of a threat to the public has any justification, the traffic infringement notice system would be scrapped. Yet the Hon. Mr Griffin introduced that into Parliament. There is no logical basis whatsoever for this.

**The Hon. K.T. Griffin:** There is. You get a great lumbering hulk of a semitrailer—

**The Hon. C.J. SUMNER:** And you get someone driving 100 kilometres an hour or even 80 kilometres an hour along Mr Gilfillan's suburban street. That is potentially more dangerous than a driver who has gone 10 minutes over the hour that he should be at the wheel of a motor vehicle.

**The Hon. I. Gilfillan:** That is not the issue before us. We are looking at this particular case in point. We are not arguing what is right or wrong in other Acts. We are dealing with this particular instance.

**The Hon. C.J. SUMNER:** What I am saying is that the honourable member is being completely inconsistent.

**The Hon. I. Gilfillan:** I had nothing to do with the argument.

**The CHAIRPERSON:** Order! The amendment before the Chair relates to the Boilers and Pressure Vessels Act. That is the amendment that the Committee is considering.

**The Hon. C.J. SUMNER:** The Hon. Mr Griffin canvassed the general issue in his introduction. He did not confine his remarks to the Boilers and Pressure Vessels Act; nor did the Hon. Mr Gilfillan do so.

**The CHAIRPERSON:** No. The honourable member just indicated which he would support and which he would not, without going into any argument.

**The Hon. C.J. SUMNER:** But the Hon. Mr Griffin went into the basis of his argument for taking these out. All I am saying is that the basis of his argument is illogical, and I am picking out one example to describe that illogicality. If one accepts the traffic infringement notice system, surely it is reasonable to accept that, under the Commercial Motor Vehicles (Hours of Driving) Act, exceeding hours of driving should be the subject of an expiation fee, because it is no worse than driving offences to which expiation fees apply. If it involves a serious case of exceeding the hours of driving, that is, if a person has been driving eight hours longer than he should, the case is prosecuted in the courts. If it is 5 minutes, 10 minutes, 15 minutes or half an hour over, surely it is appropriate to apply, in effect, a traffic infringement notice. I would have thought that that was logical.

If a traffic infringement notice system applies under the Summary Offences Act to a whole range of traffic offences, one can translate to the Commercial Motor Vehicles (Hours of Driving) Act and a type of driving offence. Yet, members opposite say that a traffic infringement notice system or an expiation notice system is not applicable in that case.

*The Hon. I. Gilfillan interjecting:*

**The Hon. C.J. SUMNER:** It may not be; it may be a quarter of an hour over—just as somebody who drives at 65 kilometres an hour in the metropolitan area commits an offence and is subject to a traffic infringement notice. For 15 minutes, 20 minutes or even half an hour over the hours of driving—

**The Hon. I. Gilfillan:** They get a light fine.

**The Hon. C.J. SUMNER:** Yes, but there is no logical basis for making the difference. If the honourable member is talking about the safety of the public, the arguments that apply to take these things out of this Bill apply equally to abolishing the traffic infringement notice system because they apply to traffic offences which impinge directly on the safety of the public. That is clear. If the Hon. Mr Griffin was able to bring into this Parliament a Bill to establish a traffic infringement notice system, there could not be any offence system which had as its basis the protection of the public that was more relevant than these traffic laws. That is their very basis: the protection of the public from injury. If the Hon. Mr Griffin suggests that the offence that he seeks to exclude from the expiation system is based on the criterion of protection of the public, it should apply equally to the system for general road traffic, but it does not.

**The Hon. K.T. Griffin:** It is a question of where you start off.

**The Hon. C.J. SUMNER:** The honourable member was prepared to introduce legislation for a traffic infringement notice system for offences that directly concern the protection of the public. What offence could be more directly related to the protection of the public than speeding? There could not be one. Yet, when we introduce legislation to try to introduce some efficiency into the system, we get an example of an offence, that is, exceeding the hours of driving, which is very akin to the traffic offences that have already been dealt with in legislation in 1981, but members will not accept that. In terms of saving in court and departmental time, exceeding hours of driving would almost certainly be one of the largest. I quoted savings of $45 000 in the Department of Transport, but that will probably be almost wiped out, although not completely, if this amendment succeeds.

