LEGISLATIVE COUNCIL

Tuesday 29 October 1991

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

QUESTIONS ON NOTICE

The PRESIDENT: I direct that written answers to the following questions, as detailed in the schedule that I now table, be distributed and printed in *Hansard*: Nos 9, 11 and 14.

TRAVEL AGENTS ACT

9. **The Hon. DIANA LAIDLAW** asked the Minister of Consumer Affairs in relation to the Travel Agents Act:

1. What was the total revenue received from licence fees in 1990-91 and what is the estimated value of fees to be collected this financial year?

2. What was the cost of administering/supervising the Act last year?

3. What proportion of the licence fees was transferred to general revenue?

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

1. The total revenue received from travel agents' licence fees during 1990-91 was $83 000. The estimated value of fees to be collected this financial year is $93 000.

2. The cost of administering/supervising the Travel Agents Act during 1990-91 was $54 911.

3. The proportion of licence fees transferred to general revenue was 100 per cent.

SOUTH AUSTRALIAN FILM CORPORATION

11. **The Hon. DIANA LAIDLAW** asked the Minister for the Arts and Cultural Heritage: In relation to the South Australian Film Corporation's write-off of pre-production drama projects in 1990-91, amounting to $553 000, what was the name and value of each of the drama productions written off?

The Hon. ANNE LEVY: The reply is as follows:

SOUTH AUSTRALIAN FILM CORPORATION
DRAMA PROJECTS WRITTEN OFF 1990-91

Project Name	$	Project Commenced	Reason for Write-off
Starship Home	199 000	Jan. '86	As a consequence of delays associated with litigation over the script, the corporation was unable to refinance the production under the then section 10BA taxation incentives. Subsequent attempts to obtain pre-sales and raise investment finance through the Film Finance Corporation were also unsuccessful.
Gaza Beach Girls	172 000	Jun. '87	Although the corporation secured a pre-sale from an Australian television network, it was not able to obtain appropriate distribution guarantees and other pre-sales to obtain investment finances from the Film Finance Corporation.
Flowers of the Forest	20 000	Nov. '90	The amounts written off represent script and concept development costs. The corporation has assessed that these projects do not presently have sufficient commercial potential to obtain investment finance.
Nobody's Sweetheart Now	38 000	Sep. '89	
Clark Kent	28 000	Sep. '89	
Jumbo	4 000	Nov. '89	
Bjorn Again	1 000	Jul. '89	
Portmans Projects	8 000	Jun. '90	In 1990 the corporation entered into joint venture project development arrangements with Portmans (a London-based production company). After one year of operation the corporation assessed that there was little likelihood of properties being financed in the near future and accordingly it was decided to terminate the arrangements.
Portmans—SAFC Venture	73 000	Jun. '90	
Nine Network Marketing	2 000	Jun. '89	Minor concept development costs for which the corporation has assessed there is little commercial potential.
Wilderness Park	2 000	Nov. '90	
A Taste of Murder	2 000	Nov. '90	
General Purpose Development	4 000	Jun. '90	
	553 000		

SWIMMING REGULATIONS

14. **The Hon. R.I. LUCAS** asked the Minister for the Arts and Cultural Heritage:

1. Has any review been conducted of the Education Department's 'Swimming—Recreational' regulation as a result of the tragedy last year when a student drowned whilst on a school camp?

2. If there has been a review, what were the results of that review, what action has eventuated and are the regulations to be changed?

3. In particular, what action has the Education Department taken with respect to the Coroner's statement that the whole question of primary and junior primary school students being allowed to go into waters akin to those of Crystal Lake as it was on 7 November 1990 should be investigated?

The Hon. ANNE LEVY: The replies are as follows:

1. The Education Department has a comprehensive set of guidelines for the approval of camps and excursions. These guidelines have policy level status and are binding on schools where principals are expected to address the supervision and safety precautions prior to an excursion or camp. The particular document *Guidelines for Approval—Adventure Camps and Excursions* contains specific reference to 'Swimming—Recreational' and includes leader qualifications and safety requirements. The requirements are continuously reviewed with advice sought from relevant authorities in the particular field. In the case of recreational swimming, requirements are set with advice from such groups as the Royal Life Saving Society and the Surf Life Saving Association. In June this year all sections of the document were referred to relevant authorities as part of a comprehensive review.

2. The guidelines for recreational swimming have been found to be current, comprehensive and most adequate and provide clear guidance for supervisors of swimming activities. Partly arising from the incident at Crystal Lake in November 1990, school principals have been informed through a directive from area directors that the guidelines are to be observed for all camps and excursions to ensure the protection and safety of children.

3. The Coroner's opinion was that 'it was a risk of some magnitude to allow children of 11 and 12 years of age to swim in waters with no real visibility' and that 'having regard to the possibility of suddenly drowning in fresh water, swimming and engaging in activities in such waters or adjacent to them where they are not reasonably translucent constitutes a significant risk without safety precautions appropriate to the circumstances. However, excursions for recreational swimming are highly desirable for children and should not be unnecessarily curtailed in suitable conditions and venues.' The Education Department, in reviewing the guidelines, has found that they are adequate and has acted to inform schools and principals of the precautions, risks and necessity for following the requirements for the conduct of camps and excursions. The Coroner's analysis of the requirements also found them adequate for assessing the relative risks associated with the incident referred to.

PAPERS TABLED

The following papers were laid on the table:

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

Reports, 1990-91—
- Country Fire Service;
- Court Services Department.

Daylight Saving Act 1971—Regulations—Summer Time.

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

Reports, 1990-91—
- Bookmakers Licensing Board;
- Greyhound Racing Board;
- Meat Hygiene Authority;
- Racecourses Development Board;
- South Australian Health Commission;
- Woods and Forests Department.

Commercial and Private Agents Act 1986—Regulations—Licensing Exemption.

Land Agents, Brokers and Valuers Act 1973—Regulations—Border Agent Exemption.

By the Minister for the Arts and Cultural Heritage (Hon. Anne Levy)—

Reports, 1990-91—
- Auditor-General's Department;
- Children's Services Office;
- Coast Protection Board;
- Engineering and Water Supply Department;
- Environmental Protection Council;
- Outback Areas Community Development Trust;
- South Australian Urban Land Trust.

Fees Regulation Act 1927—Regulations—Proof of Age Card.

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

Corporation By-law—Mount Gambier—
- By-law No. 5—Council Land.

District Council By-law—
- Strathalbyn—No. 8—Liquor Consumption.

QUESTIONS

TEACHER INVESTIGATIONS

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

Leave granted.

The Hon. R.I. LUCAS: I refer to the investigations now under way by the Crown Solicitor's Office into claims that teachers have been denied natural justice by the Education Department. The investigations were begun following claims in the *Advertiser* on 31 August that at least one teacher had suicided and many others had sought treatment for stress after becoming the subject of investigation by the department. Some of these investigations continued for over 12 months without resolution.

Following the revelations, the Education Minister announced that the Crown Solicitor's Office would be asked to conduct a further inquiry. At the time the Liberal Party and the South Australian Institute of Teachers were critical of the decision, arguing that it was essential that an independent inquiry was held. The Liberal Party's view was that, because the Crown Solicitor's Office was already involved in giving advice on Education Department investigations against teachers, the office's impartiality could be questioned. However, I have now received documentation that gives further concern about the impartiality of these investigations. I refer, first, to a memo dated 19 September from the department's southern areas Director, Ms Rosemary Grecanin, which says in part:

> As from 2 September 1991, the Education Department's legal officer, Ms Carolyn Pike, will transfer to the Attorney-General's Department to undertake further training and development for a period of approximately three months.

I have also received a letter, signed by Ms Pike and dated October 1991, which was sent to one of the teachers suspended from normal teaching duties pending investigations by the Education Department. It says in part:

> Dear (. . .) I act for the Minister of Education in relation to a review of the Education Department's investigations of teachers. On 31 August, the *Advertiser* published a report which deals with claims that school teachers under investigation by the Education Department are being denied natural justice. Following the publication of that report, the Minister instructed me to investigate those claims. As part of my investigation, I am writing to all teachers who were the subject of such investigations by the department, which are either ongoing or were completed this year, and inviting any comments or criticisms of the department's handling of their individual case. I am informed that you are one of those teachers. If you wish to make any comment, or have any criticism of the Education Department's handling of your investigation, I would be grateful to receive your comments in writing within 14 days of the date of receipt of this letter. Once I have received

comments, I will prepare a report for the Minister, addressing the adequacy of the procedure followed in each case, and advising as to whether a further inquiry should be held.

As I have already said, this letter was signed by Ms Pike. The Opposition has made inquiries this week of the Attorney-General's Department to determine Ms Pike's role, and it was made quite clear that, while Ms Pike is answerable to the Assistant Crown Solicitor, Mr Alan Moss, it is she who is handling the investigations. My office has been contacted by one teacher expressing alarm at this situation and indicating his unwillingness to participate in such a farce. My questions to the Attorney-General are as follows:

1. Does he believe there can be an impartial inquiry into claims that teachers have been denied natural justice when the person conducting the inquiry is from the department accused of denying natural justice?

2. Does he believe that the Crown Solicitor's Office is the appropriate body to investigate these allegations of denial of natural justice, given that the office has previously provided advice on whether there is sufficient evidence against teachers to warrant the matter being referred to the Director-General of Education?

3. Given that the official reason for Ms Pike's secondment to the Attorney-General's Department was for 'further training and development', what training and development is Ms Pike receiving and will the Attorney ascertain what formal training, if any, Ms Pike possesses in evidence gathering and special interviewing techniques?

The Hon. C.J. SUMNER: I will have to give consideration to those matters and, in effect, take them on notice and bring back a reply.

MINISTERIAL STATEMENT: SMALL BUSINESS

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

Leave granted.

The Hon. BARBARA WIESE: Last Thursday in this place, in response to a question from the Hon. Legh Davis, I undertook to provide information regarding research into the causes of small business failure. There is a substantial body of literature dealing with the skills required to manage a small business and many of these papers touch on the causes of business failure. In particular, however, I refer the honourable member to the following research. These are key papers in terms of assessing the cause of business failure because, in almost all cases, they are based on primary research: that is, they rely on surveys of and interviews with hundreds of small businesses themselves. They are: 'Small Business Mortality: Business Bankruptcies in South Australia' by Peacock, Palmieri and Spatharos of the South Australian Institute of Technology (1988); 'Small Business as a Job Creator: A Longitudinal Study in Australia 1973-1987' by A.J. Williams of the University of Newcastle; 'The Characteristics and Performance of Small Business in Australia 1973-1985', an unpublished report, also by Williams; 'Small Business Mortality: Legal Failures in South Australia' by R.W. Peacock of the South Australian Institute of Technology, 1985; and 'Small Business Bankruptcy and Failure—A Survey of the Literature' by J. Berryman in a document entitled *Small Business Research* published by the Institute of Industrial Economics, University of Newcastle, 1982. The papers by Williams are particularly significant because of the duration of the study—one and a half decades from 1973 to 1987—encompassing a variety of economic climates.

All this research indicates that management shortcomings and personal problems are the major reasons for business failure. Peacock, Palmieri and Spatharos conclude that 87.3 per cent of bankruptcies could be attributed to these causes. Williams puts this figure at 81.4 per cent. Peacock, in researching company insolvencies in 1985, arrived at a figure of 81.2 per cent, and Berryman concluded that management and personal problems accounted for 90.9 per cent of business bankruptcies. A great deal of research has been undertaken into this subject in other developed countries, and the Australian papers I have referred to correlate with equivalent overseas studies.

Much of this research underpins the recommendations and conclusions drawn in recently released reports by influential business authorities. I refer the honourable member to pages 48 to 55 of the Beddall Report published last year, and to a paper by the Australian Chamber of Commerce entitled *Small Business Failure* released just six or seven months ago. At page 7, that report states:

> From within the small business community comes the major reason for small business distress and ultimate failure: deficient financial and management skills are by far the most significant causes of small business distress and failure in Australia.

That is the conclusion drawn by the Australian Chamber of Commerce.

I turn now to South Australia's own Small Business Corporation, an organisation whose credentials are held in high regard by the honourable member. Unrecognised management incompetence has long been identified by the corporation as a high priority problem area. Therefore, the corporation actively promotes the development and presentation of business skills programs by other organisations and also presents courses itself.

The reason why such a high priority is given to this area of activity is revealed in the corporation's 1990-91 annual report recently tabled in this place. The Chairman's report, (page 3) states:

> Although the current economic environment may have triggered insurmountable problems for some businesses, research by the corporation indicates that management shortcomings are still the most significant primary cause of business distress.

Page 5 of this report reveals that historically management shortcomings and personal problems accounted for as many as 90 per cent of all business failures. It goes on to suggest that, while economic conditions may now be more significant than in previous studies, personal and management problems are still the primary cause of bankruptcy and accounted for 70.5 per cent of the failures in a limited survey conducted early this year.

It is noteworthy also that, while high interest rates are considered to be the primary cause of current economic conditions, they appear to be only directly responsible for 5 per cent of the financial distress problems in this sample. During his question last Thursday the honourable member also challenged me to name business organisations who supported the views I have already put. Here are just a handful. The Economic and Advisory Council, quoted in the *Advertiser* on both 10 and 13 May 1991, suggested that Australia's economic problems 'spring but little from Government policy'.

The Retail Traders Association Executive Director, Peter Anderson, was quoted in the *Advertiser* on 13 May as saying that, while the economic downturn contributed to an increase in business bankruptcies, the principal factor still relates to bad management.

Members interjecting:

The Hon. BARBARA WIESE: I am quoting business organisations.

Members interjecting:

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

The Hon. BARBARA WIESE: On 18 March 1991, an *Advertiser* article claimed that 'one of Australia's main business lobby groups has made a key admission—bad management, not Government, is what brings down most small business'. The *Advertiser* was reporting on the Australian Chamber of Commerce report to which I referred earlier. In the same newspaper on 29 November last year, Stephen Young, managing partner of Arthur Andersen and Co. stressed that poor management accounts for 90 per cent of small business failures. In the *Financial Review* in July the same year, the Australian Small Business Association's then president Peter Carts also conceded that poor management was the main cause of business failure. A month earlier in the *News* the Australian Bankers Association agreed, saying that poor financial management was the main cause of business problems.

In asking a series of questions about the causes of business failures, the Hon. Legh Davis has implied that I have misled the Council and insulted small business, I reject this allegation. The information I have provided about the causes of bankruptcy applies to less than 1 per cent of businesses in South Australia who have failed. There are undoubtedly others that are fragile. Of course, Government policies have an impact and action is being taken to examine these and to make changes where appropriate. My aim, as Minister of Small Business, is to ensure that small businesses are able to seize the opportunities of the 1990s as Australia's economy recovers, and have the management skills to do so and to avoid unnecessary failures. For some small businesses confidence will be a key factor in survival. The climate is fragile, and I call on the honourable member to cease his campaign of knocking South Australia and consistently undermining business confidence in this State.

WORKCOVER

The Hon. K.T. GRIFFIN: I seek leave to make an explanation before asking the Attorney-General a question about WorkCover review officers.

Leave granted.

The Hon. K.T. GRIFFIN: The Law Society has written to me about the issue of the independence of WorkCover review officers. I understand it also wrote to the Attorney-General. That followed some public controversy recently when WorkCover sought to interfere with the work program of review officers. In its letter, the Law Society says:

> The society is concerned that WorkCover review officers are presently placed in an entirely untenable position. They are expected to exercise a quasi-judicial function where WorkCover is a major litigant before them. They are also expected (by WorkCover management) to be accountable to WorkCover with respect to the nature and content of their determinations, their productivity and their performance.

The Law Society has said that the position of WorkCover vis-a-vis the review officers is the same as suggesting judges of the District Court (who handle motor vehicle personal injury claims) should be responsible for such matters to SGIC which administers the motor vehicle compulsory third party insurance scheme. The Social Justice Law Group Inc. has also raised these issues, and in its correspondence it says:

> It has come to our attention that review officers have been given directives by the Chief Executive Officer of WorkCover Corporation to, among other things, refuse adjournments, refrain from writing long determinations or citing cases, and desist from levelling criticisms at the corporation. This action has been taken despite a legal opinion provided to the [WorkCover] board advising against such interference.

The issue is an important issue of principle and justice which ought to be addressed by the Attorney-General as the Chief Law Officer of the Crown and not referred to another Minister. My questions to the Attorney-General are:

1. Does the Attorney-General agree that, as a matter of principle, WorkCover should be interfering in the administration of the work of review officers?

2. What solution would he propose to overcome the problem? Would he, for example, transfer the review officers to the Industrial Commission?

The Hon. C.J. SUMNER: As I understand it, the legislation requires the review officers to exercise their authority or decision-making powers independently, and that obviously answers the first question. However, I have not yet examined the correspondence that the honourable member says has been sent to me, but I will do so in conjunction with his question and explanation and bring back a reply.

HIGH SPEED TRAINS

The Hon. DIANA LAIDLAW: I seek leave to make an explanation before asking the Minister representing the Premier a question about high speed trains.

Leave granted.

The Hon. DIANA LAIDLAW: The meeting of State and Territory leaders in Adelaide on Sunday resolved that the agenda for the forthcoming Premiers' Conference include 'sustainable employment growth by way of new investment in infrastructure'. I am not sure what the Premier has in mind in terms of infrastructure projects, but I recall that, following a trip to Japan in April 1988, the Japanese company Hazama Gumi Ltd offered to build a multi-million dollar demonstration track in Adelaide for a 300 kph intercity bullet train. The offer was made in the hope the company eventually would win the right to build bullet train services that would travel Adelaide-Melbourne and Sydney-Melbourne in under three hours.

More recently a similar service between Sydney-Melbourne via Canberra to Adelaide was proposed by the very fast train consortium. This project as members will recall and I suspect regret folded due to the Federal Government's refusal to provide tax write-off rules that would have helped the consortium defray initial very heavy construction costs. In the meantime, in France the very fast train, TGV, has just celebrated a decade of service between Paris and Lyon, a distance of 460 kilometres, covered in just two hours, with trains travelling at 270 km/h. We are lucky if our Melbourne to Adelaide Overland train reaches a speed of 80 km/h. Another train, the Paris West service—

The Hon. Anne Levy interjecting:

The PRESIDENT: Order!

The Hon. DIANA LAIDLAW: I am trying to find out what the Premiers are talking about and getting—

The Hon. Anne Levy interjecting:

The Hon. DIANA LAIDLAW: That is a matter that I am calling for the Premier to investigate. If you would not interject, I would get to that. Another train, the Paris West service inaugurated this year cruises at more than 300 km/h. Soon the French TGV will be routinely travelling at 350 km/h. The proposed high speed train network linking Paris and London through the Channel tunnel will cut travel time to three hours and, shortly, 2.5 hours when infrastructure on the British side allows these trains to travel at their full speed. I note that other high speed lines are expected before the end of the decade from Paris to Brussels, Amsterdam, Geneva, Cologne and other European cities.

I note also that contracts for South Korea's 500 kilometre Seoul-Pusan line are being constructed at present, and other high speed lines are to be built or will be under construction

by the year 2000 in Taiwan, Texas, Canada, Brazil and possibly in Russia between Moscow to St Petersburg. By contrast, in Australia all we ever hear is depressing news day after day about railway line closures and job losses. In fact, the way things are going in this country, it is doubtful whether Australia, let alone South Australia, will see high speed trains before the end of next century, not to mention by the end of this century. Therefore, I ask the Premier, through the Attorney-General:

1. Does the welcome call by State and Territory leaders for infrastructure initiatives to generate sustainable employment—a matter that I suspect all members do support—envisage Federal taxation incentives for the construction of high speed train services between Adelaide and Melbourne via Canberra to Sydney and possibly Brisbane?

2. Will the State Government consider, as a condition of signing the National Rail Corporation Agreement, the merits of initiating a feasibility study in association with the very fast train consortium, or some other private sector company for the construction of a standard gauge rail line from Adelaide to Melbourne that could accommodate a high speed train service?

The Hon. C.J. SUMNER: I will refer the question to the Premier and bring back a reply. The honourable member's enthusiasm for fast train services operating out of most major cities in Australia is commendable, but I do find it somewhat drawing a long bow to compare the situation in France, the Soviet Union, Brazil, or wherever else, with the situation in Australia, if for no other reason than I would have thought the population density in those countries was considerably greater than in Australia, so the capacity to make a fast train operate economically was much more likely in those countries than in Australia. Nevertheless, the honourable member has made her point, and no doubt she can continue with her enthusiasm. All I would ask her to do is make some realistic comparisons between the situation in Australia and those countries which she mentioned.

AUSTRALIA-NEW ZEALAND RELATIONS

The Hon. T.G. ROBERTS: I seek leave to make an explanation before asking the Minister representing the Minister of Industry, Trade and Technology a question about closer economic relationships between Australia and New Zealand, commonly known as CER.

Leave granted.

The Hon. T.G. ROBERTS: In 1982 a proposed arrangement for closer economic relationships between Australia and New Zealand was negotiated with the then Fraser Government. I think the then National Party Leader, Doug Anthony, had a lot to do with the negotiating of that agreement with New Zealand.

The Hon. Anne Levy interjecting:

The Hon. T.G. ROBERTS: Yes, the Hon. Mr Muldoon was on the other end of those negotiations. He is now a back bencher in the Bolger Government. The draft heads of agreements were discussed and included principles relating to tariffs, import restrictions, modifications to trade liberalisation, intermediate goods or deflect goods, agricultural support, stabilisation measures, export subsidies and incentives, Government purchasing, customs issues, rationalisation and other trade distorting factors, consultation provisions, safeguards during the transition period and many other matters associated with the liberalisation of the old trade agreement of NAFTA, to set into place an economic relationship that reflected a more modern day approach between the two emerging economies of Australia and New Zealand.