**The Hon. K.T. Griffin:** How many prosecutions?

**The Hon. C.J. SUMNER:** I do not have them for that particular offence of exceeding hours of driving. However, I expect that it is one of the most common areas of prosecution under that legislation.

*The Hon. K.T. Griffin interjecting:*

**The Hon. C.J. SUMNER:** I am not resting my argument principally on that basis. The principal argument is that, if the criterion for deciding which offences should be the subject of expiation fees is the protection of the public, that same argument would be used to repeal the traffic infringement notice system.

*The Hon. I. Gilfillan interjecting:*

**The Hon. C.J. SUMNER:** The Hon. Mr Griffin will not do that because he introduced it; no-one will do that. I am merely saying that there is an inconsistency in the argument, but I should not have thought the Democrats would fall for that. However, my colleague the Hon. Dr. Cornwall thinks that anything is possible from his experience. He thinks that we have returned to the days of the Hon. Lance Milne,

who was at least pleasant about changing his mind. So, that is just by way of general remarks. There just seems to me to be a complete lack of logic and consistency in what the Opposition and the Australian Democrats are saying on this point.

Progress reported; Committee to sit again.

## LONG SERVICE LEAVE (BUILDING INDUSTRY) BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendments Nos 1 to 3 and 5 to 10 and had disagreed to amendment No. 4.

## PUBLIC EMPLOYEES HOUSING BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendment No. 1, and had disagreed to amendment No. 2 but had made an alternative amendment, as follows:

New clause 4a—'Public Employees Housing Advisory Committee'.

Page 2, after line 11—Insert new clause as follows:

4a. (1) The Public Employees Housing Advisory Committee is established.

(2) The function of the committee is to advise the Minister in relation to the administration of this Act.

(3) The Governor may, by regulation, prescribe—

*(a)* powers of the committee;

*(b)* provisions for the appointment of members and deputy members of the committee and any other matters relating to membership of the committee;

*(c)* procedures to be followed at meetings of the committee;

*(d)* any other matters that are necessary or expedient for the establishment or operation of the committee.

Consideration in Committee.

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

That the Legislative Council do not insist on its amendment No. 2 and agree to the alternative amendment made in lieu thereof.

**The Hon. K.T. GRIFFIN:** I do not have the conduct of the Bill for the Opposition, but it seems appropriate for the Public Employees Housing Advisory Committee to be established, for its powers to be prescribed by regulation and for its procedures and other relevant matters about the way in which it will carry on its activities to be prescribed by regulation. Having consulted on this matter, I now defer, having made that point about the regulation making power but without focusing on the advisory committee. However, I see no difficulty with this regulation making power.

**The Hon. M.J. ELLIOTT:** We were originally informed that, under clause 5, concerning the regulation making powers of the Bill, a committee was to be set up, anyway, and that it was not necessary to have this provision in the legislation. However, I insisted that it should be included. At no stage have the provisions in clause 5 been deleted, and with the power to make regulations as contemplated by the provision and since we set up a committee, quite clearly, the regulations describing what that committee should do would be provided; so, I fail to see why this extension is necessary. Nevertheless, since the proposed new clause does what I envisaged in the first place I am quite happy to support it.

Motion carried.

## ROAD TRAFFIC ACT AMENDMENT BILL (No. 2)

The House of Assembly requested a conference, at which it would be represented by five managers, on the Legislative Council's amendment to which it had disagreed.

The Legislative Council agreed to a conference, to be held in the Legislative Council conference room at 3.30 p.m. on Wednesday 11 November, at which it would be represented by the Hons M.B. Cameron, J.R. Cornwall, T. Crothers, Peter Dunn, and I. Gilfillan.

**The Hon. J.R. CORNWALL (Minister of Health):** I move:

That the sittings of the Council be not suspended during the conference on the Bill.

Motion carried.

*[Sitting suspended from 5.55 to 7.45 p.m.]*

## EXPIATION OF OFFENCES BILL

Adjourned debate in Committee (resumed on motion).

(Continued from page 1787.)

**The Hon. I. GILFILLAN:** I have indicated the amendments of the Hon. Trevor Griffin that the Democrats do not support and I suggest that the honourable member accept that those amendments be deleted and that we deal with them all in one fell swoop. I understand there is likely to be further discussion on the matter because of what will happen in another place, and there is no point in going through an exhaustive point by point debate. I see the Hon. Trevor Griffin is nodding his head.