The CER negotiations continued through into the Hawke Labor Government period to 1986 when a draft report was put together by the Senate Standing Committee on Industry and Trade. I understand that another report was put together in 1988 but, because I do not have a copy of it, I will have to quote from the 1986 report. I understand from my memory, such as it is, that the quotes in relation to labour costs and trans-Tasman transport costs were the same. The 1986 report states, in part:

5.7 *Labour Costs*

5.7.1 A number of witnesses raised the issue of labour cost differences between Australia and New Zealand. It is generally agreed that New Zealand labour costs are about 40 per cent lower than those in Australia. However, this is partly offset by greater productivity gains in Australia arising from greater scale economies and access to more up-to-date machinery and equipment.

It goes on to say in point 5.7.2:

Labour costs are just one of a number of factors which determine comparative advantage and should therefore not be subject to any deliberate intervention in the market place. Australian manufacturers must counter this difference by exploiting other comparative advantages.

Point 5.7.3 goes on to say:

To a certain extent, some rationalisation has already taken place on both sides of the Tasman but no major dislocation of labour has been apparent. No doubt trade unions in both countries would oppose major relocations of industries. The committee believes that it is most unlikely that companies would relocate in the short to medium term merely on the basis of difference in labour costs only.

Point 5.7.4 further states:

Part of the 1988 review will need to address the desirability of achieving greater harmonisation with respect to all facets of the employment of labour.

Point 5.7.5 states:

The extent to which all factors of production, not only labour, will be able to move from one country to the other as CER expands will have an important bearing on factor costs differences in the long term.

It not only has implications for secondary industries but also an effect on primary industries. A lot of nervous people in the primary industry sector are looking closely at the labour cost advantage now being enjoyed by New Zealand under the Employment Contracts Bill. I have just received a copy of an advertisement that appeared on behalf of the New Zealand Government, and it states:

The bottom of the world has just become a top proposition as a manufacturing base. Right now there are many good reasons to consider relocating your manufacturing base in New Zealand.

This was after the CER agreement had been signed and put into effect over a number of years. It further states:

The recent Employment Contracts Act abolishes industrial awards. leaving employers free to negotiate terms of employment for a labour cost saving of up to 25 per cent.

This is on top of the already 40 per cent advantage that existed prior to the finalisation of the CER agreement. The advertisement continues:

No payroll tax, no compulsory superannuation contributions and no holiday pay loadings.

These are all bound up in the advertisement arguing for relocation of industries from Australia to New Zealand. It further states:

Accelerated depreciation allowances, access to venture capital and support for private research and development are the next planned Government moves.

This is a fact that they are advertising. It continues:

A depressed commercial and industrial property market leading to attractive purchase, rental or lease arrangements. Talk to our team of experienced, informed businessmen and see how economically viable New Zealand has now become. Enquiries in the initial stages may be made to: Brian Randall, 325 Collins Street, Melbourne 3000.

I read that as part of the explanation. As members on both sides of the Council know, the spirit of CER in my view has been broken. Will the Minister of Industry, Trade and Technology take up with his Federal counterparts the emerging problems with the CER agreement emanating out of the Employment Contracts Bill and the favourable disposition of, in particular, the wages and salaries section of the New Zealand labour market compared with that in Australia?

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

TANDANYA RESORT

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister of Tourism a question about a public meeting regarding the Tandanya resort on Kangaroo Island.

Leave granted.

The Hon. M.J. ELLIOTT: Last week, on Thursday 24 October, a public information meeting was held on Kangaroo Island to discuss the Tandanya resort proposal. There was a subsequent radio interview with a Tourism SA officer. I will read a letter written to 5AN by a person present at that meeting as follows:

Dear Sir,

I heard a news report on Radio 5AN at 7.45 this morning, Friday 26 October.

The news broadcast reported John Trowse from Tourism SA as saying that by far the greatest majority of the 100-150 people present at a public meeting last night supported the Tandanya development by System 1 on Kangaroo Island. He is reported as saying that only a few environmentalists had concerns, and that they were opposed to any development on K.I.

These comments are a mispresentation. By the comments made and questions asked, and by the general tone of the meeting, it was clear that the greatest majority of people were opposed to the Tandanya development as outlined by System 1.

However, at no time did the Chairman or John Trowse, or the System 1 representative ask for any show of hands, vote, or any other way of formally gauging the support or otherwise of people present.

This meeting was called to inform the public about the nature of the style of concept plans for a development System 1 is seeking planning approval to build at the Tandanya site. The present site has been approved with conditions for the previous owner. As yet, System 1 have not submitted plans. They are awaiting supplementary development plan outcomes.

Many of us that oppose the Tandanya development do not oppose all development on K.I. In fact, we support several styles and locations. However, we believe that there are serious environmental concerns that have not and can not be satisfactorily addressed.

I have been contacted by several people who were at the meeting and they corroborate the view presented in that letter. They have said that the comments made on radio bore no resemblance to the truth whatsoever, that their questions to the Tourism SA and System 1 representatives were not satisfactorily answered, and that they feel as if the department is playing games with the truth in order to have the resort go ahead rather than let it be decided on the proposal's merits. Indeed, they were surprised that the meeting should have finished late one night and that by early the next morning a press release had arrived at least at 5AN, if not at other stations. The question that I put to the Minister is not about the merits of Tandanya but rather whether she can explain why officers of her department apparently have been involved in deliberate misrepresentation of the public meeting on Kangaroo Island.

The Hon. BARBARA WIESE: I have not yet received a report from my officers about that meeting. In fact, I believe I am meeting with officers of my department tomorrow, when I expect to be brought up to date about events that took place at the public meeting held on Kangaroo Island last week. From what I have heard anecdotally from various sources, the number of people who attended the meeting seems to be in dispute. One report I received indicated that there were only about 80 people at the meeting, but the honourable member suggests that 100 to 150 people might have been present. Whatever is the appropriate number, it is still a relatively small proportion of the total population of Kangaroo Island, which I understand is about 3 000 people.

That aside, the purpose of the public meeting on Kangaroo Island last week, as I understand it, was to allow representatives of the proponents—System 1—and representatives of the council and of Tourism SA, who have all had some involvement at one level or another in this development, to answer questions from members of the Kangaroo Island public who have expressed concerns about this proposed development. The idea was to enable as much consultation as possible, to enable people to hear the facts about the development, to raise concerns that have been expressed by various people on the island and to test whether or not that information is accurate or otherwise. So, I believe that the motives for the meeting were very good and I would have expected that the Hon. Mr Elliott would support fully an activity of this sort, because he very regularly calls for more rather than less public consultation and for more rather than less information to be provided to the public about any proposed development in South Australia. That is exactly what this meeting and other meetings that have been held on the island were designed to achieve.

A number of environmental matters have been raised by people on the island. Conditions were placed on the proposed development at the time of planning approval and System 1 will be required to account for those matters when it makes application for the development to proceed. So, there can be no suggestions that in any way System 1 is being allowed to get away with something that it should not. It will be required to satisfy all the conditions that were imposed upon the development at the time the approvals were given. There will be further opportunity for the public to comment upon the development through the normal course of events. I ask the Hon. Mr Elliott and other people who have an interest in or a concern about this development to treat the process in a serious and open-minded way and to allow the proponents a fair go in presenting their proposition and answering the issues that have been raised.

The Hon. M.J. Elliott interjecting:

The Hon. BARBARA WIESE: As to the honourable member's interjection that the question was about an officer in my department and comments that may or may not have been made by the officer concerned, that is a matter about which I will seek information and I will do so in the context of a full and balanced report about the public meeting that was held last week.

The Hon. M.J. ELLIOTT: As a supplementary question, does the Minister encourage her officers to make public statements and does she have some concern that, having made statements of their own volition, those statements turn out to be inaccurate?

The Hon. BARBARA WIESE: It has not been established that statements made by an officer of my department were inaccurate. Certainly, if statements made by officers from any of my departments turn out to be inaccurate, that is a matter of concern to me. I know the officer to whom the honourable member refers and I consider him to be a very responsible officer of Tourism SA. So, I would be very surprised if he has provided inaccurate information to the media. I am not able to comment any further, other than

to repeat that I will be receiving a full report about the public meeting on Kangaraoo Island. I expect that officers of my department—and more than one was present at that public meeting—will be able to provide me with their impressions of the range of opinions that were expressed by the various people who attended that meeting.

OFFICE OF FAIR TRADING

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Minister of Consumer Affairs a question about the Office of Fair Trading.

Leave granted.

The Hon. L.H. DAVIS: Mr and Mrs Paul Kennelly purchased a toy shop and newsagency in Park Holme on 31 December 1990, including stock valued at $100 000. One of the items they purchased was a child's folding deck chair, which they placed on the top of a fixture at the back of the shop. On 31 May 1991, five months later, an inspector from the Office of Fair Trading inspected the shop and advised them that the chair was unsafe, should not be on display and issued them with an infringement notice and a fine of $200.

The inspector admitted that this defect had probably not been brought to the proprietor's attention. He advised that the proprietor could ring a senior officer if he were unhappy. Minutes later, Mr Kennelly received a phone call from another toy shop advising that he had also been fined for displaying the same chair. The other proprietor advised Mr Kennelly not to bother about ringing the senior officer because he was unsympathetic and quite disinterested.

This matter was brought to the attention of some members of Parliament, including the Labor member for Mitchell, Mr Paul Holloway. Mr Holloway was obviously concerned about the matter because he raised it with the Minister of Consumer Affairs, the Hon. Ms Wiese, in the budget Estimates Committee last month. In answer to Mr Holloway, the Hon. Ms Wiese said:

> . . . it is the policy of the Department of Public and Consumer Affairs to place strong emphasis on the question of education and monitoring before any resort is taken to impose trader infringement notices and prosecutions.

Notwithstanding Mr Holloway's concern expressed both during the budget Estimates Committee and in a written representation to the Hon. Ms Wiese, the Minister advised that the fine would not be withdrawn. In his letter to the Minister, Mr Holloway said:

> If respect for the law is to be maintained, it should be administered fairly . . . I believe that an infringment notice in this instance was unduly harsh. Given the circumstances, a warning may have been a more appropriate response.

I first became interested in the matter when the Kennellys wrote a complaining letter to the Editor of the *Advertiser*, which was published earlier this month. I have ascertained a few more facts about this disgraceful affair. The manufacturer of the chair produced several thousand chairs, which were sold in all Australian States over a seven year period. It has received no complaints from any other State apart from South Australia. I understand that, although the Office of Fair Trading fined the Kennellys on 31 May, the office made no contact with the manufacturer before that date.

The Kennellys, who were very upset at Sir Humphrey's $200 fine, were reluctant to pay it until all avenues had been exhausted. They eventually paid it on 1 October, after receiving a phone call from the Office of Fair Trading informing them that if the fine were not paid within seven days they would be liable for a $10 000 fine. The Kennellys, with the weight of the case clearly against them, with a disinterested Minister and a disinterested department, wrote the following letter:

> Dear Sir, Please find enclosed cheque, paid under the greatest protest, for a fine imposed by your department on our store for selling a child's chair you deemed unsafe. The fact that yourself and the Minister responsible feel it is just to fine a small business in such a manner, without sending any warnings, in these tough economic times, makes us aware how sad it is that our State has people such as yourselves in charge of Government departments and representing us in Parliament. We are insulted that you call yourself the Department of 'Fair' Trading. We are about to present this matter to the local press to make the public aware of your department's disgraceful conduct.

The letter is signed by P.A. & E.J. Kennelly, Proprietors. Of course, the Minister of Consumer Affairs is also the Minister of Small Business. She must know that hundreds of small businesses are bleeding to death from this severe economic recession, without having to withstand hamfisted, jackbooted bureaucratic behaviour such as has been witnessed in the incident I have mentioned.

I spent some time talking to the Kennellys: they are decent people who are absolutely devastated by the cold application of the law, the lack of commonsense and the indifference of the department and of the Minister to the clear facts of the case. My questions are:

1. Why did the Minister refuse to intervene in this case, notwithstanding the strong representations from the member for Mitchell when, in the budget Estimates Committee, she said that education was the key to the Office of Fair Trading before fines were imposed?

The Hon. R.J. Ritson: That was very misleading, wasn't it?

The Hon. L.H. DAVIS: Indeed it was, but that's something we're used to.

2. When did the Office of Fair Trading first make contact with the manufacturer about the alleged defect in the children's chair?

3. Was a notice from the Office of Fair Trading regarding this defect in the chair distributed to toy proprietors and, if so, when?

The Hon. BARBARA WIESE: The answer to the first question is that I have no power under the Act to waive the trader infringement notices that were given to the—

The Hon. L.H. Davis: If you were a Minister with any guts you would.

The PRESIDENT: Order!

The Hon. BARBARA WIESE: Well, I'm bound by legislation, Mr Davis. Perhaps the honourable member does not take much notice of the legislation that passes this Parliament, and perhaps he would not take any heed of it if he were in my position. However, I take my responsibilities very seriously.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order! The Council will come to order. The Minister will resume her seat. The question was asked in silence. Everyone was interested in the question and I would imagine that everyone is interested in the answer. I ask the Council to respect the Minister when she is giving an answer.

The Hon. BARBARA WIESE: There are two grounds on which I may waive or overturn a trader infringement notice; neither of those conditions applied in the circumstances to which the honourable member has referred. I am familiar with this case, and I recommend to him that he learn a little bit more about South Australian consumer protection legislation before he asks questions because, if he did, he would not waste the time of the Council by asking them. The fact is that under the legislation I do not have the power to waive the trader infringement notices that were

imposed upon the trader to whom the honourable member referred.

As to the honourable member's second question, the folding chair to which he referred was put into the category in which it currently stands in 1985. Numerous warnings have been given to members of the public and to traders about the fact that this folding chair is a dangerous product, particularly for children. The honourable member might not take the issue of the safety of children seriously, but staff members of the Office of Fair Trading and I do. Late last year, a Queensland child lost its fingers with one of these chairs, and I will not be responsible for South Australian children being in the same position.

This product has been identified as being dangerous. It is the responsibility of traders to know what issues affect their own business. In these circumstances, ignorance is not a defence under the law. I would expect that proprietors of toy shops would make it their business to know which products are safe and which are not safe. In the 18 months or so that I have been Minister, I can recall at least two occasions when either the Office of Fair Trading or I made public statements about these folding chairs. As I said, it has been an issue since 1985. I would expect traders who are selling children's toys to be aware of those issues.

Recently, I initiated a review of the procedures within the Office of Fair Trading to ensure that, if people do not read the newspapers or do not seek out information about legislation that covers their area of business activity, I can provide as much assistance as possible to them through the Office of Fair Trading. The new procedures will provide a complete listing of all goods which have been declared dangerous or which have been banned or recalled, so that that information will be readily available for anyone who calls the Department of Public and Consumer Affairs.

The Hon. L.H. Davis interjecting:

The Hon. BARBARA WIESE: That information is available, but I have asked for it to be presented in an easily accessible form so that no time will be wasted by traders who call the Office of Fair Trading seeking this sort of information. I have also asked for steps to be taken to ensure that there are other points of contact for people who are establishing businesses and who are not given access to that information by the previous owners. They should be informed that they may need to check with the Department of Public and Consumer Affairs if they are establishing a retail store, for example, concerning aspects of this legislation that might cover their business activity. I hope that, by taking these measures—which, I might say, should not be necessary, because it is the responsibility of traders themselves to seek this sort of information—this sort of information will be provided in order to be as helpful as possible.

It would be useful for the honourable member to take into account that, as I said in the Estimates Committee, it is the first preference of the Office of Fair Trading to provide information first and to educate traders about their obligations. However, it also has the discretion to make judgments about how serious breaches are. That is a right and proper responsibility for the Office of Fair Trading to bear. In circumstances such as these where a particular product not only has been found to be unsafe but has caused serious injury to children, it is reasonable that the Office of Fair Trading should take serious action in these matters.

That aside, over the past 18 months or so, in addition to the small number of trader infringement notices issued on the occasion to which the honourable member referred, seven letters of caution about such matters have been sent to traders. In the majority of cases, traders receiving such letters have conducted appropriate recall procedures. People have been asked to give assurances that they will recall these products or take them off the shelf.

Members interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: The fact is that officers do their best to provide information to traders. It is six years since this particular product was declared unsafe and was not to be put on the shelves of South Australian stores. At various times during that six-year period that information has been brought to the attention of the public and traders. I am sure that all members would expect that in that time people would have taken proper notice of their obligations under the consumer protection legislation.

WORKPLACE REGISTRATION

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Minister representing the Minister of Labour a question about workplace registration.

Leave granted.

The Hon. J.F. STEFANI: On 4 April 1989, the Attorney-General introduced a number of amendments to the Occupational Health, Safety and Welfare Bill 1989. Under section 67 *(a)* (5) the amendments included a provision to enable the registration of employers under the Workers Rehabilitation and Compensation Act 1986. The amendments further provided that WorkCover would collect a workplace registration fee based on a percentage of the amount of any levy payable by employers.

The registration fee was previously based on the number of employees engaged by a particular employer and was collected by the Department of Labour. When dealing with the legislation, the Liberal Opposition raised serious concerns about the Government's intentions to collect such registration fee as a prescribed percentage of the levies imposed on employers by WorkCover. We argued that this procedure would become an automatic backdoor taxation system on employers because higher registration would be payable whenever WorkCover increased its fees.

Just two days later, on 6 April 1989, the Attorney-General moved a second series of amendments and under section 67 *(a)* (5) *(a)* the new amendments provided that the periodical fee which was payable under the old system would be calculated in a prescribed manner and collected by WorkCover, obviously omitting the percentage factor contained in his previous amendments.

In July 1990 WorkCover increased the levies payable by 304 employment categories by an average of 41.75 per cent. WorkCover levies, such as those paid by employers in the construction industries, were increased by 66.6 per cent. Equally, the Department of Labour advised employers that the workplace registration fees would be collected by WorkCover at .64 per cent of WorkCover levies.

I have been advised that under the previous registration system a small employer with a work force of 12 people and a payroll of $400 000 per year was paying a registration fee of $52.80 per year to register his or her workplace. However, under the new percentage system implemented by the Labor Government, the registration fee has jumped to $256 per year, which represents a massive increase of 384 per cent in 12 months. In many instances registration fees have been also loaded with a penalty which would reflect an even higher charge by the Bannon Labor Government to register the workplace. My questions are:

1. Will the Minister correct this iniquitous backdoor taxation system, which was never intended by the legislation passed by this Parliament?

2. Will the Minister provide details of the exact amount collected by the Government for workplace registrations for the years 1989-90, 1990-91 and 1 July 1991 to 30 September 1991?

3. Will the Minister advise the number of employers registered for the years 1989-90 and 1990-91, together with the number of employees registered for each of those two years?

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

GAS HEATERS

The Hon. I. GILFILLAN: I seek leave to make an explanation before asking the Minister of Consumer Affairs a question about the sale of allegedly dangerous gas heaters in South Australia.

Leave granted.

The Hon. I. GILFILLAN: It has been brought to my attention that the Gas Company, through the Housing Trust, is promoting the installation and use of 'Cosyglow'—the commercial name—flueless gas heaters at a cost of $459 including installation and payable over three years.

There is, however, a serious concern that they are being promoted at dangerous exhaust gas emission levels. The gas standard, the Australian Gas Association AG-601 installation code for gas burning appliances and equipment, contains the following provisions:

> Approved flueless heaters may be installed provided that gas consumption does not exceed .4 megajoules per hour per cubic metre of room volume for heaters with thermostats and .2 [that is, half] megajoules per hour per cubic metre of room volume for heaters without thermostats.

The Victorian level has recently been amended to read, and I quote from that document:

> The maximum permissible hourly heat input rate for an unflued room heater or unflued space heater shall not exceed .04 megajoules for each cubic metre of room volume.

Incidentally, that is so low that it hardly heats the room. Following inquiry to the Gas Company, it confirmed the promotion and explained that an inspector is sent to examine the room to make sure that the cubic capacity of the room is suitable for the installation and that adequate ventilation is available.

The Gas Company further confirmed that the heaters they promote have a megajoule capacity of 11.5. The Rennai 'Cosyglow', which is the unit promoted, is of 11.5 megajoules per hour and has no thermostat. So, if I remind members, according to the AG-601, that should be .2 megajoules per hour.

The average lounge in a Housing Trust two-bedroom home is 28.8 cubic metres, while in a three-bedroom home it is 37.2 cubic metres. The calculation shows that in a two-bedroom home the maximum size heater should be 5.8 megajoules per hour and, in a three-bedroom home, 7.4 megajoules per hour, compared to the 'Cosyglow's' 11.5, which is substantially over capacity.

This clearly indicates that the carbon monoxide, which is a fatal gas if inhaled in adequate quantities, and other exhaust gases from the excess fuel consumption will not be cleared from the Housing Trust rooms and will create lethal conditions. Lives will be at risk. My questions to the Minister are:

1. As a matter of urgency will the Minister halt further installation of the Rennai 'Cosyglow' gas heater until the Gas Company has complied with AG-601?

2. Will the Minister personally satisfy herself that gas heater promotion in South Australia specifies adequate room size and ventilation according at least to the AG-601 code?

The Hon. BARBARA WIESE: I will seek a report on this matter from the Commissioner of Consumer Affairs as a matter of urgency and I will bring back a reply as soon as I can.

The Hon. I. GILFILLAN: As a supplementary question, would the Minister give an undertaking to act before she brings back a reply, because the reply may not be able to be brought back to the Council for perhaps a couple of weeks. However, I ask her to give an undertaking to the Council that she will act as soon as she is convinced that there is cause for that action.

The Hon. BARBARA WIESE: Mr President, I expect that action will be taken immediately if there is a serious problem along the lines that the honourable member has outlined, and certainly that would be the course of action that I would expect to occur during the next two weeks prior to a response being brought back.

GRAND PRIX CLASSIC CAR AUCTION

The Hon. L.H. DAVIS: Has the Minister of Consumer Affairs a reply to my question of 22 October about the Grand Prix classic car auction?

The Hon. BARBARA WIESE: The Commissioner for Consumer Affairs has advised me that one of her senior officers spoke to the auctioneer on 23 October 1991 and suggested he comply where possible with the information required to be disclosed on the schedule attached to the vehicle. However, where engine numbers and registration numbers and year of manufacture etc are not available the schedule should state 'information not available'. The auctioneer was given similar advice in relation to any advertisement he wished to publish in the *Advertiser*. The officer offered to vet any advertisement prior to publication.