**The Hon. C.J. SUMNER:** I would like the opportunity to consider some of these amendments further with a view to making representations to members on some of the matters. It is not appropriate that some of those provisions that the Hon. Mr Griffin seeks to remove from the schedule are appropriate for removal. As the Hon. Mr Gilfillan says, he is happy to discuss matters further at the appropriate time and I think it would be better if we dealt with these matters *in globo*. I will then get some further information, which the honourable member says he is prepared to consider when the matter is either dealt with here after being dealt with by the House of Assembly or at a conference if we reach that stage. That might short circuit the proceedings and I understand the Hon. Mr Gilfillan has indicated he is prepared to consider further representations and submissions on the content of the schedule. On that basis I am happy to deal with them *en bloc*, except those that the Hon. Mr Gilfillan does not accept.

**The Hon. K.T. GRIFFIN:** I suggest that we move them in slabs but, because the Hon. Mr Gilfillan has indicated that he does not agree to three of my amendments, I propose to move down to the first one that he will not support. We can deal with that slab and then I will move the one that he will not support. Presumably it will be lost on the voices and we can then proceed in that way. We then do not have to take each one individually.

Amendment carried.

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

Under the heading 'Commercial Motor Vehicles (Hours of Driving) Act 1973' leave out the following items:

| | |
|---|---|
| Section 4—Exceeding hours of driving | $80 |
| Section 8 (5)—Failing to provide a name and address, or to answer a question | $80 |
| Section 8 (6)—Falsely representing that person is named in a log book | $80 |

Under the heading 'Dangerous Substances Act 1979' leave out the following item:

Section 9 (8)—Refusing or failing to comply with a direction ..... $200

Under the heading 'Education Act 1972' leave out the following item:

Section 78 (1)—Employing children of compulsory age in contravention of this section ..... $150

Amendments carried.

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

Under the heading 'Education Act 1972' leave out the following item:

Section 104—Insulting a teacher ..... $150

As the Hon. Mr Gilfillan has indicated his attitude, I can predict the outcome and I will not call for a division on the amendment.

Amendment negatived.

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

Under the heading 'Explosives Act 1936' leave out the following items:

Regulations 3.01-3.32—Licensing of factories and manufacturing explosives—any breach of these regulations ..... $100

Regulations 4.01-4.29—Mixing and using ammonium nitrate mixtures—any breach of these regulations .. $100

Regulations 5.01-5.08—Filling certain cartridges for sale—any breach of these regulations ..... $100

Amendments carried.

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

Under the heading 'Explosives Act 1936' leave out the following item:

Regulations 6.01-6.12—Packing and labelling—any breach of these regulations ..... $100

Again, the Hon. Mr Gilfillan having indicated his position, I can predict the outcome and I will not call for a division.

Amendment negatived.

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

Under the heading 'Explosives Act 1936' leave out the following item:

Regulations 9.01-9.04—Storing on unlicensed premises—any breach of these regulations ..... $100

Under the heading 'Lifts and Cranes Act 1985' leave out the following items:

Section 10 (1)—Constructing, altering and installing a crane, hoist or lift without approval ..... $250

Section 11 (1)—Failing to obtain registration ..... $200

Section 14—Failing to perform inspection ..... $250

Section 17—Failing to notify an accident ..... $100

Under the heading 'Public and Environmental Health Act 1987' leave out the following item:

Section 15 (3)—Failing to comply with a notice ..... $250

Amendments carried.

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

Under the heading 'Public and Environmental Health Act 1987' leave out the following item:

Section 16 (1)—Causing or allowing an insanitary condition ..... $250

Again, the Hon. Mr Gilfillan having indicated his view on the matter, I can predict the outcome and I will not call for a division.

Amendment negatived.

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

Under the heading 'Public and Environmental Health Act', leave out the following items:

| | $ |
|---|---|
| Section 18 (1) and (2)—Discharging waste ..... | 300 |
| Section 30 (1)—Failing to notify a disease, or to provide information ..... | 100 |

Amendment carried.

**The CHAIRPERSON:** The next indicated amendment is under the Metropolitan Fire Services Act.

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

Schedule, page 6—In relation to the item:'Section 70 (1)—Failing to give information'—leave out '$50' and insert '$20'.

It has been pointed out that the maximum penalty is $40, and we have $50. I am informed by my officers that that came about purely as a typographical error, and it should be $20. We go down to $20, which is half the maximum.