Given this, the Commissioner determined that an exemption from the requirements to identify and give information about the vehicle to prospective purchasers was not necessary. Commonsense dictates that if a vehicle does not have any or all of these identifying numbers then they cannot be disclosed. The Commissioner has advised that there was never any suggestion that the Grand Prix motor auction would be jeopardised, and her officers are prepared to co-operate with the auctioneers wherever possible.

GUARANTEED PRIZES

The Hon. J.C. BURDETT: I seek leave to make a brief explanation before asking the Minister of Consumer Affairs a question about an invitation in writing issued to a number of citizens in South Australia to send money in return for a guaranteed list of prizes.

Leave granted.

The Hon. J.C. BURDETT: This matter has been aired in the media recently, and it may be that other Ministers may have some input into it, too. The invitation brought to my notice was sent to a lady in a country complex for the aging. The envelope says it was sent by airmail from Czechoslovakia, tax paid in Czechoslovakia. The return address is Gibraltar, and the invitation says:

> Computer records show that you very recently purchased a product or entered a sweepstake or contest by direct mail. Our international company would like you to participate in our marketing program. Since you are the person whose name appears

on reverse of this card, you are eligible to receive one of the five product items described below.

In fact, this lady had not taken part in anything that could have applied. People are invited to send $24.95, and the list of prizes is:

(1) Sony color TV
(2) Weekend trip to Hong Kong for two
(3) 1991 luxury Honda car
(4) Laser sport watch
(5) $3 000 cash

Departmental officers have already responded on the air and have said, 'Don't send the money.' However, there is also the question of education. It seems that many of these invitations have been sent to people in aging persons complexes.

The Hon. C.J. Sumner interjecting:

The Hon. J.C. BURDETT: Yes, I did. Perhaps an education program is warranted in those circumstances. The question is simply this: in addition to the warnings that have already been issued, just what is the department intending to do about this rather amazing promotion?

The Hon. BARBARA WIESE: I will call for a report from the Commissioner of Consumer Affairs as to the action that she is taking with respect to this matter. I have not seen this material but I am aware that my colleague the Attorney-General has received a copy of this correspondence and has passed it on to my department for comment and investigation. I am sure that it is taking appropriate action and I will bring back a report to indicate what that is.

APPROPRIATION BILL

Adjourned debate on second reading.

(Continued from 24 October. Page 1404.)

The Hon. C.J. SUMNER (Attorney-General): There are not many matters to which I am required to reply specifically on the Bill. However, in debate the Hon. Mr Lucas requested a table in respect of average employment levels similar to that provided in last year's financial statement. As the table is in tabular form, I seek leave to have it inserted in *Hansard.*

Leave granted.

Average Employment 1990-91

Administrative Units, State Transport Authority and S.A. Health Commission	Budget	Outcome	Outcome by Category of Employment			
			G.M.E. Act	Weekly Paid	Other	Other Major Act
Agriculture	1 134.9	1 181.3	1 000.0	179.4	1.9	0.0
Arts and Cultural Heritage	607.6	562.8	466.4	86.9	9.5	0.0
Attorney-General's	306.2	291.7	285.7	0.0	6.0	0.0
Auditor-General's	87.0	92.3	91.3	0.0	0.0	1.0
Children's Services Office	1 034.5	1 054.9	0.0	0.0	39.1	1 015.6
Corporate Affairs Commission	64.3	67.6	67.6	0.0	0.0	0.0
Correctional Services	1 288.1	1 265.7	1 218.5	20.8	26.4	0.0
Court Services	692.6	682.6	487.9	22.0	172.7	0.0
Education	17 814.0	17 789.6	857.0	2 193.4	583.1	14 156.1
Electoral	18.5	19.1	13.0	0.0	6.1	0.0
Employment and Technical and Further Education	2 968.5	3 055.5	905.7	427.2	50.7	1 671.9
Engineering and Water Supply	3 789.0	3 842.1	1 472.0	2 353.5	16.6	0.0
Environment and Planning	733.2	755.3	544.2	207.8	3.3	0.0
Family and Community Services	1 199.7	1 241.3	1 187.9	39.8	13.6	0.0
Fisheries	117.0	110.5	105.8	4.7	0.0	0.0
Health Commission	25 234.0	25 424.6	0.0			25 424.6
Housing and Construction	1 727.0	1 768.6	756.7	930.0	81.9	
Industry, Trade and Technology	95.4	95.6	94.0	0.8	0.8	
Labour	300.2	278.9	264.1	2.6	12.2	
Lands	903.0	919.6	892.6	24.0	3.0	
Marine and Harbors	513.3	547.8	233.0	314.8		
Mines and Energy	370.8	363.0	300.2	58.8	4.0	
Multicultural and Ethnic Affairs	53.5	47.1	47.1			
Personnel and Industrial Relations	300.7	264.3	137.1	123.2	4.0	
Police	4 284.1	4 242.5	474.1	93.6	17.6	3 657.2
Premier and Cabinet	150.3	154.8	127.6	1.0	26.2	
Public and Consumer Affairs	447.9	435.7	433.7	2.0		
Recreation and Sport	69.0	72.5	70.7	1.8		
Road Transport	2 971.0	2 940.8	1 381.6	1 559.2		
State Services	821.7	822.9	587.4	205.1	30.4	
State Transport Authority	3 402.0	3 392.0		2 755.6		636.4
Tertiary Education	13.5	12.1	12.1			
Tourism South Australia	141.0	139.5	133.5	1.2	4.8	
Transport Policy and Planning	38.0	31.4	29.4		2.0	
Treasury	351.3	346.6	346.6			
Woods and Forests	1 300.0	1 266.8	263.4	986.8	16.6	
Total	75 342.8	75 579.4	15 287.9	12 596.0	1 132.5	46 563.0

The Hon. C.J. SUMNER: It needs to be borne in mind that average employment can fluctuate during a budget year simply because of timing. A more appropriate indicator of long-term employment trends is full time equivalents at the end of the budget year. Nevertheless, the table that I have had inserted in *Hansard* does give information comparable with that provided in 1989-90, but it needs to be analysed with some caution.

A number of questions were raised about other portfolio areas and those replies are not yet available. They were not questions that required immediate answers and the departments and the Ministers have undertaken to provide

responses as soon as possible. They will be provided by way of ministerial statement or letters to members. I suggest that letters to members are the best option generally and then, if the member wants the reply incorporated in *Hansard* as a reply to the question raised in the Appropriation debate, we can arrange for that to happen.

Further, advisers from SACON, SATCO and Woods and Forests will be present during the Committee stage. They are the only officers who were requested specifically to appear.

I would also like to respond to two matters raised by the Hon. Mr Griffin in his contribution. The first delt with the legal insurance scheme. I was a little surprised that he seemed to be critical of the allocation of funds from the excess in the guarantee fund to a pilot program for legal insurance. Legal insurance is an important way to extend access to the law to ordinary Australians, given that most do not have the means to afford lawyers, and others who have no means whatsoever may be granted legal aid.

The Hon. R.J. Ritson: It is beyond the middle classes.

The Hon. C.J. SUMNER: We have a situation, as the Hon. Dr Ritson interjects, where legal expenses are beyond the capacity of the middle classes to pay, and that is the whole purpose of trying to develop a legal expenses insurance scheme. The reality is that to date in Australia this has not been successful. A key to getting a scheme going, which was developed in association with the brokers Jardines, was to get a big enough subscription base at the start to make the scheme viable. That was done through the Public Service Association, which is paying part of the premiums for its members. The money allocated was for a pilot scheme (I emphasise that) and it has the potential to be of benefit to a broader range of citizens in the future if the scheme can be made viable.

If it can be, then I think we will have achieved a considerable amount. However, I want to make it quite clear that we are not guaranteeing that this pilot scheme will work, but we think that, between the Legal Services Commission, Jardines Insurance Brokers, the Law Society, the Government and the PSA, we have done our best to try to put together a scheme which will work. If it fails, obviously we must conclude that the future of legal expenses insurance in Australia is very bleak, because up to date it has not worked.

I said that if the pilot scheme is successful it may be extended to other unions, and then possibly into the public generally, but that did not imply that further funds would necessarily be available from the legal guarantee funds. I agree with the honourable member that, in the long run, a legal expenses insurance scheme has to work in the marketplace: it cannot rely on subsidies. Nevertheless, I am surprised about his apparent criticism of the involvement of one of the unions in it, and I am also surprised that he was somewhat critical of the scheme that we have got going. I emphasise that it is a pilot scheme, and I hope it works. If it does not work, we will at least have done our best. I think that everything possible has been done to realise this proposal of legal expenses insurance which has been proposed but not implemented throughout Australia over many years.

The Hon. R.J. Ritson: I thought the medical profession was promoting it, too.

The Hon. C.J. SUMNER: Some limited legal expenses insurance is available, but it is nothing like what has been arranged with the Public Service Association on this occasion, which is general legal expenses insurance. I am sure that some insurance may be offered for particular interest groups, although I do not know about the medical profession. We are here talking about legal expenses insurance, not actual insurance for negligent acts.

The Hon. R.J. Ritson: That's right. I understand the difference, but it was the other type, the general expenses insurance—

The Hon. C.J. SUMNER: —that was being offered to the medical profession.

The Hon. R.J. Ritson: Yes, through identifiable pools of people.

The Hon. C.J. SUMNER: I am not saying that it is unknown in Australia.

The Hon. R.J. Ritson: We don't know whether it has failed, either.

The Hon. C.J. SUMNER: Most attempts at legal expenses insurance have not worked. What this scheme offers is the hope that it might work, and I was a bit surprised at the Hon. Mr Griffin's criticism of it. I would have thought that he would fully support it, knowing the nature of it.

The Hon. R.J. Ritson: Basically, I wondered whether I could join it as a doctor and then go out as a politician and debate it.

The ACTING PRESIDENT: Order! It is becoming a conversation and interrupting the flow of the speaker.

The Hon. C.J. SUMNER: I just want briefly to talk about the sale of the so-called Zelling Library to the Flinders University, in case there is some misapprehension about it in the Hon. Mr Griffin's mind. That library was not provided to the Government by Mr Zelling, QC, at lower than its market value. It was provided to the Government at market value. Mr Zelling threw in a set of the *All India Reports* as his contribution to what was then to be a law reform library.

The Government has sold it to Flinders University at the same price at which it was purchased from Mr Zelling. In other words, the Government did not profit from the purchase by selling it. Also, the Government and Flinders University have offered to Mr Zelling to provide some recognition in the Flinders University Law School library of his contribution to law reform, and that offer still stands. But, I wanted to correct the misapprehension of the Hon. Mr Griffin that he conveyed in *Hansard* in relation to the basis of the purchase of that library from Mr Zelling some years ago.

Bill read a second time.

In Committee.

Clauses 1 to 7 passed.

First schedule.

The Hon. L.H. DAVIS: The Department of Housing and Construction Program Estimates, taken together with the Auditor-General's Report 1989-90, reveal a department which obviously has a very large budget, subject to some criticism in the Auditor-General's statement. I will focus on page 110 relating to the Department of Housing and Construction because it impacts not only on what happened last year but also on its activities in the current year. At that page the Auditor-General, under the heading of 'Management Information Systems', states:

> On a number of occasions, Audit has had cause to comment on the absence of an overall integrated approach to management information systems which has led to system inefficiencies and inconsistent information provided to management.
>
> An undertaking was provided by the chief executive that a new financial management system would be operational before 30 June 1990 . . . The department has advised that all major development work on the interim financial management system has been completed. The total cost of the project amounted to $1.1 million.
>
> During the course of this year's audit, a number of operational problems with the interim financial management system became evident, including system inefficiencies and clerical procedural

problems. These matters were referred to the department in the course of the audit.

As referred to below, the system inefficiencies have contributed to the difficulties experienced by the department in preparing this year's financial statements.

The department has since advised that it plans to replace the financial management system with an integrated system operating on a relational database.

It will be progressively implemented from early 1992, which is significantly earlier than originally planned. The report continues:

However, the departmental management considers this is necessary to overcome the problems currently being experienced by the interim system.

I have taken the liberty of reading extensively from the Auditor-General's Report to set the scene. My first question is a general one. The management information system, which was introduced to be operational before 30 June 1990, is now to be replaced with an integrated system operating on a relational database. That is correct. What is the cost of the new integrated system operating on a relational database?

The Hon. BARBARA WIESE: The new system has not yet been accurately costed. We have a notional figure of around $2 million, but its capabilities are yet to be tested in the market. Until that market testing is done, it will not be possible to provide a more accurate figure than the notional amount that I mentioned.

The Hon. L.H. DAVIS: What was the main problem associated with the financial management system which was to be put in place and which has proved not to be adequate?

The Hon. BARBARA WIESE: The problem with the current system is that it is in effect a series of stand-alone systems, and the interfaces talk to each other. There are limitations with each of the interfacing systems. There are limitations individually with each of the stand-alone systems and overall there are limitations in that it is difficult to provide financial detail to assist in running the business units within SACON. SACON is now looking for a system that will enable it to have access to commercial information that is accurate and timely so that the business units can run more efficiently. The move from the current system to the proposed system was supported by the Auditor-General in his report in 1989.

The Hon. L.H. DAVIS: When was the new financial management system originally ordered and who was responsible for the decision to install the new financial management system, which is now about to be superceded? In other words, did SACON make the decision or did it refer it to another agency of Government or a consultant?

The Hon. BARBARA WIESE: The decision was made by SACON using private consultants to provide appropriate advice.

The Hon. L.H. DAVIS: In what year—1986 or 1987?

The Hon. BARBARA WIESE: It was around 1988.

The Hon. L.H. DAVIS: Drawing those answers together, we have a system which was decided upon in 1988 and which is now to be replaced in 1991 because it is not adequate. Is there any synergy between the new system being put in place and other Government departments? For example, given that the Department of Housing and Construction has a very important role in developing an asset register of Government owned buildings, is it appropriate for that department to have information systems which are compatible with those of other Government agencies and, if so, is that the case?

The Hon. BARBARA WIESE: The new system is using IBM hardware, which is linked to the Department of State Services. Therefore, there is the capacity for other departments to link in to the SACON system, if it is desirable for such departments to have access to the information in that system. Discussions are currently taking place with the Education Department about the possibility of that department's linking into appropriate information in the system.

The Hon. L.H. DAVIS: I now refer to the section entitled 'Financial Accountability'. On page 110 of the report, the Auditor-General makes the following fairly hard-hitting comment:

In last year's report I expressed my concern at the extent to which my officers continue to become involved in the preparation of agency financial statements. The Department of Housing and Construction is no exception. Considerable effort was required of my officers this and last year to enable the completion of the financial statements of the department, in particular, for those of the Office of Government Employee Housing. This was despite continued assurances from the department over the last few years that there would be timely preparation of the necessary financial statements.

Why was it that the Auditor-General had to hold the hand of the financial officers of the Department of Housing and Construction to enable them to complete their annual statements?

The Hon. BARBARA WIESE: It is true that in 1990 the Auditor-General's staff was directly involved in the preparation of financial statements for the Office Accommodation Division. The prime reason for that was that it was the first year of preparation of such a statement. In the following year—that is, 1991—the Auditor-General's staff was not directly involved in the preparation of the financial statements.

SACON's accounts for both the Office Accommodation Division and the Office of Government Employee Housing were prepared by SACON prior to the audit by the Auditor-General. It is true that during the audit considerable work was done by both the Auditor-General's staff and SACON staff in relation to the presentation of figures and the subsequent reconciliation. The process was made more complex by the limitations of the existing financial systems. Negotiations about presentation and reconciliation are a normal part of an audit process and any two groups of accounts may differ in methodologies. As the honourable member observed during his second reading contribution, accountancy is a black art.

The Hon. L.H. DAVIS: It was an interjection from one of my colleagues, but I think I agreed with him at the time. With respect, that does not completely answer the continued concern that the Auditor-General has had about the department, because in the second paragraph, under the heading 'Financial Accountability', the Auditor-General states:

In addition, the Office Accommodation Division was unable to complete their accounts in time for inclusion in this report. Further comment on this matter is contained later in this report.

I refer the Minister to page 116 of the report, which states:

... the division was unable to complete their accounts in time for inclusion in this report. The accounts will be included in the supplementary report to be presented to Parliament later this financial year.

It strikes me that that is a far from satisfactory situation in a department that is claiming to be now on a commercial basis, seeking to compete with the private sector in the winning of contracts. Will the Minister explain why the Office Accommodation Division was unable to complete its accounts in time for inclusion in this report? Have they been completed and have they been audited without criticism?

The Hon. BARBARA WIESE: In fact, the report was completed by the appropriate time. The delay was caused by ongoing discussions relating to the reconciliations. As to the honourable member's last two questions, as I said, the report, is complete and it has been audited. I refer the

honourable member to pages 38 and 41 of SACON's annual report for 1990-91.

The Hon. L.H. DAVIS: In the last paragraph on page 110 of the Auditor-General's Report, in addition to expressing concern about management information systems and financial accountability, concern is expressed about staff. As I suggested in my budget speech, the Auditor-General normally speaks with subtlety. However, on page 110 there is a distinct lack of subtlety in his criticism. The Auditor-General states:

> I stress the importance of the need for not only efficient and effective management information systems but also competent qualified staff with practical experience to support and drive the program within each business unit.

Is the department's staff being reviewed, given the comments of the Auditor-General? What is the basis for the Auditor-General's comments? It is more than a passing statement; it is more than a casual observation. It is quite clearly an implied criticism of the lack of competent and qualified staff with practical experience to support each business unit, given the Department of Housing and Construction's commercial approach to its operations.

The Hon. BARBARA WIESE: The management of SACON recognises that it is essential to have qualified and experienced staff in moving towards commercially oriented organisations. To this end, in 1990, the Director recruited a highly qualified and experienced financial controller from the private sector to lead SACON's financial staff through the commercialisation process. In addition, he has attempted to recruit business managers with expertise and experience in commercial accounting from within the public and private sectors. Suitable personnel within the public sector are scarce and in high demand by other agencies due to the numerous initiatives to develop commercial practices.

SACON attempted to recruit from the private sector using a major management consultant, but a number of suitable candidates withdrew their applications. Two of the prime reasons for the withdrawals were inadequate remuneration and no agency vehicle. However, SACON continues to seek suitable business managers and is also attempting to build its own expertise through specialised training courses, including one which enables subjects conducted within SACON by TAFE to be accredited as part of a formal accounting qualification. SACON is also using private sector consultants to press on with the process of commercialisation. The Auditor-General's comments are, I think, supportive of the concerns that already exist within SACON and about which action is being taken.

The Hon. L.H. DAVIS: One of the important programs for the Department of Housing and Construction in this current financial year is the continued development of the asset register. The department is charged with the maintenance of an asset register of the various Government agencies. How is this program placed at present, given the Auditor-General's critical comments about the number of inaccuracies on the department's asset register? On page 111 of the Auditor-General's Report, he notes that the asset register includes non-existent assets, inappropriate classification of client users, inadequate description of assets, the fact that the asset register has not been updated with land and building information since the conversion to a new asset register computer system and the lack of a formal reporting mechanism for the information contained in the asset register.

The department responded, saying that it was aware of these problems associated with the accuracy of the asset register, and it indicated that discussions had been held with Treasury to reach an agreement to rectify the problems. The department also indicated that over the next two years there will be a stocktake of all client assets, that current values of assets will be identified, that the departments will transfer responsibility for the assets to the relevant client agency, and that each agency will become responsible for the maintenance of its own asset register. That is a very important area of the public sector: to know exactly what is owned within the public sector. Effectively, the Auditor-General is saying that we do not know. Can the Minister respond to each of the Auditor-General's criticisms contained on page 111 regarding inaccuracies, the lack of updating of the asset register and the lack of a formal reporting mechanism? Can the Minister also elaborate on the program which the department proposes to put in place over the next two years to address those problems?

The Hon. BARBARA WIESE: Historically, two main asset registers have been held within SACON: one is linked with the accounting system and the other is a record of physical attributes of properties. The latter register is something of a pacesetter in Australia, and it is now being adopted by other public works authorities around the country. The asset register of the accounting system reflects the characteristics of a cash accounting system, which is typical of a Government or non-commercial system. Traditionally, because the value of the assets is not required to be shown in the end-of-year accounts, either at historic or depreciated value, little accounting attention has been paid to maintaining this asset register.

The purpose of the register is to associate some expenditure with an account number relating to an asset. It has mattered little whether the register showed physical assets, such as a particular property or a generic group of properties, for example, schools, southern region, assorted minor expenditure. In such registers, there may be records of holdings which no longer exist or have been replaced. In the move to commercial or accrual accounting, the value of an asset becomes an integral part of the real monetary worth of an organisation. It is essential that the asset register is kept up to date, and expenditure is accurately recorded.

With the move to allocate funds directly to client agencies, it is also important that the assets are also accurately allocated to their owning agencies. This process is now being undertaken in SACON as it moves into a commercial mode, through a process of integrating the asset register of physical attributes with a commercial accounting system.

In regard to this latter asset register, validation of data is undertaken annually with the owning agency. There is some tidying up to be done between the agencies to ensure that lands title records reflect past transactions. For example, the remand centre site has not been transferred from TAFE to Correctional Services. This matter will have to be addressed progressively by the agencies. For the honourable member's information, I advise that the agencies with which SACON is working at the moment are: the Education Department, Correctional Services, DETAFE, Agriculture, Marine and Harbors, CSO, Environment and Planning, Police, Recreation and Sport, and its own divisions, excluding the Office of Government Employee Housing.

The Hon. L.H. DAVIS: What is the expected cost of the asset register in this current financial year and the following year, given that it is a two-year program?

The Hon. BARBARA WIESE: I will have to take that question on notice, because I do not have that information with me.

The Hon. L.H. DAVIS: Is the Minister confident that each agency will be able to take up the change in the management of asset register, namely, that it will be incumbent on each Government agency to be responsible for the maintenance of its own asset register? What guidelines are

being set to ensure that each Government agency maintains its asset register in an acceptable and comparable form?