**The Hon. K.T. GRIFFIN:** I am prepared to support that.

Amendment carried.

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

Under the heading 'Tobacco Products Control Act 1986' leave out the following item:

Section 7 (1)—Failing to publish a health warning ... $200

Amendment carried; schedule as amended passed.

Title passed.

Bill read a third time and passed.

## LANDLORD AND TENANT ACT AMENDMENT BILL

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Interpretation.'

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

Page 2, after line 39—Insert—', but for the purposes of section 62a does not include any such expenses determined according to the level of the tenant's consumption or the degree of the tenant's use.'

My amendment deals with the definition of 'operating expenses'. It is not so much a matter of substance as of form. The definition of 'operating expenses' is set out in clause 3, but if one turns to clause 10, dealing with new section 62a, we find an obligation on the landlord to provide a statement of operating expenses, with an exception from the requirement to provide a statement. That exception is in respect of expenses determined according to the level of the tenant's consumption or the degree of the tenant's use. It has been put to me by those to whom I have referred the Bill that it would be much more convenient in a layperson's appreciation of the scope of the legislation if the definition of 'operating expenses' also referred to the exception for the purposes of section 62a.

I agree with that, as it is preferable to have all of the aspects of the definition in one part, and not scattered throughout the legislation. I know that the definition of 'operating expenses' is referred to in other sections of the Act, but if we can make the amendment that I am proposing it quite clearly indicates that an exception exists for the purposes of section 62a, and that is likely to be less confusing than if it were left as it is in the Bill presently. It comes down to a matter of which form one prefers, but I can appreciate that, from the viewpoint of a landlord or tenant dealing with this legislation, if the whole of the ambit of 'operating expenses' is included in one place it does make life easier and immediately draws attention to the fact that a difference exists in the way 'operating expenses' are to be treated for the purposes of section 62a as opposed to other provisions of the Act where that definition is relevant.

**The Hon. C.J. SUMNER:** This comes down more to a matter of style than substance. Parliamentary Counsel says that the honourable member's amendment does not accord with the usual drafting approach to these matters.

**The Hon. K.T. Griffin:** So what?

**The Hon. C.J. SUMNER:** That is a fair enough interjection, I suppose, except that one usually takes some cognisance of Parliamentary Counsel's view on the drafting of Bills. The Government does not really have any major problems one way or the other and this certainly does not change the substance of the legislation.

Amendment carried.

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

Page 3, line 10—After 'land' insert 'subject to the same administration or control'.

This amendment deals with the definition of 'shopping complex'. I made some observations about that definition during the second reading debate, particularly with respect to the number of shops that are likely to be defined as a shopping complex. I made the point that it hardly seems to accord with proper English language usage to say that a shopping complex is really two shops, but I guess for the purposes of definition one can define white as black and black as white for the purpose of interpretation.

I made the point that, in Victoria, five shops comprise a shopping complex, but the matter on which I am moving an amendment is to provide that, where the shopping complex comprises two or more shop premises in the same building or in adjacent buildings subject to the same administration or control and includes any adjacent land that is used in conjunction with those premises, that adjacent land also ought to be subject to the same administration or control. If my amendment is not carried, the matter is open to debate as it is presently drafted. I again draw attention to the Victorian legislation (although I do not regard it necessarily as the better of the two), which refers to the shops and land having a common head lessor. It seems to me that it makes good sense in the context of this legislation if we make clear that the adjacent land is subject to the same administration or control as the shopping complex.

**The Hon. I. GILFILLAN:** It is important to say that, from the argument and the wording of the amendment and the clause, it would seem to be strange if the intention of the clause was not as the amendment attempts to establish. I can hardly imagine that the reverse would be true and that the adjacent land should be taken into a shopping complex if it were not, and quite explicitly not, subject to the same administration or control. It seems to be a matter of getting the wording right. I would be very surprised if the Government says that that is not its intention, and I hope it makes its intention known fairly soon.

**The Hon. C.J. SUMNER:** I oppose the amendment, which could cause some problem for the landlord who has control of the premises but not the adjacent land; for example, road kerbing, drainage and paving costs could be levied on the landlord in respect of the premises, which costs are reasonably expected to be levied on tenants as maintenance costs but which could not be passed on because of this amendment. So, it seems to me that the amendment is in fact making recovery of costs by the landlord—and legitimate costs—more difficult.