The Hon. BARBARA WIESE: This year, SACON is participating in a pilot program with Treasury. This pilot program is concentrating on four Government agencies: DETAFE, Correctional Services, Recreation and Sport, and Environment and Planning. The aim of this program is to look at the implications of transferring funds and assets to their management. This working party, which is being chaired by Treasury in close consultation with SACON and the individual agencies concerned, at the end of the process, will have developed some clear guidelines for those agencies and others to follow.

The Hon. L.H. DAVIS: In answer to a question in the budget Estimates Committee regarding regionalisation and deregionalisation of SACON's activities, no confirmation of the cost of deregionalisation was provided. By way of background to the Minister, during a period from 1984 to 1988 SACON embarked on a program of regionalisation which involved properties at Elizabeth, Marion, Port Augusta and Netley, amongst others. Having achieved a degree of regionalisation within a very short period, SACON then embarked on a deregionalisation program, something upon which I will not comment at this stage, but obviously costs were involved.

Could the Minister ensure that information is given about the budgeted costs for deregionalisation of SACON at the earliest available opportunity? I understand that the department may not be in a position to give an estimation at this stage, because it will involve the valuation of properties and the resale value of properties in what is obviously a flukey market. At some stage could an estimate be given?

The Hon. BARBARA WIESE: I will undertake to ensure that that information is provided.

The Hon. L.H. DAVIS: I turn to the Office of Government Employee Housing which wallows, I think is perhaps the right term, under the acronym OGEH. The Office of Government Employee Housing, which has been operational since the 1987-88 year, has the responsibility for the management and control of some 3 067 Government employee houses and all bar 90 of these are in country South Australia.

In answer to a budget Estimates Committee question, the Minister did admit that approximately 350 of these houses were empty or substantially under-utilised and some were being prepared for sale. Can the Minister provide the exact location of these empty houses and, also, the period these houses have been vacant? Since I recently made a public statement on this matter, there have been many telephone calls and the odd letter from people in country areas giving me addresses of vacant houses and the length of time that they have been vacant.

The Hon. BARBARA WIESE: As I understand it, at 15 October 1991 the total vacancies numbered 287. As to the specific location of these various properties, I think the best thing I can do is to take that question on notice, otherwise we could be here for many hours as I read through a very long and detailed list of the properties and the reason for the vacancies.

The Hon. L.H. Davis: And the length of time they have been vacant.

The Hon. BARBARA WIESE: I should indicate to the honourable member that, even at the time a full list is provided to him, he should be aware that it is something of a moving feast in that properties become vacant and are filled fairly regularly. However, to the extent that it is possible to be specific, even if it is only for a short time that this information is accurate, we will provide appropriate information.

The Hon. L.H. DAVIS: I appreciate the Minister's response to that question and I do accept that the numbers always vary. I take it that, in addition to the total number of vacant houses, 287, she will also provide the number of houses that are substantially under-utilised as mentioned in the budget Estimates Committee and, also, the length of time that they have been vacant.

The Office of Government Employee Housing presumably has some sort of a relationship with the Housing Trust of South Australia. Is there exchange of information between the department and the Housing Trust with respect to housing stock? In one country town in particular, where there is quite clearly a tightness in rental accommodation both in the private and public sector, there are many empty Government employee houses—OGEH is alive and well in that town; in other words, there is a misallocation of resources. Is any attempt made to discuss matters with the Housing Trust? For instance, in terms of a situation where there might be a long-term decrease in the need for Office of Government Employee Housing stock in a particular town, are transfers made to the Housing Trust?

The Hon. BARBARA WIESE: An informal network operates between OGEH and the South Australian Housing Trust. For example, if the South Australian Housing Trust requires a house at very short notice, then it would ring SACON to ascertain whether or not it has a property in the appropriate town or location. If SACON does have a house in that location under its control and it is not allocated already to another Government department, then SACON would facilitate the transfer of that property.

If SACON is aware of a house that may be in the control of another department, it will assist in negotiating with that department about the transfer of the house to the Housing Trust, where that may be appropriate. In addition, under Premier's Circular No. 114, the Housing Trust has first option to purchase any properties that may be surplus to OGEH's needs.

The Hon. L.H. DAVIS: What is the expected number of houses to be sold by the Office of Government Employee Housing in 1991-92 and 1992-93?

The Hon. BARBARA WIESE: For this current financial year 37 properties are in the process of being disposed of. I do not have a figure for 1992-93, but I will undertake to provide that information as to the extent of numbers identified.

The Hon. L.H. DAVIS: In relation to the asset register, can the Minister confirm (perhaps taking the question on notice) that one of the items still on the asset register in 1991 is a building at Yatala that was bulldozed 60 years ago?

The Hon. BARBARA WIESE: I am not sure what use this information might be to the Hon. Mr Davis or why he wants to take up the time of officers of SACON but, if he is serious about wanting a reply to that question, I will undertake to provide it for him. I refer the honourable member to a response that I gave to earlier questions about the two types of asset registers kept by SACON. I ask him to consider the lack of any relevance his question has with respect to the first of those two asset registers.

The Hon. L.H. DAVIS: I thank the Minister for her information, but I would appreciate the answer and I suspect that it would not be as difficult as she thinks. I think I am talking about the Yatala prison area.

SACON is contracting out more and more of its activities. To what extent has SACON modified its policy of contracting out in rural areas in the face of the severe economic

downturn affecting those areas? I refer specifically to Murray Bridge where, in the current year, SACON has a contract to refurbish four schools at a cost of about $1 million. I understand that when this was agreed to preference was to be given to local contractors and tradesmen to complete the work, but I now understand that SACON is undertaking the maintenance on these four schools at Murray Bridge. Will the Minister confirm whether that is true and will she advise, if that is the case, whether SACON maintenance personnel are located permanently at Murray Bridge or are travelling from Adelaide on a weekly or daily basis?

The Hon. BARBARA WIESE: I will have to take on notice the specific question relating to Murray Bridge. I am advised that it is likely that SACON's own work force has been employed on this project to ensure that it is kept fully occupied. As to the tendering out of work, it should be borne in mind by the honourable member that, if work is tendered out, there is no guarantee at all that a local contractor would be the successful tenderer because, obviously, the usual rules applying to tenders will be considered and a local contractor may or may not be successful based on the guidelines that apply in those matters.

The Hon. L.H. DAVIS: I have no further questions in respect of SACON.

My next question relates to the valuation of the Woods and Forests Department, whose accounts, as set out in the Auditor-General's Report and in its annual accounts, make the point that the department's practice over the past five years has been to include an annual increment of the growing timber and revalue it as revenue for the purpose of the profit and loss statement. As a result of that, the value of the forests under the control of the Woods and Forests Department increased from $352 million at 1 July 1986 to $527.5 million at 30 June 1991. Included in that series of revaluations is an increase of 10.5 per cent for the 1988-89 year, 9.3 per cent in 1989-90, and 14.3 per cent in the financial year just ended. That is an accounting practice on which the Auditor-General has commented and which he has accepted, and I will not raise that matter. However, I note that page 23 of the SAFA annual report 1990-91 states:

> As at June 1990, SAFA held 100 per cent equity interests in . . . the Woods and Forests Department valued at . . . $347 million . . . The valuation of the Woods and Forests Department as at 30 June 1991 reflects the difficult trading conditions for timber products during 1990-91. The valuation obtained for the department as at 30 June 1991 is $343.4 million. The department was valued on an after tax basis, as any earnings available to SAFA are after the equivalent of company income tax has been paid to the South Australian Government. The change in the value of the investments of . . . the Woods and Forests Department has been accounted for through asset revaluation reserve.

Quite obviously I am highlighting here the difference in the valuation in the Woods and Forests Department account of $527 million for the forests alone, and then for the total valuation put on the Woods and Forests Department, which is valued at $343.4 million, including not only the forests but the whole department as a going concern. It may well be that there is a ready explanation for this and, if so, I would appreciate it if the Minister could give it to me.

The Hon. BARBARA WIESE: I understand that the difference between the two figures can be explained with the amount of money that is paid as an income tax equivalent, if you like, to the Government. As far as SAFA is concerned, the value of Woods and Forests to it is the value after tax. The value of Woods and Forests to the Government includes the value of the tax because the tax equivalent payment is paid to the Government so that it is included in the Government's calculation of the value of Woods and Forests.

The Hon. L.H. DAVIS: The Woods and Forests Department has blamed private sector contractors for the long-running difficulties in commissioning the Mount Gambier wood room and for the problems encountered at the Nangwarry mill. Was the department responsible for setting the specifications for the wood room and the refurbishment of the Nangwarry sawmill? How have the private sector contractors failed to fulfil their obligations with respect to contracts for both projects? The Minister may prefer to take those questions on notice.

The Hon. BARBARA WIESE: I will take the two contracts separately. First, with regard to the wood room, the facts of the matter are that a tender was called for the plant to be designed, constructed and commissioned to take a certain quantity of raw material and process it into the finished product. It was up to the contractor to design, build and commission it. At this stage the contractor has not been able to get the plant running according to the contract specification, and consequently the Woods and Forests Department has taken over the work and invited an international timber engineering consultant to make representations on how the plant can be brought up to specification.

With regard to the Nangwarry mill, to which the honourable member referred, similarly, the contract was for the design, construction and commissioning of new sawmilling equipment to process the log resource for Nangwarry. Again there was a difficulty in that the contractor was unable to meet his obligations. He started the process late because he had difficulties with the previous job and, during the process, got into financial difficulties himself. In that case also the Woods and Forests Department has taken over the work. It has now been almost completed to specification, and the sawmill is cutting the required volumes in line with the specification.

The Hon. L.H. DAVIS: The Auditor-General's Report states that the Woods and Forests Department results for 1990-91 does not take into account unallocated expenses of $13.6 million, and in 1989-90, $13 million was unallocated. I cannot think of another commercial operation in Australia which leaves expenses unallocated, thereby distorting the profitability of the organisation. Will the department in future be allocating expenses as do its private sector counterparts and presumably most other commercial Government agencies? Will the department look to make an allocation of expenses for 1990-91 and represent the accounts in the adjusted form? Will it undertake to present that in future accounts?

The Hon. BARBARA WIESE: The honourable member has raised a couple of issues and I will address them. In addition, I will explain to him the reason for unallocated expenses in the Department of Woods and Forests' budget. However, before I do that, I should indicate that, as far as the department is concerned, it takes the view that if it is sensible to apportion overheads in other than an arbitrary way then that will be done. That is the practice of the department and that practice will continue.

As to the probably rhetorical question that the honourable member asked in relation to whether there are any other companies or bodies operating in a commercial way that would have large amounts of unallocated expenses, I can provide an example. In its 1991 figures, a company known as Leighton Holdings, which is a very large company and of which the honourable member would be aware, has specified an amount of $8 million to $9 million as unallocated. So, this is a commercial practice that is followed by other organisations and it is surprising that the honourable member, who claims to be an accountant, is unaware of them.

As to the amount of unallocated expenses in the budget of the Department of Woods and Forests, I can confirm that this amount in net expenses has not been allocated to industry segments in the segmented accounts, but those expenses have been included in arriving at the published net profit of the organisation as a whole. The published net profit was $56.3 million. The unallocated expenses comprise the following: interest, net, $8.3 million; and corporate expenses, net, $5.3 million, making a total of $13.6 million. Interest expenses are not normally included in segmented expenses when operations are not primarily of a financing nature. This is the course of action recommended by the accounting profession, and I refer to the Australian accounting standard AAS16, Financial Reporting by Segments, section 18.

Interest is generally not allocated as it is the nature of a corporate expense. Exclusion facilitates comparison of results between organisations with different mixes of debt and equity. The other corporate expense of $5.3 million consists of costs of the board, chief executive and other corporate activities, such as finance and accounting, publicity and promotion, personnel, occupational health and safety, computing services, information services, general administration and so forth. These services are provided to the industry segments on a joint basis and for which economies of scale accrue. There is no firm base on which these expenses can be allocated to an industry segment, and if they were to be allocated a considerable degree of imprecision of allocation would occur.

It is quite wrong to suggest that the Department of Woods and Forests is unable to allocate these expenses to industry segments. The department has a sophisticated accounting system and could allocate these expenses on a variety of bases. However, the department chooses not to allocate the expenses because of the degree of imprecision. These unallocated corporate expenses, excluding interest, comprise about 6 per cent of total operating expenses. Australian accounting standard AAS6, Materiality in Financing Statements, suggests that amounts less than 5 per cent of the appropriate base should be presumed to be immaterial unless there is convincing argument to the contrary. Therefore, I reiterate that the unallocated expenses of $13.6 million are included in the department's financial statements as a cost and, thus, impact on the published profit of the department.

The Hon. L.H. DAVIS: In the Program Estimates (page 378) under the heading 'Community Service Obligations' it is proposed that the Department of Woods and Forests pay $122 000 for water and sewerage services in 1991-92. How is that amount made up? As a question on notice, what would the Department of Woods and Forests have paid for water and sewerage in 1991-92 if it had been a private sector operation and how much would have been payable in land tax?

The Hon. BARBARA WIESE: The Department of Woods and Forests pays normal rates for water and sewerage for the Nangwarry and Mount Burr townships. The figures the honourable member quoted on page 378 relate to the amounts of money that are paid for that purpose. Revenue is also collected as a result of that operation, which is also included in the figures at the bottom of the page. Essentially, it is a break-even operation and the department is currently negotiating with the E&WS Department to continue that procedure in the future.

The Hon. L.H. DAVIS: I have mentioned local government rates in this Chamber in recent months. Recent amendments to legislation have made private sector forest owners liable for local government rates, whereas the Department of Woods and Forests is not liable, as such, for such rates. Again as a question on notice, will the Government provide an estimate of the likely local government rates payable by the private sector forest owners following amendments to the legislation? In addition, what would the Department of Woods and Forests have been liable to pay if it had been subject to local government rates? I understand that this is still a matter of much speculation because, although legislation now gives local government the power to introduce rating on private sector forests, the matter is still being debated as to what those levels of rates will be.

The Hon. BARBARA WIESE: This matter of rating of pine plantations is one of current debate. Certainly, I am aware that this debate has been going on for a number of years. When I was Minister of Local Government, I recall that a number of local councils regularly raised this matter as an issue that they wanted to see addressed. It must be borne in mind that it is a relatively complex matter as it relates to the Department of Woods and Forests, partly because there is a community service component in the work that the department does in providing access for recreational purposes to its reserves. It also provides some measures of fire protection and other matters.

The Department of Woods and Forests already makes a considerable contribution to some of the local communities where plantations exist. It should also be borne in mind that this question of rating is much broader and may very well form part of discussions that take place between State and local government on a much broader scale than simply what should or should not be paid by the Department of Woods and Forests. I know that many State Government agencies would dearly love to be able to charge local councils for services provided by State Government to local government. Therefore, it is a much more complex question than simply examining one department and what it may or may not pay.

The transfer of funds to and from local government and State Government is a bigger question. If all matters were put on the table for discussion and negotiation, we may find that many local councils would prefer to leave things as they are. As to the amount that is or will be paid by commercial forests, I understand that that is a matter which has not yet been fully determined because some of the larger companies are appealing against the rates bills that they have received. So, until that matter is resolved by those companies, it will be difficult to make an estimate of what the Department of Woods and Forests would be liable for in similar circumstances.

The Hon. L.H. DAVIS: I refer to Program Estimates. Page 381 confirms: 'The demand for forest products is expected to continue to be restrained.' However, on page 378 of the Program Estimates, there is an expectation that there will be an increase of 22 per cent in current receipts in 1991-92—$71.4 million budgeted against actual receipts of only $58.4 million in 1990-91. There seems to be some discrepancy between the statement on page 381 and the figures on page 378. How does the Minister explain the 22 per cent increase in receipts in view of the restrained demand? Since this budget was prepared, a further downsizing of the economic recovery has occurred, and there has been a further lengthening of the estimated time when this recovery will take place, which perhaps could have altered the department's forecast for the current year. Am I correct in suggesting that those forecasts of a 22 per cent increase in current receipts may, indeed, be optimistic in view of the current sluggishness in the economy and the unlikely prospects of an early recovery?

The Hon. BARBARA WIESE: The budget papers were prepared in the expectation that there would be a restrained climate. However, it was also expected that the situation would be better than it had been the previous year. A number of factors led to the actual performance being lower than had been predicted in the previous year and the main reason was the delay that occurred in the startup of the Nangwarry mill to which I referred earlier.

In relation to the second question raised by the honourable member about the expectations for this coming year, I am advised that they probably are now optimistic. There has been significant price pressure in the marketplace and the predicted increase in housing as interest rates dropped has not eventuated, particularly in the major markets for the Department of Woods and Forests, which of course are Victoria and South Australia.

The Hon. L.H. DAVIS: I do not want to prolong the debate, because I recognise this is not a quick process, but I must say that I find it hard to understand how the department can budget for a 22 per cent lift in receipts in the face of a very weak economy.

The Hon. BARBARA WIESE: I would simply like to draw the honourable member's attention to the proposed figure for 1990-91 and compare that with the proposed figure for 1991-92. The former figure is $70.729 million and the latter figure is $71.415 million, so that the projections this year compared with last year do not represent a significant upward movement when you consider the actual result last year. That result was brought about by the factors to which I referred, particularly the late startup for the Nangwarry mill that left the last year's actual figure much more depressed than it should have been even in view of the economic climate.

The Hon. L.H. DAVIS: Returning to the revaluation of the forests, which is now well over $500 million, can the Minister say whether an independent audit of the valuation of forests has been undertaken and, if so, by whom? What allowance does the department make in percentage terms on such factors as safety, fire, or infestations, by, say, the Sirex wasp, in arriving at those valuations? Can we be assured that this indeed is a conservative valuation of the forests and has it been independently audited?

The Hon. BARBARA WIESE: The valuation methodology used by the Department of Woods and Forests is a current value based approach, which is an accepted methodology for the purpose for which it is used. The formula used includes a factor built in for risk, so that if there were to be a major loss, say through fire, in this financial year, then that loss would be recorded in this current financial year's accounts in exactly the same way as a sudden windfall, if it occurred, would be recorded in this year's accounts.

There has been no independent review of the department's valuations, because in fact the South Australian Department of Woods and Forests is recognised as a national expert in this field. I should point out that the independent experts employed by SAFA used a different methodology when they valued the forests, but the outcome was very similar.

The Hon. L.H. DAVIS: I have received several complaints about the department's outlets competing against the private sector. The department's Cavan outlet has been selling items other than the department's products, for example, cards, novelty items, cow manure, lattice, mortar mix and so on. Will the department continue to develop distribution outlets such as Cavan for the purpose of distribution of native plants and other departmental products and private sector products in direct competition with the private sector, and will the Minister enumerate on the financial advantages that the department enjoys as a Government agency against the private sector competition in outlets such as Cavan?

The Hon. BARBARA WIESE: The Cavan sales outlet has been operating for some years. From the beginning of the 1990-91 financial year, general timber sales ceased and the outlet concentrated on plant sales, information and advice. During the year landscaping and associated products were added, as were land care products and information in March this year. The emphasis of the outlet will change during this financial year. Operations will be centred on advisory and information services, plants for rural plantings, plants for urban use and general promotion of Australian plants and land care requirements. Timber sales will largely cease—only those related to land care will be available.

Also, the site will be used for displaying treated wood and land care products that it is not appropriate for the department to sell. Companies will be invited to display their products so that a broad range of information can be provided to the community. The honourable member can reasonably infer from this that it is not intended to expand the range of products offered at Cavan; rather, there has been a contraction in the range of products offered.

The department is now more interested in providing revegetation and horticultural advice in line with its community service obligation role. Any products not produced by the department will now be sold with a small profit margin added. In other words, in selling products not produced by the department it will be selling at a competitive rate to that of other operators in the private sector.

The department does not perceive that it has any particular advantage over its private sector competitors in these respects. The department pays rates, taxes and lease rates in exactly the same way as its private sector competitors and probably suffers from the constraint that is imposed on it by the fact that it is a Government department. That makes it more difficult for it to operate in that commercial environment because of the very criticisms that the honourable member is raising here today.

The Hon. L.H. DAVIS: What is the anticipated throughput at Nangwarry in 1991-92, assuming an eight hour shift and no overtime?

The Hon. BARBARA WIESE: I understand that the anticipated throughput at Nangwarry will be between 115 000 and 120 000 cubic metres of log intake.

The Hon. L.H. DAVIS: Earlier I think the Minister said that the expected demand in 1991-92 for the Woods and Forests Department's products would be weaker than had been budgeted for. I think I am correct in saying that the Minister suggested that overall demand for product could be lower this current financial year than in the preceding year. Is it true to say that there has been a severe downturn in prices of pinus radiata product in recent months? If so, what is the extent of the decrease in price (given that there is a range of products with various prices)? What impact will this severe price downturn have on the department's profitability for 1991-92 and its ability to meet its budget as set down in the Program Estimates? In view of the fact that SATCO officers are now present, I propose putting the remainder of my questions about Woods and Forests on notice to facilitate the proceedings.

The Hon. BARBARA WIESE: The situation is not so much a matter of demand decreasing during this current financial year; it is actually expected that demand in volume terms will be close to budget. It is true that severe pricing pressure has been in place this current financial year so far, and it is expected that that will continue until at least

Christmas. Prices being obtained for timber at the moment are similar to those that the industry was achieving in 1983. Obviously, these prices will have an effect on the department's financial performance. It is not sensible to speculate about the result this will have on the end-of-the-year figures because it is expected that there will be some improvement in prices and volumes in the marketplace in the first half of 1992. So it would be sensible to wait and see what transpires in the first half of 1992, and hope that this will assist in improving the end-of-year performance that otherwise might be expected should current prices continue.

The Hon. L.H. DAVIS: I put the following questions on notice. What is the current position of the Mount Gambier wood room? What will the final cost of the wood room be and what has been the actual cost as a result of the delay in commissioning? In respect of the Program Estimates (page 378) and the supply of plant nursery products item, why were 36.9 persons employed in the supply of plant and nursery products as against a budget of only 31.3 persons? How much water has the Woods and Forests Department used at Monarto in growing native plants, in each of the past three financial years? What is the estimated usage for this year? How much money did the Woods and Forests Department pay for water usage in each of the past three financial years at its Monarto operation? Are there any divisions of Woods and Forests that the Minister is contemplating closing because they are unprofitable? Does the Woods and Forests Department have a five-year business plan and, if not, why not? If there has been a five-year business plan in past years that has now lapsed, will the Minister make publicly available that plan?