**The Hon. K.T. GRIFFIN:** I would not have thought that that was the case. There are situations which I indicated in the second reading debate where there may be adjacent land which is used by the complex but which is not under the administration or control of the landlord of the shopping complex. I would have thought that, by the very nature of the definition of 'operating expenses', they include any rates or taxes on land or premises, or any fees, charges or levies chargeable by the Crown, a council or a statutory authority for services provided to land or premises, as in the definition of 'Government charges'. I would not have thought that if the kerbing charges were related to the shopping complex as such there was any real problem of recovery.

If the charges relate to adjacent land which might be used by the premises but not be subject to the same administration and control of the landlord, as is the shopping complex, then one has to ask whether it is fair and proper that, say, kerbing charges imposed upon that adjacent land, which is not under the administration and control of the landlord or manager of the shopping complex, ought to be levied on tenants. That is the problem that I am predicting could occur in the definition as it is drafted at present. It was a desire to bring it all under the same administration and control which prompted me to move my amendment.

**The Hon. I. GILFILLAN:** It may help to indicate that I still believe that the amendment is valid and, even if it is just a question of the understanding of the two words, I would find it hard to include in a definition of 'shopping complex' the words 'adjacent land' or whatever character it is which is not under the control and management of the people who run the shopping centre. That just defies my understanding of the use of the English language.

**The Hon. C.J. SUMNER:** The Government maintains its objection on the basis that it will potentially restrict landlords in what they are able to claim back legitimately from tenants.

Amendment carried; clause as amended passed.

Clause 4 passed.

Clause 5—'Jurisdiction of Commercial Tribunal under this Part.'

**The Hon. K.T. GRIFFIN:** I want to ensure that my understanding of the jurisdiction of the Commercial Tribunal is correct. During the second reading I raised the circumstances in which a tenant believes that the statement of actual operating expenses sought to be recovered from the tenant is not correct and what remedy the tenant has. It is my understanding, after further considering the matter, that the only course of action that a tenant could take is to make a complaint to the Department of Public and Consumer Affairs, which might administratively look at it but would have no jurisdiction to deal with it, and then make a formal application to the Commercial Tribunal.

That may be expensive, although I am led to believe that the Registrar would then make an inquiry with a view to determining the veracity of the particular statement. It may not be a particularly easy or economic way of doing it, but it seems to me that that is the only way. However, the remedy is there if there is a difficulty in accepting the veracity of the statement that has been presented as to actual operating expenses. Will the Attorney confirm that that is an accurate understanding of the remedy that is open to the tenant?

**The Hon. C.J. SUMNER:** The honourable member's understanding of the situation is correct. The tenant has a remedy, as the honourable member explained. I am not sure whether or not the honourable member has any problems with that.

**The Hon. K.T. GRIFFIN:** No. I really wanted to make sure that a remedy was available to a tenant, even though it might be cumbersome.

**The Hon. C.J. Sumner:** It is not that cumbersome.

**The Hon. K.T. GRIFFIN:** An application to the tribunal may be a bit intimidating—I do not know. The fact is that it is there, and for the moment I do not propose any variation.

Clause passed.

Clauses 6 to 9 passed.

Clause 10—'Landlord to provide a statement of operating expenses.'

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

Page 4—

Line 25—After 'of' insert 'each separate category of'.

Lines 40 to 43—Leave out all words in these lines after the words 'setting out' in line 40 and insert ', under each separate category of operating expenses, the amount actually incurred by the landlord, and the amount payable by the tenant, for that period'.

My amendments to this clause relate to the form of the statement of operating expenses. It is possible that under proposed new section 62a the operating expenses will be a global figure, so that what the tenant will get is a statement

that the total costs of operating this centre are X dollars, his proportion is one-fiftieth (or whatever) and the amount of his contribution is Y dollars. It seems to me that that does not give adequate information to the tenant, and my amendments are directed towards endeavouring to provide a global statement for the whole of the shopping complex, but broken down into items or categories.

So, there might be something for rates, for Government charges, for cleaning or for promotions—in respect not of a particular tenancy but of the whole shopping complex, and identifying the proportion of that itemised global figure which the tenant is required to pay. That seems to me to be fair, and I would not have thought that it presented any great burden on the managers or the landlords of shopping complexes.