Referring to 'Community Service Obligations' at page 378 of the Program Estimates and the items Management of Native Forest and Woodland Reserves, Policy Advisory and Research Services, Recreational Use of Forest Reserves and Apprentice Training, for 1990-91 the amount of recurrent expenditure was at least double the budget. In the case of apprenticeship training there was no budgeted figure but $188 000 was spent. For management of reserves, nearly $1.1 million was spent, although less than $400 000 was budgeted. However, the end column for each of these four items showed only 8.6 full-time equivalents were employed, as against a budgeted 9.1. Why was there such an extraordinary cost overrun on these four items, from a budgeted amount of $1.325 million to an actual $3.072 million. Will the Minister explain how the recurrent expenditure for these four items, totalling $3.072 million only employed 8.6 full-time equivalents?

In relation to Revegetation Services, only $65 000 was spent but 4.8 full-time equivalents were employed, as against a budget of only 1.2 persons. Why is that the case? Will the Minister confirm what is the average salary of employees in Revegetation Services? Penultimately, can the Minister advise whether productivity improvements in Woods and Forests are measureable and, if so, can she say what productivity improvements have been achieved in the past two years for the various divisions of that organisation? Finally, will the Minister elaborate on the proposal to establish a hardwood forest resource to provide pulpwood chip?

The Hon. BARBARA WIESE: I will undertake to provide whatever information I am able to on the questions that the honourable member has asked.

The Hon. L.H. DAVIS: I now proceed to an examination of the South Australian Timber Corporation. First, in his report the Auditor-General noted that the audit of Scrimber International had not been completed. That audit has now been completed, I take it?

The Hon. BARBARA WIESE: I am not able to answer that question, so I will take it on notice and bring back a reply later. Before we embark on this line of questioning about the South Australian Timber Corporation, I advise that the two officers who ideally would be with us for this Committee stage are currently interstate and will be interstate both today and tomorrow. So, in order to facilitate the business of the Council, I have with me an officer who will be in a position to answer some questions, but probably will have to take others on notice because not all information is available to him. Although that is obviously not the most ideal situation, it is as much as we can do at this point. Certainly, I expect that a lot of information will be able to be provided.

The Hon. L.H. DAVIS: I take it that the officer we have with us is Mr Roger White.

The Hon. BARBARA WIESE: That is correct.

The Hon. L.H. DAVIS: And he was a director or on the board of Scrimber International?

The Hon. BARBARA WIESE: Mr White as of yesterday is the General Manager of SATCO. Prior to that he was the Group Marketing Manager of SATCO. He has never been a director of Scrimber International.

The Hon. L.H. DAVIS: I put on record my concern about this matter. I gave notice publicly in the Council last Tuesday that I wished to ask questions specifically about the South Australian Timber Corporation. That message was relayed to both the Attorney-General and the Minister, and certainly the Government Whip was aware of it. That was, in the nature of things, not unreasonable notice, and I did not know until immediately following Question Time today that senior officers of the South Australian Timber Corporation would not be available for questioning. I regard that as a very serious matter, and in fact I made that known to the Minister.

It is of no disrespect to Mr White, who has come down here at short notice to answer questions, for me to say that I am not satisfied that he will be in possession of information that I will necessarily be seeking. I am surprised that the Government, knowing of my wish to have information about serious matters—matters that have cost the taxpayers of South Australia $60 million—to be discussed during the Committee stage of this Bill, did not advise me until today that these persons were not available. We have always made quite clear that we would facilitate with alacrity the passage of the Appropriation Bill through this Chamber, looking to cooperate with the Government in every possible way.

I believe that what has happened here is quite unsatisfactory. The Appropriation Bill could have been debated in the Committee stage last week; we were available to do that. The Government would have known that the two senior officers responsible were not available for discussion today and tomorrow, and I think the least it could have done was advise us of that fact and make the necessary rearrangements. I suggest that the Minister may like to adjourn the Committee stage of the Appropriation Bill, because I find it remarkable that the first question, which is probably the simplest question of all of those I have to ask, cannot be answered. That is, have the accounts of Scrimber International been audited, 'Yes' or 'No', and the recently appointed General Manager of the South Australian Timber Corporation says 'I don't know'. That is an unsatisfactory state of affairs. I suggest that the Minister report progress.

The Hon. BARBARA WIESE: Let me just provide some information for the honourable member. I did not know either, until after Question Time, that the two senior officers of SATCO would not be available to be here today. I

understood that they would be. I had not been advised of any alternative position. They were certainly in Adelaide and available during all last week. As I understand it, members were still delivering their second reading speeches during the course of last week, so the Committee stage of the Appropriation Bill could not be conducted at that time.

I am advised that the two senior people of SATCO were in fact called to Melbourne for some urgent meetings only at the end of last week and that those meetings are taking place today. I do not find it particularly satisfactory, either, that I was not informed that they would not be available today. However, that is the state of affairs.

As I understand it, Mr White has considerable experience and background knowledge of the Scrimber project, in his capacity as General Manager, Marketing, for the Timber Corporation, and it is quite likely that he will be in a position to answer a number of questions that the honourable member may ask on those matters. I suggest to the Hon. Mr Davis that he proceed to ask some of his questions, and we will see whether we can make progress on this matter. If we are not making very much progress on the matter, I will consider his request that we report progress later. However, I would ask him at least to provide the opportunity for these questions to be responded to, because I am advised that considerable information can be provided.

The Hon. L.H. DAVIS: For the record, I want to make quite clear that the Minister is an innocent abroad in this sorry little affair.

The Hon. Barbara Wiese: Don't be dramatic; get on with it.

The Hon. L.H. DAVIS: I just want to make clear that the Minister has acted quite properly, and I accept that. However, I find it extraordinary that the Government is unable to come up with the goods on such an important matter, and I think that the Council should remember that last Wednesday evening we did not sit when we normally sit. I have no idea why that occurred; it was certainly not our desire that that should occur. That would have facilitated the budget Estimates Committee last week.

It would have enabled one or two speakers on this side to complete their budget estimates contributions. In fact, I had been told to prepare for the Committee debate for last Thursday. That did not take place because we did not sit last Wednesday night. I think it is a very ordinary approach to an extraordinarily important matter.

I do not want to misconstrue for one moment the reason why they are in Melbourne, but I think the importance of what has happened with Scrimber and other matters that have been a feature of SATCO's commercial operations over recent years, which have amounted to a loss of $80 million to the taxpayers of South Australia, deserves a better response from the Government than the one that we have had today. I accept the Minister's good will in this matter and I will proceed. However, if we are not making satisfactory progress I will certainly accept with alacrity her offer that we report progress to try to resolve the matter.

First, the problems with Scrimber relate back some years. Of course, the equipment that was put in place for the Scrimber project was ordered some time ago. We now have a situation in Mount Gambier where there is an operation that has cost $60 million, shared equally by the South Australian Timber Corporation and SGIC—as 50/50 partners. My simple question is: what are the estimated holding costs of the Scrimber factory at Mount Gambier for 1991-92 if SATCO is unable to sell that factory?

The Hon. BARBARA WIESE: I am advised that the total estimated cost will be no more than the $3.1 million wind-up costs which were recorded in the Auditor-General's Report and which would be in keeping with the ceiling for total project costs of $55.1 million, which were also recorded in the Auditor-General's Report and which were stipulated by the Government.

The Hon. L.H. DAVIS: As I mentioned, the Government committed itself to the Scrimber project in late 1986 with a budget estimate of $22 million at that time and a completion date of mid-1988. Presumably there was someone responsible in the South Australian Timber Corporation for the design of the Scrimber plant, the layout of the plant and the ordering of equipment.

Can the Minister advise the Committee who was responsible for the original layout of the plant, the design and the ordering of the equipment? This question may need to be taken on notice. I suspect that Mr Curtis may be able to provide the answer. However, it is important for us to understand the problems associated with the Scrimber project.

The Hon. BARBARA WIESE: I do not have the names of the individuals who were involved, but I am advised that a number of people were involved in the decision-making process in the design, layout and ordering of equipment. I believe these people were or subsequently became employees of Scrimber International. For reasons about which I cannot be specific, it is dependent on the timing of the formation of Scrimber International, but the people concerned were involved in the process from the beginning and I think were involved in the company from which the concepts came in the first place. I shall have to take the question on notice to get information about the individuals specifically involved in it.

The Hon. L.H. DAVIS: And the time frame during which the Scrimber design, layout and purchasing program was organised. I think it is probably through until about mid-1988. I understand that Scrimber International had a board of directors comprising the representatives of the joint venture partners, the South Australian Timber Corporation and SGIC. Can the Minister advise the Committee who were the members of the Scrimber International Board and how often they met? I think I am correct in saying that the Chairman of Scrimber International was Mr Higginson.

The Hon. BARBARA WIESE: As I understand it, the joint venture partners held monthly meetings when the joint venture was established. I am not sure whether they called themselves formally a board of directors, but representatives of the corporation and of the SGIC were present at these monthly meetings. The people who attended these meetings were: Mr Higginson, who was the Chair, as the honourable member indicated; Mr Robert Cowan, who was employed by the Department of Woods and Forests at that time; Mr Curtis, who was the Secretary; and Mr Coxon, who was the Managing Director of Scrimber International. The SGIC representatives were Mr Dennis Gerschwitz and Mr Robert Bruce.

The Hon. L.H. DAVIS: Did any members of the Scrimber International Board have engineering experience?

The Hon. BARBARA WIESE: As I understand it, Mr Graham Coxon had an engineering qualification. However, as far as I know, no other board members had engineering qualifications, although there were some who had forestry and financial experience, as one would hope on a board of this sort.

The Hon. L.H. DAVIS: Mr Graham Coxon was the Chief Executive Officer of Scrimber International from July 1988, so he was on the board during the period in which the Scrimber International Board was operating; is that a correct assumption?

The Hon. BARBARA WIESE: During that period, Mr Coxon attended board meetings, but his title was always Managing Director: he was never referred to as the Chief Executive Officer.

The Hon. L.H. DAVIS: The Scrimber International Board held its monthly meeting, a summary report was prepared of what happened at the meeting and that report was tabled at the South Australian Timber Corporation meeting. Will the Minister confirm the accuracy of that observation? How often did the South Australian Timber Corporation Board meet? Who were the members of the South Australian Timber Corporation Board? What engineering expertise, if any, did those board members have?

The Hon. BARBARA WIESE: It is correct that summaries of Scrimber International meetings were tabled at the monthly SATCO meetings. I do not have a list of the people who were members of the board during the period to which the honourable member refers, that is, around 1988—

The Hon. L.H. Davis: Through to 1991.

The Hon. BARBARA WIESE: I can provide information about the current members of the board. They are Mr Higginson, who is Chairman, Mr A.W. Crompton, Mr D.R. Mutton and Mr W.R. Cossey, a deputy member. They are the current members and were members at the time the annual report was prepared for the period ended 30 June 1991. I am not sure exactly how long this combination of individuals has been sitting on the corporation board, but I will provide information about the membership of the board prior to the current composition.

As far as I know, none of the members of the current board has an engineering qualification. As to members of previous boards, that is a matter that I will provide information about at a later time.

[*Sitting suspended from 6.4 to 7.45 p.m.*]

The Hon. BARBARA WIESE: Before we adjourned for dinner, the Hon. Mr Davis asked a number of questions to which I was unable to provide answers. One of the key officers of SATCO has now returned from interstate, so I can provide answers to some of those questions. The first question related to the audit of SATCO accounts. The Hon. Mr Davis noted that the Auditor-General had indicated that the audit had not been completed, and he asked whether that had yet been done. I can advise that KPMG, the consultants who were engaged to do the audit, have completed their report, which has been forwarded to the Auditor-General.

The honourable member asked who were the members of the SATCO board in 1988 around the time Scrimber was formed. In June 1988 the members of the board were Mr Higginson, Mr John Baker and Mr Peter South, and Mr Crompton was an alternative to Mr Higginson. In 1989 Mr South, at the time of his retirement, left the board, and Mr Mutton became a member. Sometime later Mr Baker left the board, around the same time as he departed Beneficial Finance. The members of the board to whom I referred previously as being its current members then became the full board, and those members have carried on since that time.

The honourable member asked whether any of those members had engineering qualifications, and it is my understanding that none did. I was asked who was responsible for the design, layout and ordering of equipment for the Scrimber project, and at that time I indicated that a number of people who were involved with Scrimber had some involvement in that. I have now been advised that a consultant was engaged at the time by the Scrimber partners, and I understand that that consultant was a member of the Australian Society of Professional Engineers. The direct responsibility for the ordering of equipment was that of the two partners, SATCO and SGIC.

The Hon. L.H. DAVIS: Before dinner the Minister advised the House that the Scrimber International Board or partnership (however it is defined) met on a monthly basis and, presumably, received reports from management. Did those reports contain details of specific technical problems and other matters relating to the Scrimber project, and how often were these reports prepared? Did those details include technical difficulties, the cost of fixing the problem, the time scale involved and so on?

The Hon. BARBARA WIESE: As I indicated earlier, the Scrimber partners met monthly. They received extensive reports from the project management team. These reports covered a variety of problems in the plant and reported on progress with commissioning. They also outlined targets for commencement of commercial production. However, many of the problems which ultimately prevented commercial production were not clearly identified in this reporting process and it became clear over the past 12 months that the information was, at best, not complete. As a result, the corporation had to take direct action to ask Mr Roger White to become involved in the project management. As the Council would be aware, the Minister engaged consultants to work with Mr White and to provide an independent report to the Minister.

The Hon. J.F. STEFANI: Given the technical difficulties that the Scrimber project was experiencing in relation to establishing the operation and the manufacturing facilities, would it be feasible to say that the design faults of the various components in the Scrimber plant were initially in the equipment that had been ordered and installed? In process of receiving reports and, obviously, identifying the difficulties did any of the engineers or consultants travel overseas to inspect similar plants and, if so, when did they go, which plants did they visit and what reports did they bring back in terms of the experience that other plants have had in setting up? If the Minister is unable to answer some of those points, I would be happy for the questions to be taken on notice.

The Hon. BARBARA WIESE: It is true that there were design faults in the initial equipment installed in the plant, as has been acknowledged, but it must be born in mind that there were no other plants of this kind anywhere in the world. This is a sunrise industry. The work being done in the Scrimber plant was unique in the world. Therefore, the problems that later emerged through practice would not have been perceived in the original design work. Overseas trips were undertaken by people involved in the process of establishing the Scrimber plant, but they were not able to visit plants similar to this one as there is nothing like it in the world. The visits made by various people at different times were to inspect discrete pieces of equipment; for example, one visit was undertaken to look at presses. In fact, the press eventually developed for the Scrimber plant was a modified version. Nothing available in the world was suitable for the process, so it had to be modified.

The Hon. L.H. DAVIS: Does the Minister accept that in a new and difficult technology such as Scrimber was the solving of one problem may often create another? In other words, if one hole is plugged or one problem solved, that may lead to another problem being created? Is that an explanation for the continuing difficulty at the Scrimber plant?

The Hon. BARBARA WIESE: I am advised that in the development of a new technology of this sort, the solving

of one problem will not necessarily create another but, rather, it will help to identify other problems that may exist downstream in the process.

The Hon. L.H. DAVIS: Despite the obvious fact that the technical problems were ultimately a key factor in the failure of the project, I understand that quite a number of beams were produced from the plant; that is my understanding. What was actually wrong with beams produced from the plant; in what way could management be held responsible for the condition of those beams; was there any way in which management could have rectified those problems; and was the board told that the beams produced were in fact suitable for sale?

The Hon. BARBARA WIESE: The answer to the first question is that no beams were produced in specification. There were various faults, including inconsistency and difficulties in operating the press, which resulted in steam blows of some of the beams produced. The answer to the second question is that it is very difficult to make judgments about who was responsible for the problems in the beams produced. Some were due to design problems and some were due to process problems, and it would be very difficult to allocate blame or responsibility for those problems. As to the third question, I can indicate that all endeavours were directed to overcoming the problems that caused the poor quality beams to be produced. In answer to the fourth question: the board was not told the beams were suitable for sale because they were out of specification, but they were told on a number of occasions that beams in specification were imminent.

The Hon. L.H. DAVIS: In the *Advertiser* on 1 August 1991, following the decision of the Government to stop funding the Scrimber project in this budget year, five problem areas were quoted: glue application, glue bond strength, problems resulting from raw material variation, problems related to press cycle times and inability to achieve consistent product quality. Were these problems reported to the board by management at any stage? Did these matters come before the Scrimber board and ultimately the SATCO board as part of the monthly reporting process, and what action did the board take to rectify these problems if they were reported?

The Hon. BARBARA WIESE: Some of the problems to which the honourable member refers were certainly known to the board. Problems with glue application, bond strength, press cycle time and inconsistency in the production of beams were known to the board because they were out of specification. Without doing some research and going back through board reports and so on, I cannot indicate the extent of the detailed explanation about some of those issues, but certainly they related to specification and problems with production.

Therefore, issues of that sort were known to the board. However, we must bear in mind that it is one thing to identify a problem; it is another to understand the significance of it, how elusive the solution might be, and how significant the problem will be in the final operation of the plant. It is not a simple matter of knowing the issues. In the development of new technology of this sort, it is much more complicated than the Hon. Mr Davis wants to acknowledge.

The Hon. L.H. DAVIS: The board was receiving regular reports throughout the last financial year and presumably into this new financial year before the closure decision was made. The board of Scrimber consisted of a partnership between representatives of SGIC, which had its $25 million investment to protect, and representatives of SATCO, which also had its $25 million to protect. It is worth noting that this was SATCO's major investment, so presumably it was given high priority by the SATCO board. Did the board ever express reservations about the progress being made with the Scrimber operation? Is that detailed in the board minutes that were presumably written up on a monthly basis? Who was keeping notes of the board's feelings, attitudes and decisions on these matters?

I visited the Scrimber plant in September 1990, shortly after I became shadow Minister of Forests, and I had an open and frank exchange of views with SATCO officers, including the Chairman of SATCO, Mr Higginson, and executives of Scrimber International. I was shown over that plant. No punches were pulled; it was a very honest and open exchange of views. I was given every opportunity to learn more about the Scrimber project. It was well known that I had been sceptical about the prospects of Scrimber and concerned about the costs to the Government and ultimately the taxpayers of South Australia through taking up this untried technology. It was obvious to me at that time that there were still many outstanding problems in the plant. On the day that I was there, there was a problem at every phase of the plant.

Did the Scrimber board, including SGIC representatives, visit that plant and, if so, how often? Did SATCO officers visit the plant? Surely those problems would have been obvious to them. Is any documentation available that confirms the board's view on the progress, or lack of progress, on Scrimber? Did the board express reservations about the progress being made with the Scrimber operation? For instance, did SGIC, with its investment, have any specific reservation about the progress of that Scrimber operation?

The Hon. BARBARA WIESE: Minutes of partnership meetings have been kept. From time to time, concerns expressed by board members were recorded concerning the progress being made in developing the technology and also about the cost escalations. The board has met at the Scrimber plant, so it has had the opportunity to view the work itself. However, it would be true to say that SATCO officers and board members have visited the plant more often than the SGIC members.

The Hon. L.H. DAVIS: The Minister has stated that no financial limits were placed on the project, yet the Chairman of SATCO, Mr Higginson, was quoted in the State-wide and South-East press on more than one occasion as saying that he had provided a personal guarantee to the Premier that costs would be contained within certain limits, and I think that figure was $50 million. Was that figure arrived at in consultation with the Minister of Forests? Was that a figure that the SATCO board had decided to set? Will the Minister explain why a specific limitation would be placed on a project which might well be close to completion but which, because of the new technology, which the Minister has admitted was such a key part of the Scrimber project, may still require more money? Were the management of Scrimber and the consultants working on the Scrimber project, that is, Kinhill and H.A. Simons, aware of those limits? Did management of Scrimber operate within those limits?

The Hon. BARBARA WIESE: Project funding was subject to board recommendation to the Minister and, ultimately, to the Cabinet. A number of reviews were undertaken over the development of the project. The $50 million target was established by that same process, and the remarks of the Chairman to which the honourable member referred were made at a time when the objective was to complete the commissioning process within the approved limit. The project staff were involved in the development of costs, and were fully apprised of the need to contain outlays within those limits.

With respect to the question about the consultants Simons and Kinhill, they were engaged and operated within segments of the overall project. Therefore, the total outlays in that respect were irrelevant to their part of the work. As I understand it, the board was given to understand by management that the $50 million target cap was realistic to bring the plant into commercial production.

The Hon. L.H. DAVIS: In the Minister's view, was the project mismanaged by Scrimber management? Was it mismanaged financially and, if so, how?

The Hon. BARBARA WIESE: I am not able to answer for the Minister of Forests on this question. If the honourable member wishes the Minister's views on whether he believes the project was mismanaged, I will have to refer the question to him and bring back a reply.

The Hon. L.H. DAVIS: I appreciate and accept that, because I would like the Minister's views. Can the Minister provide the terms of reference given to H.A. Simons when that organisation was brought in to assess the Scrimber project earlier this year?

The Hon. BARBARA WIESE: I understand that the Minister gave instructions to H.A. Simons when that company was brought in to look at the project, so that is another question that I will have to refer to the Minister and I will bring back a reply.

The Hon. L.H. DAVIS: When did the Scrimber and/or the SATCO boards realise that the Scrimber technology would not produce the results to match the expectations set down for Scrimber?

The Hon. BARBARA WIESE: The minutes of the board meetings would have to be consulted to provide an accurate answer to this question. Therefore, I will take the question on notice and bring back a reply.

The Hon. L.H. DAVIS: As SGIC was a partner in the project right from the start, is the Minister in a position to say whether SGIC ever expressed concerns to the SATCO board about the Scrimber process, given that it had a $25 million investment in the project? SGIC was certainly represented on the Scrimber board, but did it ever express concerns to that board?