**The Hon. I. GILFILLAN:** I think that it is a reasonable requirement, and to me it certainly seems to be something to which the leaseholders are entitled. It is only adding information, fairly requested by anyone who is actually paying the bill. I indicate the Democrat's support for the amendments.

**The Hon. C.J. SUMNER:** The only problem I have is whether this imposes an unnecessary burden on landlords, having to itemise the operating expenses to this extent, when it is likely that, basically, all the tenant is going to be interested in—

**The Hon. I. Gilfillan:** For how long have you been a champion of the landlord?

**The Hon. C.J. SUMNER:** I am not—I am just raising concerns, like the Hon. Mr Griffin. The Bill attempts to simplify accounting procedures for landlords by requiring one aggregate figure. However, in the light of the indication given by the Hon. Mr Gilfillan, I will not take the matter any further.

Amendments carried.

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

Page 5, after line 10—Insert new item 'a is the amount'.

I raised the point previously that 'a' was nowhere defined. I understand that it is a matter of drafting and that there is a point of view that it is not necessary. However, as the matter has been drawn to my attention by lawyers to whom I sent the draft Bill for comment and who believe that there is some question about the matter, I would be much happier to see this properly referred to in the clause.

**The Hon. C.J. SUMNER:** The Government has no objection.

Amendment carried.

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

Page 5, line 11—After 'of' insert 'aggregate'.

This amendment is consequential on the amendment that has just been carried.

Amendment carried.

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

Page 5, lines 25 to 27—Leave out all words in these lines after the word 'must' in line 25 and insert ', within three months of the expiration of the period—'.

These lines relate to the refunding of excess to a tenant. I am of the view that it ought not to depend upon a request by the tenant for a refund but it ought to be automatic, unless, of course, the tenant has consented to the excess being credited against future liabilities. From the Attorney's second reading reply, I understood that he was not unduly worried about this. I hope that that remains the position.

**The Hon. C.J. SUMNER:** I have no objection.

Amendment carried.

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

Page 6, lines 26 to 28—Leave out the definition of 'operating expenses'.

This amendment is consequential on reshuffling the exclusion from operating expenses.

Amendment carried; clause as amended passed.

Clause 11 passed.

Clause 12—'Savings provision.'

**The Hon. K.T. GRIFFIN:** This is probably the most convenient time to raise a question with the Attorney-General on the operation of section 65 of the principal Act. I have not seen the Bill introduced in another place to deal with the extension of shopping hours, but during my second reading speech I raised the problem which tenants in shopping complexes will face if there is an obligation to open at any time which might be dictated by the manager or landlord of that group of premises. The Attorney-General drew my attention to section 65 which states:

(1) Subject to subsection (2), any provision of a commercial tenancy agreement that purports to impose on a tenant an obligation to have his premises open for business at particular times, or during particular periods, is void and of no effect.

Subsection (2) provides:

This section does not apply where the premises to which the commercial tenancy agreement relates form part of a group of premises constructed or adapted to accommodate six or more separate businesses.

That means that, for even modest sized shopping centres, it will be possible for landlords or managers to require every shop to open during the period of extended shopping hours. That will necessarily impose greater burdens on those proprietors. Can the Attorney-General indicate what consideration has been given to allowing tenants to modify their opening hours so that they are not required under the terms of their current tenancy agreements, and by virtue of the operation of any extension to shopping hours, to open for the longer shopping hours period which might ultimately apply in this State either by proclamation or by some chance amendment to the shop trading hours legislation?

**The Hon. C.J. SUMNER:** No specific consideration has been given to this. The question of shops being permitted to open until 5 p.m. on Saturday is one that is before the House of Assembly. It has not yet been debated in this place and certainly it has not passed into law. The honourable member would be aware that there are mechanisms for dealing with issues related but not directly relevant to a Bill that is introduced into the Parliament. I would have thought that if we get to consider the legislation dealing with extension of shopping hours, and if he has concerns about this clause which might require certain shops to open, that would be the appropriate time to deal with it.

Clause passed.

Title passed.

Bill read a third time and passed.

## LONG SERVICE LEAVE (BUILDING INDUSTRY) BILL

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

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

That the Legislative Council no longer insist on its amendment No. 4.

The remaining issue of dispute between the two Houses is the clause dealing with the investment of moneys held in the Long Service Leave (Building Industry) Fund. At present the Bill, as introduced, provides that the board may invest money not immediately required for the purposes of the fund in such manner as the Treasurer may from time to time approve. The Legislative Council's amendment provides that money should be invested so as to obtain the

highest possible rate of return. I indicated that during its operation the board had invested money in authorised trustee investments and, informally, I provided the Hon. Mr Griffin with details of those investments and indicated that it was the policy to continue that investment procedure and as a result felt that the amendment was not necessary.

**The Hon. K.T. GRIFFIN:** During the Committee consideration of the Bill I indicated that the Opposition would tentatively support the Hon. Mr Gilfillan's amendment to the effect that, subject to considerations of security in investment, money should be invested so as to obtain the highest possible rate of return. I indicated that I was open to persuasion that the investment policy of the board was such that investments were secure and were placed so that return on investment was as high as achievable while maintaining adequate security. Informally, I was provided with a statement indicating that the balance of the Long Service Leave (Building Industry) Fund as at 9 November 1987 was $16 368 011.35 which was made up as follows: cash at State Treasury, $1 718 737.66 (used for the monthly payments to workers and administrative expenses) and investments of $14 649 273.69. I was also provided with detail of the investments which currently are: South Australian Financing Authority and Electricity Trust of South Australia debentures from two to four years period $2 367 080; bank guaranteed bills for periods from six months to two years $7 282 193.69 and inscribed stock with the State Bank for periods from one to three years of $5 million.

The detail also provided to me was that the average interest rate on investments is currently 13.7 per cent. Interest is paid daily on the balance of cash held at State Treasury. The guidelines which have been promulgated by the Treasury generally relate to investment in trustee securities. The Trustee Act provides for investment in equities in certain circumstances, but none of the investments of the board are in those equities; they are in interest bearing deposits, debentures, bank guaranteed bills or inscribed stock.

I am satisfied from the schedule which was provided to me that the investment policy is prudent, that no preference is given to agencies such as the South Australian Government Financing Authority, and that the best available interest according to the needs of the board is sought when funds are available for investment. The range of investments covers the South Australian Government Financing Authority, the National Australia Bank Ltd, the ANZ Banking Group, the Electricity Trust of South Australia, the State Bank of South Australia, Chase AMP Bank Ltd, and Michell NBD Ltd. Those investments with banks and with Michell NBD Ltd are fixed interest bills. In the light of that information, I do not therefore wish to insist upon the amendment of the Hon. Mr Gilfillan which the Opposition previously tentatively supported. I am satisfied with the information provided to me.

**The Hon. M.J. ELLIOTT:** We have not had the opportunity to see the material which has been given to the Hon. Mr Griffin and express our disappointment that it was not also provided to us. We are as open-minded as the next person and suggest that in future if material is available which may change a person's mind that everyone should have an opportunity to look at it. I ask the Minister to let us look at that information.

**The Hon. C.J. SUMNER:** Yes.

Motion carried.

## MOTOR VEHICLES ACT AMENDMENT BILL (No. 3)

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 Clauses

The object of this Bill is to allow the Registrar of Motor Vehicles to refuse to register a motor vehicle if the vehicle does not comply with laws relating to the maintenance of the vehicle as well as its design or construction. Also, if a vehicle complies with all relevant provisions of Australian Design Rules the Registrar can still refuse registration of the vehicle if he is satisfied that the vehicles pose a threat to the safety of persons using a road. All other States and Territories have a general safety provision in their legislation which enables them to refuse registration of such vehicles.

The Commissioner of Police has similar powers under section 161 of the Road Traffic Act to suspend the registration of a motor vehicle where he is satisfied that such a vehicle is unsafe for use on roads.

Clause 1 is formal.

Clause 2 provides two further grounds for the refusal of initial registration of a motor vehicle. Paragraph *(a)* makes it clear that if a vehicle does not comply with any laws relating to the maintenance of vehicles (e.g. brakes or emission control equipment) then the Registrar can refuse to register the vehicle in this State. Paragraph *(b)* provides that even if a vehicle complies with all relevant laws, the Registrar can still refuse to register it if satisfied that the vehicle poses a threat to the safety of people on the road (e.g. the windows are unduly reflecting, particularly dangerous bull bars are attached, etc.).