The Hon. BARBARA WIESE: First, I wish to correct a point made by the Hon. Mr Davis. SGIC was not a partner from the inception of the project: it became a partner on 22 December 1986 and the project commenced in 1985. That needs to be clarified. As to whether SGIC expressed concern to the SATCO board, I cannot answer that question. A check will have to be made of minutes of meetings, so I will refer that question to the Minister and bring back a reply.

The Hon. L.H. DAVIS: In a press release dated 31 July 1991 announcing the fact that the Government would not invest further funds in the Scrimber project, the Minister of Forests (Mr Klunder) said that his decision to intervene in the project followed repeated management failures to live up to assurances and targets it had set for the commencement of commercial production. However, tonight we have heard that a suitable beam was never produced—I think the Minister said there were a number of technical difficulties with the beams—and, in fact, the *Advertiser* of 1 August pointed to five specific problem areas.

We have also heard tonight confirmation of the fact that a limitation of $50 million was placed on the project. Obviously, that limited the ability to rectify some of the bigger problems. I guess this will be a matter again for the Minister of Forests to address, but my question is an obvious one: how can the Minister say that the project was being closed down because of repeated management failures to live up to assurances and targets that had been set for the commencement of commercial production when, in fact, a manifest number of technical difficulties associated with the project over a long period were, quite clearly, obvious to a large number of people?

The Hon. BARBARA WIESE: As I have already outlined—and as, I understand, the Minister of Forests has outlined on numerous occasions—the problem was that the board and the Minister were advised consistently that the technical difficulties in the production of scrimber were about to be overcome. They were consistently informed that problems were to be resolved imminently, and that process continued. So, that seems to be the root cause of the problem; however, if the honourable member is seeking the Minister's views, clearly I must refer that matter to him for a more complete reply.

The Hon. L.H. DAVIS: I have one final question relating to the role of Kinhill, the company that was brought into the Scrimber International operation in late December 1989 at the invitation of Scrimber's management to act as consultants in identifying and solving problems. Kinhill, a firm that is regarded as one of the top consulting engineers in Australia—and I think that is beyond dispute—had an important overseeing, consulting and supporting role in developing this new technology. Kinhill worked on the Scrimber project for some 18 months alongside Scrimber's management. It provided a useful second reservoir of opinion as it could identify the nature and magnitude of the problems and the cost of solving them.

To what extent did the Scrimber board and the SATCO board take into account and utilise the expertise of Kinhill in getting a second view, given the magnitude, cost and controversy of the project? It seems curious that Kinhill was apparently not consulted, but H.A. Simons was brought in out of the cold from overseas to give an opinion on the matter when in fact someone who had been working on this brand new one-off technology alongside Scrimber management could have provided useful advice to the Minister and the SATCO and Scrimber boards.

The Hon. BARBARA WIESE: As I understand it, Kinhill was originally engaged as part of the engineering team. It reported to management, and in turn management reported to the board. It was engaged to address individual engineering solutions, not some of the wood technology problems that were occurring at the plant. As has been stated many times, the fact is that the problems at the plant were not just engineering problems; they were a combination of engineering problems and wood technology problems. The terms of Kinhill's appointment were to work on individual engineering issues in relation to the operation of the plant. However, it should be borne in mind that making the plant work effectively was not necessarily going to solve the problems of Scrimber because other issues were involved in developing the technology.

Schedule passed.

Schedule 2 and title passed.

Bill read a third time and passed.

DISTRICT COURT BILL

In Committee.

Clause 1 passed.

Clause 2—'Commencement.'

The Hon. K.T. GRIFFIN: Can the Attorney-General indicate with any degree of specificity when this is likely to be proclaimed?

The Hon. C.J. SUMNER: I aim for a commencement date at the end of June next year.

The Hon. K.T. GRIFFIN: During the second reading response the Attorney-General made some observations about resources, but invited me to take the matter further, if I was so inclined, in Committee. Can he give any further indication of the likely impact of this Bill on the workload of the District Court and of what additional resources are likely to be required? How is it likely to affect the substantial backlog of cases—over 4 000 in the list—for the period prior to January 1990?

The Hon. C.J. SUMNER: We will deal with that matter later.

Clause passed.

Clause 3—'Interpretation.'

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

Page 1, after line 27—insert definition as follows:

'action' means any civil or criminal proceedings in the Court, including proceedings for a contempt of the Court:

This amendment inserts a definition of 'action'. 'Action' is defined to mean any civil or criminal proceedings in the court, including proceedings for a contempt of court. Clause 43 provides for appeals. It provides that any party to an action may appeal. It is not at all clear that this would provide for an appeal from a contempt finding. This definition makes clear that there is an appeal from a contempt finding.

Amendment carried.

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

Page 1, lines 29 and 30—leave out definition of 'jurisdiction'.

This amendment deletes the definition of 'jurisdiction', which is really not necessary and does not assist in the interpretation of the legislation. It is a drafting matter.

Amendment carried.

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

Page 2, line 2—leave out definition of 'question of law'.

This amendment deletes the definition of 'question of law'. It has been pointed out by the Supreme Court judges that questions of mixed fact and law have always been treated as questions of fact for the purpose of appeals and they are usually subject to leave. By removing this definition, the *status quo* is preserved.

Amendment carried.

The Hon. K.T. GRIFFIN: I refer to the definition of 'Master'. It means the District Court Master or a Deputy District Court Master. I presume from that it is intended to have only one Master, although clause 10 refers to 'Masters' and nowhere that I can see is there a reference to a Deputy Master. Will the Attorney-General clarify what is proposed?

The Hon. C.J. SUMNER: I think the point raised by the honourable member is a valid one. The Bill is drafted on the basis of the current situation, where there is one District Court master, and I think there is a deputy. However, it may be that there is more than one, so I think it probably should be amended, and we will look at that. It is only a technical matter but, obviously, one would not want to come back to the Parliament every time we wanted to appoint another master. I think it is reasonable to fix that up and, as it is purely a technical matter, I suggest it can be done in another place without too much difficulty.

The Hon. K.T. GRIFFIN: It is not a matter of controversy—I acknowledge that—but I think it is important to have it sorted out before the Bill finally passes, and I would accept the Attorney-General's undertaking (I think it was) to have it looked at before the matter is finally resolved in another place.

Clause as amended passed.

Clause 4—'Establishment of court.'

The Hon. K.T. GRIFFIN: I raise another technical matter in relation to clause 4. Nothing hinges upon it, but the clause provides that the District Court of South Australia is established. It may be that there is something in the Acts Interpretation Act that will identify reference to the District Court as the District Court of South Australia, but it seems that perhaps some cross-referencing is necessary so that the name 'District Court' also means the District Court of South Australia. Again, I wonder whether the Attorney-General might look at it, not with a view to resolving it immediately but before the Bill is passed in both Houses.

The Hon. C.J. SUMNER: Yes; I understand the point being made by the honourable member. It is a technical point, but it may be important, and we undertake to examine it.

Clause passed.

Clause 5 passed.

Clause 6—'Seal.'

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

Page 2, line 16—Leave out 'the seal' and substitute 'a seal'.

Clause 6 (1) refers to seals of the court, and this amendment acknowledges that.

Amendment carried; clause as amended passed.

Clause 7 passed.

Clause 8—'Civil jurisdiction.'

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

Page 2, lines 30 to 32—Leave out paragraphs *(b)* and *(c)* and substitute:

(b) the court has no supervisory jurisdiction except as expressly conferred by statute with respect to inferior courts or tribunals, or with respect to administrative acts, and has no jurisdiction to grant relief in the nature of a prerogative writ.

This amendment is designed to make clear that the District Court has no jurisdiction to grant relief in the nature of prerogative writ. This supervisory role belongs to the Supreme Court.

The Hon. K.T. GRIFFIN: I am happy to support that. I think it does need to be made clear that the District Court has no jurisdiction to supervise other jurisdictions. I just mention now, not with a view to debating it now, but when we get to the appropriate clause, that there is a provision in the Bill under clause 37 which allows the court to make binding declarations of right.

It seems to me that, in some respects, that can be in the context of some supervision of quasi traditional tribunals. I do not want to do anything more than flag it now to give the Attorney the opportunity to think about it before we get to clause 37. Notwithstanding that point, I think it is important to clarify the position as the Attorney has done in the amendment, and I support it.

Amendment carried.

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

Page 2, after line 32—Insert paragraph as follows:

(d) the court has no jurisdiction (except by agreement of the parties) to determine a claim for a monetary sum where—

(i) if the claim arises from injury, damage or loss caused by or arising out of the use of a motor vehicle—the amount claimed exceeds $200 000;

(ii) in any other case—the amount claimed exceeds $150 000.

This is one of the major issues of the Bill. It is an issue of considerable importance, because it changes the whole emphasis of the civil jurisdiction of the District Court. The Bill seeks effectively to provide an unlimited civil jurisdiction for the District Court on the basis that it might then become the principal trial court not only in the civil jurisdiction but also in the criminal jurisdiction.

Quite obviously, that will mean that some very complex cases may be dealt with in the District Court rather than in the Supreme Court, where there is considerable experience in dealing with those sorts of complex matter. Until now, the District Court has had a monetary limit on the jurisdiction that it can exercise. As I recollect, the limit is $100 000 for all claims except motor vehicle injury claims, where the amount is $150 000, recognising that with motor vehicle injury claims, whilst there are some that are very complicated, there are also many which are reasonably straightforward and which depend upon the interpretation of principles for assessment of damages as much as issues of liability.

My proposal is to limit the civil jurisdiction of the District Court in so far as it relates to a claim for a monetary sum where it is limited to $200 000 for a claim arising from injury, damage or loss caused by or arising out of the use of a motor vehicle, and in any other case, the amount claimed is up to $150 000. It seems to me that that is a reasonable increase on the present levels of jurisdiction, which were increased only three or four years ago.

There is some merit in the observations of the Law Society. It holds the view that litigation can include larger insurance claims and complex tort claims that involve difficult questions in relation to damages and interest, large commercial matters and protracted contractual disputes. The Law Society states:

> It would be true to say that many of the justices of the Supreme Court were exposed in practice to such matters. The District Court, on the other hand, was created historically to deal with other classes of action and, in particular, personal injury damages litigation and middle level crime. Proposed lifting of any jurisdictional restraint may therefore well mean that the matters that should be more properly dealt with in the Supreme Court are dealt with in the District Court.

It goes on to say, and it is important to put this on the record:

> Still further the concurrence of jurisdiction itself does not achieve the professed objective of the scheme of legislation to make the District Court the 'trial' court.
>
> The workload of the District Court has already been the subject of careful scrutiny. The comprehensive trial management program has helped ease the backlog of cases. The removal of a monetary jurisdictional limit is likely to cause an influx of large time-consuming cases into the District Court, which will be counter-productive to the developments to date in case flow management. It will place a significant administrative burden on the court.
>
> The society opposes the removal of monetary ceilings on the District Court. If monetary ceilings are to be retained, then a small increase in same over and above the existing level may be appropriate. The society would not support a large increase.

It then goes on to talk about the full equitable jurisdiction being available to the District Court, saying that that is not appropriate. We have taken the view that, whilst we have some reservations about full equitable jurisdiction being exercised by the District Court, nevertheless it is probably so intertwined with its other jurisdiction that it would be difficult to turn back the clock, so we are not opposing that part of the Government's proposition. Whilst it can be argued that the monetary limit may not necessarily reflect the degree of difficulty, when we get to the large sums it bears some relationship to it.

I suppose the other complicating factor, which is unknown at this stage, is the extent to which cases will be moved from the District Court to the Supreme Court and from the Supreme Court to the District Court. I understand that the rules which establish a procedure for assessing cases have not yet even been contemplated; nor have the mechanisms for dealing with that interchange been addressed. That is likely to occur after the Bills in this package pass.

That raises some concern because, if we support the Bill and not my amendment, we are in a sense legislating in a vacuum in the expectation that the two levels of the courts will be able to work out the appropriate mechanism for exchanging cases or referring or transferring, as the case may be, from one to the other. That involves a degree of uncertainty which litigants ought not to face in a fairly difficult environment where there are already uncertainties about litigation.

The point that I want to stress is that, because of those problems and the lack of experience of many of the judges of the District Court in the fairly complex cases which might end up before that court, whether they be building disputes or other complex cases, there ought to be a limit on the monetary sum which forms the jurisdiction of the District Court. For those reasons, I move this amendment to place those limits on the jurisdiction.

The Hon. C.J. SUMNER: The Government opposes this amendment. This proposal arose out of the report by the senior judge of the District Court on the new structure of the court which has formed the basis for the legislation which has now been introduced. It proceeds on the assumption, which I think is already reality, that the District Court in South Australia will be the principal trial court for serious matters.

It would not be wise to increase the numbers on the Supreme Court because it has an appellate function. Even the existing 14 judges in the Supreme Court probably means that that appellate function is dispersed amongst a number of judges and could lead to inconsistencies in the long run. So, it is important that the Supreme Court not be expanded in size. That being the case, the District Court is becoming and will continue to become the principal trial court.

The problem with the monetary limits is that they are completely arbitrary. There may be a complex matter under the monetary limit and a relatively simple matter over the monetary limit. The question of the complexity of cases has been dealt with by the provision for transferring matters between the courts. This will ensure that the most appropriate court, Supreme or District, will deal with the matter. It is also true that the courts will make rules of court to deal with these issues. This was a central part of the recommendations which came from the senior judge, Judge Brebner, and it is a proposal supported by the District Court judges and also one to which there has been no objection from the Supreme Court. The reason for that is that we have to look at the judiciary more and more as one unit with flexibility between the various jurisdictions to ensure that the cases with greater complexity are being heard in the Supreme Court, those of lesser complexity in the District Court and others, of course, in the Magistrates Court.

The Hon. K.T. GRIFFIN: Whilst I acknowledge that the Supreme Court is exercising a wider appellate jurisdiction and becoming more an appeal than a trial court, I would be very concerned if that reached the ultimate of the Supreme Court exercising only appellate jurisdiction. I know that is not contemplated at the moment in this Bill in relation to criminal matters, but undoubtedly that is a trend, and I would suggest that it is more likely to happen where there is a concurrent rather than an exclusive jurisdiction.

The Supreme Court judges exercising appellate jurisdiction need to undertake and experience trial work to be effective Appeals Court judges. That does not work that way in some other jurisdictions, but it is important for judges to have some practical experience of running civil and criminal trials. I would be disappointed if we ultimately got to the position—not necessarily in the next four or five but may be 10 years down the track—where the Supreme Court exercised only appellate jurisdiction. Notwithstanding

that, I still say that there ought to be some monetary cap on the jurisdiction of the District Court.

The Hon. C.J. SUMNER: It is not the intention of the courts or the Government that the Supreme Court should exercise only appellate jurisdiction—I want to make that absolutely clear. In fact, I have said that this provision will enable the Supreme Court to deal with the more complex issues. Another point is that the arbitrary monetary limits can cause injustice to litigants because, if a litigant for some reason ends up in the wrong court, in particular the District Court, and then finds that they should have been in the Supreme Court, once judgment has been given it is too late. If there is no monetary limit, the District Court can give the appropriate judgment: if there is a monetary limit, it can give only up to that limit and, if the case deserved more, that would be the plaintiff's bad luck.

The Hon. I. GILFILLAN: I do not pretend to have enough knowledge to make a substantial judgment on the issue, but certainly on balance it appears to me that the Government's position is sounder. I accept the argument put by the Attorney that the Supreme Court will still have a variety of cases to deal with. I also accept his argument setting an arbitrary amount of money does not determine the complexity or difficulty of such matters. I indicate that the Democrats oppose the amendment.

The Hon. K.T. GRIFFIN: I note that I will not then have the numbers. However, this is an important enough issue to indicate that we will divide on the matter if we are not successful on the voices.

The Committee divided on the amendment:

Ayes (10)—The Hons J.C. Burdett, L.H. Davis, Peter Dunn, K.T. Griffin (teller), J.C. Irwin, Diana Laidlaw, R.I. Lucas, Bernice Pfitzner, R.J. Ritson and J.F. Stefani.

Noes (11)—The Hons T. Crothers, M.J. Elliott, M.S. Feleppa, I. Gilfillan, Anne Levy, Carolyn Pickles, R.R. Roberts, T.G. Roberts, C.J. Sumner (teller), G. Weatherill and Barbara Wiese.

Majority of 1 for the Noes.

Amendment thus negatived.

The Hon. K.T. GRIFFIN: Is the Attorney-General able to take any further the structure and procedures by which the complex cases will be transferred to the Supreme Court or the less complex cases transferred to the District Court, or was I correct when I said that probably this has not yet been resolved or even considered, and it is something of a vacuum at the moment?

The Hon. C.J. SUMNER: Not a lot of work has been done on that, at least to formulate the rules, but that will have to be done once the legislation is passed. A provision will have to be put in the Supreme Court Act, which is coming up later, to enable the Supreme Court to make rules to regulate the disposition of business as between the Supreme Court and the District Court.

The Hon. K.T. GRIFFIN: It is important for those rules to be clearly established by the courts. It will be chaos if the practising profession does not have a clear set of guidelines by which it can easily be determined in which court an action will be tried, or at least some fairly informal mechanism for resolving any uncertainties as to the jurisdiction in which an action should proceed. The more complexity, obviously the more costs there will be to litigants in having this issue resolved. I make a plea to have the procedures as clearly set out as possible in the rules and for it to be as simple and inexpensive as possible.

The Hon. C.J. SUMNER: I agree with that. I will ensure that the honourable member's comments are passed on to the judiciary.

Clause as amended passed.

Clause 9—'Criminal jurisdiction.'

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

Page 3, after line 6—Insert:

(2a) The court's jurisdiction to try, convict or sentence for a summary offence exists only where the offence is charged in the same information as an indictable offence.

This clause may be interpreted as giving the District Court jurisdiction to hear all summary offences, and this amendment makes it clear that the court's jurisdiction is only to try, convict or sentence for summary offences that are charged in the same information with an indictable offence.

Amendment carried; clause as amended passed.

Clauses 10 and 11 passed.

Clause 12—'Appointment to judicial office.'

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

Page 3, lines 35 and 36—Leave out 'A person who is eligible for appointment to judicial office, or who has held but retired from judicial office,' and insert 'A member of the judiciary of another Court or a person who has held but retired from judicial office'.

I recognise that presently there are provisions about the appointment of acting judges and masters. It is undesirable, as we look forward rather than backwards in the establishment of the status of the court that acting appointments be made only from those who have either retired from judicial office or are already members of the judiciary of another court. I seek to remove the entitlement to appoint legal practitioners on such a long period of acting appointment.

The Hon. C.J. SUMNER: I oppose this amendment, the effect of which is to confine acting appointments to members of the judiciary or other courts or retired judicial officers. It will remove the current flexibility to make acting appointments from the profession, an option that has existed since time immemorial, as far as I know. While it is not used very often, I think it is desirable both in this area of acting appointments and also in the area of auxiliary appointments that the option be available to appoint someone from the practising profession provided that they meet the required qualification of length of period as a legal practitioner and, of course, are capable of doing the work in the court to which they are appointed on an acting basis.

The Hon. I. GILFILLAN: It is interesting to note that the Law Society opposes the opinions of both the Attorney and the shadow Attorney: it says, 'A pox on all temporary appointments'. I do not know whether to champion their cause and come in with a third option; however, I will resist and indicate that I support the Government's position and oppose this amendment.

Amendment negatived.

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

Page 4, line 6—Leave out 'within and outside the State' and insert 'in any common law jurisdiction'.

It seemed appropriate in relation to the calculation of a period of legal practice only to take into consideration the practice in a similar jurisdiction. My amendment addresses an issue that I raised during the second reading; that is, if someone comes from New Zealand, their period of legal practice or judicial service can be taken into consideration, but if they come from a non common law jurisdiction it will not be taken into consideration. It may be a pedantic point, but I think it is important that it be noted. If judges are appointed with experience from outside South Australia it is important that they be experienced in a jurisdiction similar to the one in which they will sit and make decisions.

The Hon. C.J. SUMNER: The Government opposes this amendment. Service outside the State was brought in for consideration in 1988 under the Judicial Administration (Auxiliary Appointments and Powers) Act. The same provision was enacted for the Supreme Court, Local and Dis-

trict Criminal Courts and the Magistrates Court. In other words, the *status quo* is in the Government's Bill, and the Hon. Mr Griffin is seeking to change the *status quo*.

There is no good reason to amend the provision, although practically it may not make a lot of difference. However, it should be remembered that the person to be appointed to judicial or auxiliary judicial office has to be a legal practitioner in South Australia. So, they must have been admitted to practise in South Australian courts but, having been admitted to practise in South Australia, their service or period as a practitioner outside South Australia can be taken into account in determining whether they qualify for appointment to judicial office in terms of the length of time that they have been in practice.

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

Amendment negatived; clause passed.

Clause 13 passed.

Clause 14—'Leave.'

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

Page 4, lines 13 and 14—Leave out 'recreation leave, sick leave, long service leave and leave on retirement (or payment in lieu of such leave)' and substitute 'leave (or payment in lieu of leave)'.

The types of leave to which judges and masters are entitled are spelt out. The judges have suggested that this is unnecessary and reference need only be made to leave. That is what my amendment does.

The Hon. K.T. GRIFFIN: I do not object to the amendment. What would be helpful—and I am not asking the Attorney-General to do this off the top of his head but rather to provide it in the Council at some convenient time—are details of the leave entitlements of judges and the nature of payments in lieu of leave. I presume that that relates to payments where a judge has accrued leave but has not taken it and only to accrued leave at retirement. At some convenient time I would like those two areas clarified, just for the sake of the record.

The Hon. C.J. SUMNER: I will try to provide that for the honourable member. Having looked at the amendment to clause 14, I am not sure that it is appropriate because masters of the Supreme Court have the status of District Court judges and, I understand, also have the same leave entitlements. But, a master of the District Court has the same status as that of a magistrate. To give a master of the District Court the same leave provisions as a master of the Supreme Court would, in my view, upset the current relativities. So, we may have to look at amending that provision in due course.