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

## ROAD TRAFFIC ACT AMENDMENT BILL (No. 3)

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 Clauses

The first object of this Bill is to exempt drivers of the State Transport Authority's buses and trams from the necessity of reporting accidents in person to a member of the police force or at a police station. The exemption is only to allow the method of reporting of accidents to be changed and does not exempt drivers from a penalty under the Road Traffic Act for not reporting an accident which will continue to be up to a maximum of $2 000 as stated in section 43 of that Act.

For at least 20 years accidents involving the authority's drivers have been reported to the Police Department through a report to that department by the authority. Discussions between the Police Department, the Crown Solicitor and the authority's officers indicate that the current practice is not in conformity with section 43 (3) *(d)* of the Road Traffic Act. The authority operates about 1 000 vehicles which travel approximately 49 000 000 km per annum with

approximately 82 000 000 passenger boardings each year. To comply strictly with the current provisions of section 43 (3) *(d)* of the Act would create numerous operational difficulties and incur considerable costs in:

—rostering
—industrial relations
—disruptions to passenger services
—additional vehicles
—additional labour resources.

All alternatives were closely examined by officers of the organisations concerned and it was found that the most effective means of ensuring that accidents involving the State Transport Authority's buses and trams are properly reported to the police would be for the Road Traffic Act to be amended to formalise current practice.

Secondly, the Bill provides for a member of the Police Force or an inspector to enter premises where hire cars are kept and to inspect those cars for their roadworthiness. There are a number of firms in South Australia which hire out motor vehicles or trailers to the public and unfortunately some of these businesses do not maintain their vehicles in a satisfactory state of repair. As a result, hirers can sometimes suffer the consequences of driving vehicles which contain mechanical defects. Such defects would often not be detectable during a reasonable preliminary inspection by the hirer. Once driven on roads, police can stop and examine these vehicles and if necessary defect them, but they do not have the power to enter premises to inspect hire vehicles.

Legislation already exists for members of the Police Force to enter premises where vehicles are exhibited or kept for sale and an expansion of this section to include premises where vehicles are available for hire seems appropriate. This Bill also provides for more flexibility for the driving of a defected vehicle before and after repair. Some 50 000 vehicles are defected by the Police Force each year and when a vehicle is defected it can only be driven to a place of repair and then to a place of inspection regardless of the seriousness of the defect. The place of inspection is determined by the defecting police officer as a police station for a minor defect or the Vehicle Engineering Branch of the Road Safety Division for a major defect.

This Bill provides for the defecting officer to exercise some discretion. This can be used for example to provide time for a commercial vehicle to complete a journey or to allow a private car to be driven for up to three days before replacement of a faulty light. There would still be occasions when this discretion would not be used and a dangerous vehicle would not be allowed to move at all. This type of discretion is used in the defect systems operated in New South Wales and Victoria.

Significant problems do occur at times with regard to clearance of some major defects. These include waiting periods for the owner during which time he may not use the repaired vehicle as in the metropolitan area it takes usually two to three days to obtain a booking although in cases of hardship the period can occasionally be reduced. In country areas there can be delays of up to seven working days although three to five is typical in carrying out an inspection. Allowing a brief period of grace between the time when defects have been repaired and the defect notice is formally cleared will result in a system which is more convenient for the vehicle owner and more efficient and less costly to the Government. It is not considered that allowing vehicles that purportedly have been properly repaired to operate for a brief period before formal inspection and clearance would cause any significant safety problems.

Clause 1 is formal.

Clause 2 provides for commencement by proclamation.

Clause 3 provides State Transport Authority bus and tram drivers with an alternative method of reporting accidents in accordance with special arrangements made between the Authority and the Police Commissioner or, if no such arrangement exists, in accordance with stipulations (if any) of the Minister. This provision does not prevent a driver from reporting the accident in person if he or she so chooses.

Clause 4 provides, firstly, that a member of the Police Force or an inspector may enter premises where hire cars are kept and may inspect those cars for their roadworthiness. Secondly, it is provided that defect notices may provide a little more flexibility for the driving of the vehicle both before and after repair. The person issuing the notice is given a discretion to permit a car to be driven for up to three days before it must be repaired. After repair, the owner can seek permission from a member of the Police Force or an inspector to drive the car for a period up to 14 days before it must be produced for examination.

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

## ADJOURNMENT

At 8.42 p.m. the Council adjourned until Wednesday 11 November at 2.15 p.m.