The Hon. K.T. Griffin: Do you still want to proceed with this?

The Hon. C.J. SUMNER: Yes, at this stage I will proceed with the amendment but I indicate that we will have a look at that issue and probably will have to move a minor amendment to it later.

Amendment carried.

The Hon. K.T. GRIFFIN: It may also be worth checking to make sure that the leave entitlements of judges of both jurisdictions are identical, and that includes sabbatical leave or long service leave. It may be that they do differ, but these days I do not know.

The Hon. C.J. SUMNER: I don't think they do for judges.

Clause as amended passed.

Clause 15—'Removal of judge or master.'

The Hon. K.T. GRIFFIN: A magistrate is not removed by an address of both Houses, and if the Master of the District Court is to have status equivalent to that of a magistrate, as I believe he or she should, then I do not think that the position of Master ought to be preserved in the same way as that of a judge. All I am asking is whether the Attorney can look at the matter. My recollection is that magistrates, under the Magistrates Act, are removed on the recommendation of the Chief Justice, and it would seem to me that there needs to be something in the legislation that distinguishes between removal of judges of the District Court as opposed to Masters.

The Hon. C.J. SUMNER: That may make life unduly complicated, for perhaps not a great deal of purpose. I am more concerned with remuneration and leave and those sorts of matters, and retirement age, for Masters of the District Court than their means of removal. I suppose that a provision could be put in that a Master of the District Court is to be dealt with in the same way and with the same procedures as a magistrate as far as removal is concerned.

The Hon. K.T. GRIFFIN: Maybe with the Chief Judge exercising the responsibility which the Chief Justice does for magistrates—I do not know, but I think it is important enough to have a good look at the matter before it passes both Houses.

The Hon. C.J. SUMNER: Okay, we will have a look at that one.

Clause passed.

Clause 16—'Retirement of members of the judiciary.'

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

Page 4—
Line 20—Leave out 'or Master'.
After line 20—Insert subclause as follows:
(1a) A Master must retire from office on reaching the age of 65 years.

These are the same amendments as those which the Hon. K.T. Griffin has on file. The first amendment removes the reference to Master in this clause. The retirement age of Masters is to be dealt with in a separate subclause. Their retirement age is to be reduced to 65, which is the same as the retirement age for magistrates. The second amendment provides that Masters must retire at age 65, which restores the status quo.

The Hon. K.T. GRIFFIN: I support the amendments.

Amendments carried; clause as amended passed.

Clause 17 passed.

Clause 18—'The Registrar.'

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

Page 4, line 37—Leave out 'Senior' and substitute 'Chief'.

This corrects a typographical error that refers to the Senior Judge who, under this Bill, becomes the Chief Judge.

Amendment carried; clause as amended passed.

Clause 19 passed.

Clause 20—'The courts, how constituted.'

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

Page 5—lines 7 and 8—Leave out paragraph *(b)*.

Clause 20 (1) *(b)* provides that the court is constituted of a judge and jury where a matter is to be heard before a jury. This provision is deleted and the matter dealt with in a new subclause. It is not, strictly speaking, correct to speak of the court as being constituted of a judge and jury: the court sits with a jury. It may seem to members that it is an exercise in pedantry, and I note the Hon. Mr Gilfillan nodding his head. Nevertheless, the matter has been drawn to our attention by the judges and I so move the amendment.

Amendment carried.

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

After line 12—Insert subclauses as follows:
(1a) If a matter lies within the criminal jurisdiction of the court and is to be tried by jury, the court will be constituted of a judge sitting with a jury.
(1b) If an Act conferring a statutory jurisdiction on the court in its Administrative Appeals Division so provides, the Court

will in the exercise of that jurisdiction be constituted of a magistrate.

New subclause (1a) is consequential on the previous amendment and provides that, if a matter is to be tried by jury, the court will be constituted of a judge sitting with a jury. New subclause (1b) provides that a magistrate can constitute the court in its Administrative Appeals Division when an Act conferring a statutory jurisdiction on the court in its Administrative Appeal Division so provides. This will enable the Administrative Appeals Division structure to be used for hearing administrative appeals over which magistrates preside in appropriate cases.

The Hon. K.T. GRIFFIN: I am happy to support subclause (1a), but I have a difficulty with (1b). If we are trying to establish an Administrative Appeals Division, it seems to be unnecessarily complicating to allow a statutory jurisdiction to be exercised by a magistrate if that Act of Parliament confers the jurisdiction on a magistrate. In (1b) a problem exists anyway because, if an Act confers a statutory jurisdiction on the District Court in its Administrative Appeals Division, I am not sure that provision exists for a magistrate to be conscripted from the Magistrates Court to sit in the Administrative Appeals Division.

The Hon. C.J. Sumner: It does not apply in these circumstances.

The Hon. K.T. GRIFFIN: It seems a rather strange provision.

The Hon. C.J. SUMNER: The fact is that certain pieces of legislation now provide that an administrative appeal will be heard by a magistrate. The Water Resources Tribunal is one such case, and the Wardens Court is also constituted by a magistrate. The reason for including this is that Parliament may decide that some administrative appeals are better dealt with by magistrates rather than District Court judges. It does not always have to be a District Court judge—it depends on the nature of the administrative appeal. A number of them now are in fact conferred on magistrates.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: I do not think that it is an insoluble problem, but the Government wanted to achieve a situation where all administrative appeals were handled through the one division of the one court, and generally that will be administrative appeals dealt with by a District Court judge. However, there may be others, as there are already, which are currently dealt with by a magistrate, and we want administrative appeals all to be dealt with through the one jurisdiction. So, if Parliament decides that a magistrate is appropriate, a magistrate can be called in to hear the case within the Administrative Appeals Division. It is not difficult as far as I can see; in fact, I think it is tidy, because it may be that we do not want a District Court judge always to hear an administrative appeal type of case, and we do not, now. For example, the Water Resources Tribunal is presided over by a magistrate.

The Hon. I. Gilfillan: This is specified in the legislation, so subclause (1b) will apply only where it is specified in the Act.

The Hon. C.J. SUMNER: I think it is probably not worded as well as it could be, but that was the intention, namely, that the flexibility would be left to Parliament to determine whether an administrative appeal would be heard by a judge of the District Court or by a magistrate. However, once that was determined, it could be dealt with through the Administrative Appeals Tribunal, so one magistrate would not be sitting off somewhere dealing with one set of administrative reviews and another sitting off somewhere else dealing with another set. When they were dealing with these matters, they would sit as part of the Administrative Appeals Division and the filing of the application and all that sort of document work would be done through the Administrative Appeals Division, which strikes me as being more efficient, more satisfactory and, certainly, more satisfactory from the public's point of view.

The Hon. K.T. GRIFFIN: I have no difficulty with that concept, but it seems to me that this amendment does not really deal effectively with that proposition because, for example, when a Water Resources Tribunal is constituted under the Water Resources Act, it constitutes a tribunal of a magistrate and whoever else is involved; under that Act the tribunal does not refer to the Administrative Appeals Division of the court. The difficulty I have, at least with existing administrative review tribunals identified under separate Acts of Parliament, is seeing how that jurisdiction gets to the District Court.

The other problem is that the magistrates are part of the Magistrates Court, and there is no linking provision to get the magistrate up into the District Court in the Administrative Appeals Division for the purposes of exercising that statutory jurisdiction under the overall umbrella of the District Court. So, I would suggest to the Attorney that there are problems as to how to get the links and, in a sense, it would be preferable not to include (1b) at the moment, because I think it is unnecessarily confusing. Amendments may be required to specific Acts to confer jurisdiction on the Administrative Appeals Division and to provide the necessary links, which I do not think are there at the moment.

The Hon. C.J. SUMNER: I think it can be done, and it is a matter of drafting. I am not sure that the way this has been drafted does achieve the objective that I outlined. It may also be that it would be desirable to appoint the District Court masters as magistrates as well, so they could exercise both jurisdictions as we are intending to do, and as has been done with the Supreme Court masters.

So, in some circumstances, a District Court master could hear an administrative appeal in the Administrative Appeals Division. However, I do not think it is beyond the wit of Parliamentary Counsel to devise a provision in the legislation that will bring under the Administrative Appeals Division even those administrative appeals that are currently heard by magistrates. That is what I would intend to achieve and we will give attention to that and draft something to give effect to it.

Amendment to insert new subclause (1a) carried; amendment to insert new subclause (1b) negatived.

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

Page 5, line 22—Leave out ', subject to exceptions prescribed in the rules,'.

I want to ensure that the rules cannot be used to confer upon masters the jurisdiction to hear trials, in particular. It seems to me that the appropriate way to do that is to remove the reference to the exceptions prescribed in the rules and limit the masters, as presently advised, to dealing with interlocutory-type matters. That seems to me to overcome the particular problem that I see. I have a very strong view that it ought not to be the judges who make a decision in their rules as to what jurisdiction the masters ought to exercise; it really ought to be for the Parliament to say that the masters should be permitted to deal with particular categories of matters within the District Court.

I know that the rules are subject to disallowance, but I suspect that they will come in in one big bundle and it will be very difficult to disallow them when we take exception to only one or two matters. So, it seems to me that if we try to clarify it in the legislation, it will give a significant measure of certainty to the fact that the masters will deal with the interlocutory-type matters and not with trials. This is even more important when there is unlimited jurisdiction

for the District Court and it is possible to have some very important cases being dealt with by the court, but the rules may allow that jurisdiction to be exercised by a master as the amendments are presently constituted.

The Hon. C.J. SUMNER: The Government opposes this amendment. It will only allow rules to be made authorising the masters to exercise the jurisdiction of the court in relation to interlocutory matters or matters of practice or procedure. That is not the situation in the present Act, section 50 of which expressly provides that a master may exercise so much of the jurisdiction of the District Court as is conferred on the master by rules of court. There is no good reason for change. Masters are legal practitioners of at least five years standing, and the judges who make the rules can be trusted in the exercise of their powers.

This amendment would produce significant difficulties in the running of the court, because it would prevent masters entering default judgments, consent judgments and approving compromises. In the Supreme Court, as a result of the rules of court, masters of the Supreme Court at least, who have the status of District Court judges, hear cases where the court considers that appropriate. I do not think there is any suggestion that that has been abused. It is a useful tool in ensuring that the courts run efficiently. I strongly oppose this amendment.

The Hon. I. GILFILLAN: I should like to make a couple of points. The Law Society asks where the definition of 'assessor' appears. Can the Attorney describe for me what an assessor is in the context of clause 20?

I am sympathetic to what I understand the Attorney to be saying, but he will recognise that we have traditionally been wary of regulations for determining certain matters. This is really by way of an observation, because I do not feel that I can offer an amendment which would insert into the Bill the exceptions that would allow masters to take on the various tasks that the Attorney has indicated it is preferable to enable them to do. If he is correct, the amendment would virtually prohibit masters from undertaking those tasks. Will the Attorney respond to my comments about an assessor and indicate why it is difficult to spell out in the Bill the exceptions that he has articulated? Why should it be left to regulation?

The Hon. C.J. SUMNER: I am a little confused about the amendment to which the Hon. Mr Griffin spoke. Clause 20 (1) *(c)* confers jurisdiction on masters. I just wonder whether we have been debating the correct issue. The Hon. Mr Gilfillan asked why we cannot spell out who the assessors would be in every circumstance; that is because they change depending on the jurisdiction that is granted to the court. So, under the planning appeal legislation—and this administrative appeals division will pick up planning appeals—the assessors would be the current planning commissioners, who are lay people. But other jurisdictions may be given to the Administrative Appeals Tribunal that may be on a completely different topic altogether. In that case, the assessors would be different people with different expertise. For instance, the Commercial Tribunal at some point in time may be incorporated into this jurisdiction, and it may not be under the Administrative Appeals Tribunal. It currently provides that a judge should sit with lay people. It is just not possible to spell out the various categories of assessor.

The Hon. I. GILFILLAN: Would the definition of 'assessor' be contained in the relevant Acts? There appears to be no definition of 'assessor' in the Bill as to whether they are quasi-judicial, administrative or consultative.

The Hon. C.J. SUMNER: It will depend on what category of administrative appeal we are talking about.

The Hon. K.T. GRIFFIN: It looks like there is an error in the amendment, and I have to accept responsibility for not checking the drafting that was given to me as thoroughly as I thought I had. The amendment is not appropriate to that part of this clause, which relates to the Administrative Appeals Division. What I intended was that, in the exercise of the court's jurisdiction generally, the jurisdiction of masters should be limited. The arguments are the same in that context. If the Hon. Mr Gilfillan is not prepared to accept what I suggest by way of principle, that is the end of it; that solves the problem. If he agrees with what I say as a matter of principle, once we have dealt with this amendment—which is not appropriate, I must confess, to this part of the clause—what I have to do at a later stage is to seek to have the clause reconsidered with a view to resolving the issue with a more appropriate form of drafting.

The Hon. I. GILFILLAN: I do not agree with the shadow Attorney in principle. This is not a matter of paramount importance. I was actually asking whether those areas in which the master is able to exercise jurisdiction, in contradiction to what the shadow Attorney sees, could not be spelt out in the Bill rather than by regulation.

The Hon. C.J. SUMNER: It could be done. It would not be by regulation but by rules of court.

The Hon. I. Gilfillan: I appreciate that.

The Hon. C.J. SUMNER: I was not making a smart point. It could be done, but again that reduces the flexibility which the court has to dispose of the business as efficiently as it can. I know that the Supreme Court uses this flexibility to assist in the disposal of its business. I do not think that the court uses this power in a way which is unsatisfactory. Obviously, if it did, there would be screams from the legal profession and, I suspect from the Hon. Mr Griffin and this Parliament as well. However, that has not occurred. I think we really do need to maintain in the spirit of this legislation the maximum flexibility to enable the courts to get on with their business as efficiently and as quickly as possible.

The Hon. K.T. GRIFFIN: I do not disagree with that, but it is inappropriate for masters of the District Court to exercise trial jurisdiction. The jurisdiction of magistrates in the Magistrates Court is very much more limited, and I would not like to see masters in the District Court being given a wider jurisdiction than magistrates in the Magistrates Court. That is all I can say in respect of that. Before we dispose of the amendment, I want to pick up the Hon. Mr Gilfillan's point about assessors. Subclause (2) provides that the Governor may, in relation to a particular statutory jurisdiction conferred on the court in its Administrative Appeals Division, determine that the court should sit with assessors in exercising that jurisdiction.

If I can pursue the point which the Hon. Mr Gilfillan was making, but from a slightly different perspective, it is not the Act of Parliament which confers the statutory jurisdiction which by this provision determines that the court should sit with assessors but the Governor. I draw the Attorney-General's attention to that, because I have no difficulty with an Act of Parliament providing that the appeal tribunal should be constituted of a judge and two assessors, but I do have difficulty with the Governor's determining that, regardless of what is in the statute, the court should be constituted of a judge and assessors. The point the Hon. Mr Gilfillan is making is a valid point which the Law Society has raised: there is no definition of 'assessors', no qualifications of assessors, and no indication of what jurisdiction they will exercise and whether, when sitting with assessors determined by the Governor, they will carry the day if they outnumber the judge.

The Hon. C.J. SUMNER: I agree with the comments made by the Hon. Mr Griffin. What I propose to do with this and the rest of the Bills—because a number of them are interlinked—is to move through the Committee stage, if the Council is happy with that, but not to move for the third reading stage until we come back after next week's break to enable that period to be used to check the amendments that have been moved, to cross-check the links and to deal with some of these issues that have been raised. That is what I intend to do with the matter raised by the Hon. Mr Griffin. I agree with what he says.

The Hon. I. GILFILLAN: I am not sure what that means in response to the amendment before us.

The Hon. C.J. Sumner: It's opposed.

The Hon. I. GILFILLAN: The shadow Attorney referred to subclause (2):

> The Governor may, in relation to a particular statutory jurisdiction . . .

I understand that that will be amended so that 'the Governor' is deleted and it will refer to a particular statutory jurisdiction conferring on the court the power to use assessors, so that the question of the Government being able to intervene would be removed.

Amendment negatived.

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

> Page 5, line 25—Leave out 'so constituted' and substitute 'constituted of a judge siting with assessors'.

This is a drafting amendment more than anything and is probably more appropriately the Attorney's amendment.

The Hon. C.J. SUMNER: The amendment is supported.

Amendment carried.

The Hon. K.T. GRIFFIN: Before dealing with my amendment on file, I suggest that in the review of the various Bills, and particularly in the review of this matter of assessors, paragraph *(c)* might be examined also to see whether it is necessary to provide any exceptions in rules of the court being constituted of a judge sitting with an assessor where a statute, for example, has provided that the appeal tribunal will be so constituted. It seems that subclause (2) *(c)* gives an opportunity to vary the provisions in a statute and I wonder whether the Attorney will look at that.

The Hon. C.J. Sumner: Yes.

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

> Page 5, line 30—Insert:
>
> (4) A judge or master may sit in any division of the court.

I raised this question more under clause 7, and it needs to be there for the purposes of clarification.

The Hon. C.J. SUMNER: The amendment is accepted.

Amendment carried; clause as amended passed.

Clause 21 passed.

Clause 22—'Adjournment from time to time and place to place.'

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

> Page 5, lines 38 and 39—Leave out all words in these lines after 'may' in line 38 and substitute—
>
> —
>
> *(a)* adjourn proceedings from time to time and from place to place;
>
> *(b)* adjourn proceedings to a time, or a time and place, to be fixed;
>
> or
>
> *(c)* order the transfer of proceedings from place to place.

The amendment has been redrafted to make clear that the court has the power to adjourn *sine die*. It has been drafted in plain English.

Amendment carried; clause as amended passed.

Clause 23—'Sittings in open court or in chambers.'

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

> Page 5, line 41—Insert '(except interlocutory proceedings)' after 'proceedings'.

I am not convinced that this amendment is necessary, but I will move it to enable the matter to be discussed. We ought to proceed on the basis that a court is open to the public. I have included in my amendment an exception for interlocutory proceedings that seem to be inappropriate in the public arena, but I recognise that there has been no great difficulty about this in the past. I just would not like to see the rules taken so far as to grant more exceptions than are absolutely necessary.

The Hon. C.J. SUMNER: This amendment is opposed. I do not think that pre-trial conferences, for example, can be described as interlocutory proceedings. It would clearly be unacceptable for them to be heard in public. In fact, their whole purpose is to get the parties together before a master to try to resolve the issues. It is provided that court proceedings be open to the public, and the alternative is the exception. In other words, the rule is that proceedings must be open to the public unless there is a reason for them not to be. There has not been a problem in the past, and I do not think that this amendment is necessary.

Amendment negatived; clause passed.

Clause 24—'Transfer of proceedings between courts.'

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

> Page 6—
>
> Line 3—Leave out 'commenced'.
>
> Line 6—Leave out 'commenced'. After 'Supreme Court' insert 'that lie within the jurisdiction of the District Court'.

With respect to paragraph *(a)*, committal proceedings for sentence are not commenced in the District Court; therefore, they will not be transferable to the Supreme Court under this provision. It is proposed that the word 'commenced' be deleted from paragraph *(b)* for the same reason. Further amendments are proposed to paragraph *(b)* to make it clear that the Supreme Court cannot transfer to the District Court proceedings within the Supreme Court's exclusive jurisdiction.

Amendments carried.

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

> Page 6, after line 7—Insert:
>
> (1a) A judge of the District Court may order that civil or criminal proceedings in the District Court be transferred to the Supreme Court.

This amendment will enable proceedings to be transferred to the Supreme Court where a District Court judge considers that is the appropriate court.

Amendment carried; clause as amended passed.

Clause 25—'Power to require attendance of witnesses and production of evidentiary material.'

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

> Page 6, line 23—Leave out 'suspecting' and substitute 'believing'.

This clause provides for the issue of a warrant if there are grounds for suspecting that a person would not comply with a subpoena. The provision is amended to raise the doubt to one of believing that a person would not comply with a subpoena.

Amendment carried; clause as amended passed.

Clauses 26 and 27 passed.

Clause 28—'Production of persons held in custody.'

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

> Page 7, line 14—After 'sheriff' insert ', or a member of the police force,'.

The clause provides that the court can issue a warrant authorising the sheriff to bring a person before the court. Flexibility is provided by this amendment by including the police as those to whom the warrant may be directed.

The Hon. K.T. GRIFFIN: I agree with the amendment. On the spur of the moment I raise the question whether warrants are ever issued to Federal police officers or other

persons maybe outside the jurisdiction. I am not asking for an immediate answer, but I just raise it as an issue that might need to be addressed in the final review.

Amendment carried; clause as amended passed.

Clauses 29 to 31 passed.

Clause 32—'Court may conciliate.'

The Hon. K.T. GRIFFIN: I indicated opposition to the clause, only because the Conciliation Act 1929 seems to cover everything that is desired in relation to this and particularly because clause 32 refers to conciliation at the trial of an action. It seems to me that it needed to go much further than that. I am fairly relaxed about whether it is opposed and we leave the Conciliation Act to apply or adopt the amended provision that the Attorney-General has on file.

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

Page 8—Leave out the clause and substitute new clause as follows:

Mediation and conciliation

32. (1) If it appears to the court at or before the trial of an action, that there is a reasonable possibility of settling the action, the court may—

(a) appoint, with the consent of the parties, a mediator to endeavour to achieve a negotiated settlement of the action; or

(b) itself endeavour to achieve a negotiated settlement of the action.

(2) A mediator appointed under this section has the privileges and immunities of a judge and such of the powers of the court as the court may delegate.

(3) Evidence of anything said or done in an attempt to settle an action under this section is not subsequently admissible in the proceedings or in related proceedings.

(4) A Judge or Master who takes part in an attempt to settle an action is not disqualified from continuing to sit for the purpose of hearing and determining the action.

(5) Where a case is settled under this section, the terms of the settlement may be embodied in a judgment.

This amendment repeals existing clause 32 and substitutes a new clause. Two concepts are now embodied in the clause: first, it allows the court to appoint with the consent of the parties a mediator to endeavour to achieve a negotiated settlement; and, secondly, it allows the court itself to achieve a negotiated settlement. The second of these concepts is contained in existing clause 32; the first of these concepts is new.

It will allow the court to refer the matter to a suitably qualified person who will attempt to achieve a settlement. Similar provisions have recently been included in the Federal and Family Court Acts. 'Mediator' is the word used in the Federal Acts; it has no technical meaning. To 'mediate', according to the *Shorter Oxford English Dictionary*, is to act as an intermediary to intervene for the purpose of reconciling. It will be noted that a mediator can be appointed only with the consent of the parties. If the parties are not willing to seek reconciliation there is no point in forcing them to do so. The new clause provides that the court may appoint a mediator or itself endeavour to achieve a negotiated settlement of the action either at or before the trial of an action.

This brings the provision into line with the Conciliation Act 1929 provisions. The earlier attempts can be made to settle an action, the better. There has been criticism of the provision which allows a judge to continue hearing a matter after he or she has attempted to settle the matter. Obviously, a judge needs to be careful in doing this, but, particularly where the parties do not object, it is useful for the provision to be included.

The Hon. I. GILFILLAN: The Democrats support the new clause. This relates to one of the more significant issues that I raised in my second reading contribution. I think this new draft is appropriate to what we believe to be a worthwhile initiative to be taken in this Bill and we support it enthusiastically.

The Hon. K.T. GRIFFIN: In his final observations the Attorney-General mentioned that the judge or master would have to be conscious of their position if, having attempted to mediate or settle an action, they then go on to hear the matter. That is one of the issues that the Law Society was very strong about. I took the view that, as the Conciliation Act of 1929 allowed the judge to continue hearing the matter, even if an attempt had been made to conciliate, the precedent was well set back in 1929 and that we could not really object to it; although, as the Attorney has indicated, the judges or masters will have to be particularly conscious of the desirability of continuing to sit where they have been involved in extensive attempts to negotiate a settlement.

We have seen this happen more in the small claims jurisdiction. It has a complaint at the moment about a magistrate not being prepared to listen to the point of view of one person who held a very strong view on the issue before the magistrate, and the magistrate just completely overruled that person and gave the person no opportunity to respond. I do not suggest that that is going to happen in the District Court, but I think it is an area that needs to be consciously and conscientiously watched.

Existing clause struck out; new clause inserted.

Clause 33—'Trial of issues by arbitrator.'

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

Page 8, after line 26—Insert:

(5) Costs of an arbitrator are not payable by the parties except to the extent ordered by the Court.

I raised this issue during the second reading debate. In his reply the Attorney-General said that they were costs that the court could award against the parties. I do not think there is any provision in the Bill which would enable that to occur. Looking at the structure of clause 33, and similarly in clause 34, the court may refer an action or an issue for trial by an arbitrator. So, the court takes the action. The arbitrator may be appointed either by the parties to the action or by the court. But when the arbitrator is appointed, the arbitrator becomes, for the purpose of the reference, an officer of the court and may exercise such of the powers of the court as the court delegates to the arbitrator. Then, the court will, unless good reason is shown to the contrary, adopt the award of the arbitrator as its judgment on the action or issues referred.

It seems that becoming an officer of the court means that the costs of that arbitrator would normally be costs borne by the court, or ultimately the Government, and there would not be any power in the court to order that, in effect, its own costs be met by the parties. I am providing that the costs of an arbitrator be not payable by the parties except to the extent ordered by the court, which then gives the court the flexibility to make a decision as to whom and to what extent the costs should be borne by the parties. That clarifies a matter which is otherwise in doubt, to say the least, and probably not covered, to say the worst.

The Hon. C.J. SUMNER: I am not sure about this amendment. There are difficulties with giving the courts *carte blanche* to refer off to arbitration and then have the courts—effectively the Government—pick up the tab, which in turn means the taxpayer. Some very expensive arbitrations have been embarked upon from time to time. Whilst I appreciate that this is to be used to reduce the time in court, one could envisage circumstances where an arbitrator was appointed and, because of the amount that one had to pay the arbitrator, substantial amounts of money could be used up without there being any provision for it in the courts budget.

I guess that we might accept this amendment for the time being and maybe there are other ways of dealing with it, for example, when we set the courts budget at the beginning of the year provision could be made for this and, if it is not exceeded, it is not a problem. I have a worry that with a clause like this, where the arbitrator is virtually always paid for by the court or the Government, it could impose additional costs rather than have the effect that it is supposed to have, namely, to reduce costs to the system and to the parties generally. I will accept the amendment for the time being.

The Hon. K.T. GRIFFIN: I understand the Attorney-General's caution, but the fact is that the Bill has a provision which enables the court to refer an action or any issues arising in an action for trial by an arbitrator. It may be that that is with the concurrence of the parties. It may be also that the court takes its own decision and says that it is more appropriate that this specialist issue be dealt with by a consultant geologist or some other specialist. It seems that in those circumstances it is appropriate that the parties not have to pay but, on the other hand, if the parties say, 'We think this ought to be addressed by an arbitrator' and the court agrees to appoint, there is a stronger argument for that to be paid for by the parties. The debate arose because I was concerned that there was no clear indication as to who pays the costs. In order to avoid arguments, I thought that ultimately it should be left to the court. However, I understand the broader budgetary indications to which the Attorney-General refers.

Amendment carried; clause as amended passed.

Clause 34—'Expert reports.'

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

Page 8, after line 33—Insert:

(4) Costs of an expert are not payable by the parties except to the extent ordered by the court.

The argument is the same as that relating to the arbitrator: the costs of an expert are not payable by the parties except to the extent ordered by the court.

Amendment carried; clause as amended passed.

Clause 35 passed.

Clause 36—'Alternative forms of relief.'

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

Page 9, line 9—Leave out 'intended to be'.

This is a drafting amendment.

Amendment carried; clause as amended passed.

Clause 37—'Declaratory judgments.'

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

Page 9, line 11—After 'may' insert ', on matters within its jurisdiction,'.

The addition of the words, 'on matters within its jurisdiction' makes it clear that the court cannot make declarations where the matter is within the exclusive jurisdiction of the Supreme Court.

The Hon. K.T. GRIFFIN: I have concern about the clause and the amendment which the Attorney-General has moved. I am not sure that adding the words which the Attorney-General is seeking to add really makes much difference, because the jurisdiction of the District Court in the civil area is unlimited and, in those circumstances, the words seem to me to be superfluous. I have not had much of an opportunity to look at declarations of right, but Halsbury's *Laws of England* has a section which raises some concern in my mind about giving this right to the District Court and, even more so, the Magistrates Court, and we will address that again when we get to that Bill.

Halsbury suggests that, although at common law an action for a declaration was unknown, no action or other proceeding today, at least in the United Kingdom, is open to objection on the ground that a merely declaratory judgment or order is sought by it, and the court may make binding declarations of right, whether or not any consequential relief is or could be claimed. It does carry a few examples of the scope of the power; in one of the footnotes it states that these declarations have the capacity:

> to develop the area of the public interest in the judicial process and their consequences in the sense that, although brought by or in the name of one person, the resulting judicial decision may have the effect of determining the rights of many other persons.
>
> Thus, the action for a declaration may be employed as a parallel method to that of an application for judicial review, of attacking the order or decision of an inferior court or tribunal.

In a later part of the footnote, it is stated:

> However, where in truth what is sought is judicial review, the action for a declaration must not be used to bypass the appropriate machinery for judicial review under rules of the Supreme Court Order 53, and if it is so used it will be stayed or dismissed as being an abuse of the process of the court.

Of course, that is the High Court in the United Kingdom, where the rules obviously deal specifically with declarations of right. I refer also to the following conclusion:

> The action for a declaration may be employed as a parallel method to that of a representative or class action where the decision will affect countless other persons.

There are then some general observations as follows:

> The power to make binding declarations of right is a discretionary power, but the court will not generally determine academic or hypothetical questions. In special circumstances it has power to make declarations as to future rights, but the power is exercised with considerable reserve . . . A declaratory judgment will not be granted where the relevant statute gives exclusive jurisdiction to another tribunal, nor will a declaration be granted to a defendant in criminal proceedings affecting the validity of the offences charged.

As I said, I have not had much of an opportunity to undertake some deeper research into declaratory judgments, but it seems to me that there is a danger in specifically granting to the District Court this power to make a binding declaration of right: it will give the court a wider jurisdiction than is intended and will, to some extent, assume the judicial responsibility which is solely that of the Supreme Court. Where the Attorney-General seeks to make an amendment, it seems that the amendment is most likely superfluous. I would like him to explore those issues and to indicate how he sees this operating in practice.

The Hon. C.J. SUMNER: First, we have earlier removed the jurisdiction of the District Court to deal with issues of prerogative writs or to make declarations in the nature of those sought by a prerogative writ. So, I think that confines the jurisdiction of the District Court in this area. However, my basic argument would be that under section 35b of the existing Local and District Criminal Courts Act a local court does have the power to make declaratory judgments where it is in the opinion of the court incidental or ancillary to and necessary or expedient for the just determination of proceedings before the court. In an action under Part 12 of the Act, a local court of full jurisdiction can make binding declarations of right, whether or not any consequential relief is or could be claimed. I am advised that District Court judges currently have the power to make declaratory judgments.

Therefore, they are not new. The Government can see no reason for taking away the power. It does not mean that they have jurisdiction to adjudicate on issues which are not real issues. One cannot go along to the District Court and get a declaration as to what the law might be; it has to relate to a particular dispute. Where it does relate to a particular dispute, a declaratory judgment can be given.

contract, it is an amount that does not exceed the Local Court limit, and, in an action founded on tort, it is a sum that does not exceed half the amount of the Local Court jurisdictional limit. The amount for a liquidated sum should be higher than for an unliquidated amount.

The Hon. I. GILFILLAN: I support the wording of the Attorney-General's amendment.

The Hon. K.T. Griffin's amendment negatived; the Hon. C.J. Sumner's amendment carried.

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

Page 11, line 18—Insert ', at the conclusion of those proceedings' after 'may'.

This amendment relates to the power of the court to order costs in relation to the neglect or incompetence of a legal practitioner where proceedings are delayed. The Law Society has made some valid points and wants the whole provision removed. The Liberal Party is not going that far. We want to try to make it fairer for a legal practitioner who is acting upon and in accordance with instructions from his or her client—a litigant before the court—and not compromise either the legal practitioner, so acting, or the litigant, by premature debate about the reason for delay.

It may be in the opinion of the judge that there is delay. It may be that it is through the neglect or incompetence of a legal practitioner, but it may be that, when the case is finished, it can be more clearly seen that there is not delay in the context of the whole case and that what might be regarded by the judge to be delay part way through the case was not caused by neglect or incompetence of the legal practitioner but by instructions from the client. I want to ensure that the decision by the court is—

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: I am saying that it may appear to be neglect or incompetence but may not be so once the case has been finished and all the information that is in the possession of the practitioner can be laid before the court. It would be quite unfair to make the judgment at some point through the case, before the proceedings are completed, first, that there has been a delay and, secondly, that there has been neglect or incompetence and that the issue should be resolved part way through a case rather than waiting until the end of the case. My first point is that it be resolved at the conclusion of the proceedings.

The Hon. C.J. SUMNER: The amendment is accepted.

Amendment carried.

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

Page 11, lines 25 and 26—Leave out 'wasting the court's time' and substitute 'time wasted'.

This is a drafting refinement.

The Hon. K.T. GRIFFIN: I support it.

Amendment carried.

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

Page 11, after line 26—Insert new subclause as follows:

(4) The court may not make an order against a legal practitioner under subsection (3) unless the court has informed the practitioner of the nature of the order proposed and allowed the practitioner a reasonable opportunity to make representations, and call evidence, in relation to the matter.

I move this subclause separately from subclause (5) as set out in the amendment on file. This new subclause, if approved by the Committee, would follow logically in the Bill. In relation to a decision against a legal practitioner, I want to ensure that the legal practitioner is informed by the court of the nature of the order proposed. The practitioner is afforded a reasonable opportunity to make representations and may call evidence in relation to the proposed order. I think it is important to include all those ingredients because, on the basis of natural justice, there must be an opportunity for the practitioner to know what order the court is proposing, without its being arbitrarily imposed, to give the practitioner a reasonable opportunity to make representations and to call any evidence. It may be that the practitioner will then want to call the client to put the whole issue into perspective.

These are the minimum requirements that ought to be put in place in order to give the legal practitioner a fair go. Later, I will seek to confer a right of appeal on the legal practitioner remembering, of course, that a very substantial amount may be involved if the case is complex and has been going on for a long period of time. It may amount to not only a few dollars but to thousands or even tens of thousands of dollars, and I think the practitioner in these circumstances is entitled to a fair go.

The Hon. C.J. SUMNER: I do not think it is necessary, but I suppose it does not matter.

The Hon. I. GILFILLAN: I am persuaded that the amendment has merit, and I support it. In my draft of the amendment it is stated that 'the court may', but I have a pencilled amendment that says 'the court shall not'.

The Hon. K.T. Griffin: It means 'shall'. I think 'may not' means 'must not'.

The Hon. I. GILFILLAN: I am interested in the quaint use of the word 'may' as meaning 'shall'.

The Hon. K.T. GRIFFIN: I believe that I am right: in the negative, one may not do something means that one shall not do something. If a court may do something it is discretionary but if it may not do something there is no discretion.

Amendment carried.

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

Page 11, after line 26—Insert new subclause as follows:

(5) The court may order a person summoned, in any proceedings, as a witness—

(a) to indemnify the parties to the proceedings for costs resulting from failure to obey the summons;

(b) to pay to the Registrar for the credit of the Consolidated Account an amount fixed by the court as compensation for time wasted in consequence of the witness's failure to obey the summons.

This amendment will allow a court to order a witness who fails to obey a summons to indemnify the parties and the State for time wasted. It can be very frustrating and costly for all involved when a witness fails to attend.

The Hon. K.T. GRIFFIN: I know that that is a discretionary power on the court, but of course it may be that there is good reason for failing to obey. I wonder whether it might be appropriate to include in the amendment something along the lines that, if the witness has failed to attend without good reason, the court may order the indemnification.

The Hon. C.J. SUMNER: We will add that to our list of matters to look at.

Amendment carried.

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

Page 11, after line 32—Insert new subclause as follows:

(6) If—

(a) the trial of an action is scheduled to commence at a particular time or within a particular period;

(b) the parties are ready to proceed with the trial;

(c) the action is adjourned because the court is not able to proceed with the matter,

the court must make, at the request of a party, an order for costs resulting from the adjournment.

In light of the fact that legal practitioners may be required to compensate for time wasted, it seems to me that it is equally fitting that, if the parties and legal practitioners are ready and waiting at the court door, the court should be required to make an order for costs thrown away as a result of the action of the court that is unable to hear a matter. That does happen. Frequently parties are put on notice and

The Hon. I. GILFILLAN: This is not an area which I feel particularly competent to determine, but I indicate my support for the Government's amendment.

Amendment carried; clause as amended passed.

Clause 38 passed.

Clause 39—'Pre-judgment interest.'

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

Page 10, line 17—Leave out 'court' and insert 'rules'.

My point in relation to this amendment is that the interest rate would seem to be more appropriately fixed in this instance by the rules rather than by the court to ensure that there is some consistency.

The Hon. C.J. SUMNER: The Government opposes the amendment. Providing that the rate of pre-judgment interest should be set by the rules rather than by the court is undesirable and inflexible because the circumstances may change. The rate is now set by the court, and as far as I am aware it has not created difficulty. The rate is reviewable by a higher court by way of appeal.

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

Amendment negatived; clause passed.

Clause 40—'Interest of judgment debts.'

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

Page 10, line 41—Leave out paragraph *(a)* and substitute—

(a) in the case of taxed costs—from the date the costs are taxed or an earlier date fixed by the taxing officer.

Clause 40 (2) *(a)* provides that, subject to any direction by the court to the contrary, the interest runs on taxed costs from the date on which the costs are taxed. The amendment provides that the taxing officer may fix an earlier date. This is to provide a remedy where a party has unreasonably insisted on taxation or has used the procedure to delay.

Amendment carried; clause as amended passed.

Clause 41—'Payment to child.'

The Hon. K.T. GRIFFIN: I recollect that in his second reading reply the Attorney-General said that this provision is already in the present Act. Will he refresh my memory about the provision in the present Act?

The Hon. C.J. SUMNER: This clause is similar to section 30a of the Supreme Court Act. It does not require the court to pay money to the child; it merely allows the court to order the payment of the money to the child in appropriate cases. We do not believe that there is any good reason for proposing a provision such as this. In cases where only a small amount of money is involved, if a mature teenager is the recipient of the money, it could well be counterproductive for the money to be paid to someone else who may charge a fee for administering the money. Alternatively, a child may be just short of his or her 18th birthday, and it would be entirely appropriate for the money to be paid to the child. As I say, it is a similar power to section 30a of the Supreme Court Act.

The Hon. K.T. GRIFFIN: I have given some consideration to the matter and I can see the need for flexibility. What I did express in my second reading contribution, and the concern I have always had, is that a court may be inclined to pay money to a child of younger years than the years to which the Attorney-General has referred. In those circumstances, the order could be counterproductive. However, I acknowledge that it is a discretionary power, and there may be circumstances in which it is appropriate to pay the money to a child. I presume that, if this provision is almost identical with the Supreme Court provision, it does carry with it the implicit power of a court to order part of a judgment to be paid to the child and part to be invested according to a scheme. I presume that it also means that the court can impose some conditions, although that is not expressly provided in this clause. Perhaps the Attorney-General might be able to clarify that.

The Hon. C.J. SUMNER: I understand that to be the position.

Clause passed.

Clause 42—'Costs.'

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

Page 11, lines 14 to 16—Leave out all words in these lines and substitute—

(c) the plaintiff recovers less than an amount fixed by the rules for the purposes of this paragraph,

no order for costs will be made in favour of the plaintiff unless the court is of the opinion that it is just in the circumstances of the case that the plaintiff should recover the whole or part of the costs of action.

Clause 42 (2) *(c)* provides that no order for costs will be made in favour of the plaintiff if there was, in the court's opinion, no reasonable prospect of the plaintiff recovering more than an amount fixed by the rules. The test of 'no reasonable prospect of the plaintiff recovering more' has been criticised as requiring an inquiry on an issue of costs into a totally new issue, namely, the prospects which face the plaintiff or his or her advisers. The amendment follows the existing provisions in section 42 of the Local and District Criminal Courts Act. The Local Courts Act provision is well understood, and it has worked well over the years.

The Hon. K.T. GRIFFIN: Certainly, the amendment is better than what is in the Bill. I have been of the view that the limit ought to be specified in the Act. One of the difficulties with the Local and District Criminal Courts Act is that it has not been consolidated, probably in anticipation of these Bills passing. Section 42 seems to relate to the costs of those matters removed into the Supreme Court by the defendant. Perhaps the Attorney-General can clarify the provisions of the Local and District Criminal Courts Act which he indicates are similar to those provisions in this Bill. My understanding is that section 42 actually sets the limit: it does not leave it to the rules to fix those limits.

The Hon. C.J. Sumner: Yes; the existing law does set it.

The Hon. K.T. GRIFFIN: In that event, I move:

Page 11, line 15—Leave out 'an amount fixed by the rules for the purposes of this paragraph' and insert ', in the case of an action for damages or compensation for injury, damage or loss caused by, or arising out of, the use of a motor vehicle, $20 000, and, in any other case, $10 000'.

I am proposing to set the limit to be $20 000 for injury, damage or loss arising out of the use of a motor vehicle, and in any other case, $10 000. In some respects, those figures are arbitrary, but they do have some relationship to reality. If an action is taken in the District Court, it may be that the amount actually awarded is very much less than the jurisdictional limit of the Magistrates Court, and $20 000 for injury, damage or loss arising out of the use of a motor vehicle and $10 000 in any other case seems to be realistic.

Of course, that is on the basis of the Bill where no order for costs is to be made in favour of the plaintiff in circumstances referred to in subclause (2). The Attorney-General's amendment does soften that a bit, but it still leaves to the rules of court the obligation to fix the limit, and it is that aspect that concerns me more than anything. That then becomes an amount which the judge fixes rather than the Parliament.

The Hon. C.J. SUMNER: That amendment is opposed by the Government. By fixing the amount in the legislation rather than by the rules, it will not allow for the amount to be adjusted easily in the light of experience. The amounts as suggested by the honourable member are too low in comparison with the amounts now fixed by section 42 of the Local and District Criminal Courts Act. Under that section, in the case of an action found on contract or *quasi*

required to be present and then, for some reason, the matter does not go on. I think it is only reasonable that there be an even-handed approach to this.

The Hon. C.J. SUMNER: The Government opposes the amendment. It would impose a significant burden on the courts. There are in fact a myriad of reasons why proceedings may have to be adjourned, ranging from the illness of the judge to a previous matter taking longer than expected. How long a case will take often depends on the estimate that the parties give in relation to this. I think in that circumstance it would be quite wrong for the court to have to indemnify litigants when in fact the parties were in error in the first place in assessing the length of time that the case would take. There is no suggestion that, if the parties give an inaccurate assessment of how long a case will take, they should pay the costs. I am afraid that case scheduling is far from an exact science. It is extremely difficult. It is one of the most difficult issues that the courts have to face in their work. I do not think that this amendment is justified.

The Hon. I. GILFILLAN: I do not support the amendment. Apart from the difficulties of imposing this, it is difficult to envisage a deliberate delay being implemented by the court, which, on my understanding, is what the Hon. Trevor Griffin is attempting to reflect on in his amendment. I oppose it.

Amendment negatived; clause as amended passed.

Progress reported; Committee to sit again.

PETROLEUM (MISCELLANEOUS) AMENDMENT BILL

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

CORRECTIONAL SERVICES (DRUG TESTING) AMENDMENT BILL

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

GOODS SECURITIES (HIGHWAYS FUND) AMENDMENT BILL

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

FAIR TRADING (MISCELLANEOUS) AMENDMENT BILL

Returned from the House of Assembly without amendment.

ADJOURNMENT

At 11.21 p.m. the Council adjourned until Wednesday 30 October at 2.15 p.m.