LEGISLATIVE COUNCIL

Tuesday 21 August 1990

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 the written answer to Question on Notice No. 1 that I now table be distributed and printed in *Hansard.*

SOUTH AUSTRALIAN FILM CORPORATION

The Hon. DIANA LAIDLAW (on notice) asked the Minister for the Arts: Further to the Minister's statement on the South Australian Film Corporation (Legislative Council, 2 August) that an urgent reassessment of the corporation's organisational and managerial structure is to be undertaken—

1. What is the name of the independent consultant?
2. Which officers from the Department for the Arts and the Office of the Government Management Board are to be members of the steering committee?
3. What date, if any, has been given to the consultant as the deadline for completion of his or her assessment?

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

1. The independent consultant has not yet been appointed. A number of Adelaide-based consultants have been asked to submit a proposal and these will be considered on 30 August 1990.
2. The officers concerned are: Mr Ken Lloyd, Chief Project Officer, Finance, Department for the Arts, and Dr Rosemary Ince, Consultant, Office of the Government Management Board.
3. While no completion date for the report has yet been agreed, it is expected that the report will be finalised no more than two months from the commencement of the review.

PAPERS TABLED

The following papers were laid on the table:

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

Children's Court Advisory Committee—Report 1988-89.

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

Highways Act 1926—Departmental Properties Leased, 1989-90.

Tertiary Education Act 1986—Regulations—Course Accreditation.

Waterworks Act 1932—Regulations—Mount Lofty Ranges Watershed.

QUESTIONS

STIRLING COUNCIL

The Hon. R.I. LUCAS: I seek leave to make an explanation before asking the Minister of Local Government a question about the Stirling council.

Leave granted.

The Hon. R.I. LUCAS: On 24 May 1989, the Minister of Local Government wrote to members of the Stirling council advising them that the Government would appoint, at its own expense, a leading Queen's Counsel who would provide advice to each party, but would respect confidentiality attaching to any information given to it confidentially. The Minister said that the parties were not bound to follow or accept the advice from the Queen's Counsel, but hopefully would assist them in agreeing to a fair, speedy and cheap resolution of the claims. My questions of the Minister therefore are:

1. Can the Minister confirm that the four written opinions containing the advice of Mr Mullighan, QC, were made available to both the council and the plaintiffs?
2. If such opinions were made available, can the Minister advise the dates?
3. If such opinions were not made available, can the Minister explain how the parties could follow or accept the advice without receiving it?

The Hon. ANNE LEVY: I do not know the answer to those questions. The advice from Mr Mullighan was provided to the Crown Solicitor, who had written the letter of instruction to Mr Mullighan. The results of the opinions were certainly transmitted to the council and the plaintiffs, but I do not know whether the opinions themselves were transmitted. It may be that only the conclusions were transmitted, but it would have been for the Crown Solicitor to undertake that action, as the opinions from Mr Mullighan were provided to him.

The Hon. R.I. Lucas: Will you check that and bring back a report?

The Hon. ANNE LEVY: I have no responsibilities whatsoever for the Crown Solicitor, but the Attorney-General has doubtless heard this question and will be able to make inquiries of the Crown Solicitor.

The Hon. K.T. GRIFFIN: I seek leave to make an explanation before asking the Minister of Local Government a question about the Stirling council.

Leave granted.

The Hon. K.T. GRIFFIN: In the opinions by Mr Mullighan, QC (tabled by the Attorney-General last Thursday), he says in a number of places that he did not have time to investigate claims and do his job properly.

The Hon. C.J. Sumner: That's—

The Hon. K.T. GRIFFIN: It is. In his first opinion, in relation to those claimants represented by Andersons (solicitors), Mr Mullighan refers to the fact that he was first instructed by the Crown Solicitor on 7 June 1989 and a few weeks after that he was retained as counsel for the Crown. His first opinion is on 4 July 1989, and on page 14 he says:

> When I was approached to become involved in this matter, I was informed that it was expected that the task would occupy about two months unless I concluded that no progress could be made.
>
> I think that estimate was reasonable except that it has become clear to me that much more time would be required if I was to be sufficiently informed about each claim to be able to express an opinion as to a proper settlement figure.

Later in the same opinion at page 16 he says:

> I would need a considerable amount of time to read all of the transcript, exhibits and other documents, to interview various important witnesses and to inspect some of the property which features in some of the claims . . . However, time does not allow consideration of the matter with any degree of thoroughness.

Again on pages 33 and 35 he says:

> I have not yet been able to spend much time investigating the personal injury claims.

Yet again on page 41 he says:

> I regret that I have not yet had adequate time to make some informed judgment about these matters for the reasons I have mentioned.

In that opinion there are other references by Mr Mullighan about his inability to give an informed opinion because of lack of time given to do the task.

In a later opinion, on 19 July 1989 relating to Nicolas Casley-Smith's claim, Mr Mullighan (on page 17) says:

> I regret that there has been insufficient time to enable an adequate investigation of Nicolas' claim. I am unable to advise that $1 million is an appropriate figure.

Will the Minister now acknowledge that the time constraints imposed upon Mr Mullighan were unreasonable and that because of these he was not able to do more than give cursory consideration to the important issue of the substance of the various bushfire claims?

The Hon. ANNE LEVY: Most certainly not. If the honourable member had read the opinions of Mr Mullighan and also the briefs given to him, both of which were tabled in this Council last September at his request—and I am surprised he did not manage to pass them on to Mr Stefani—he would have clearly seen that the request made of Mr Mullighan in early June was to undertake an investigation as to what would be a reasonable settlement. At the request of the Stirling council he was asked to look first at the matters which the court was—

The Hon. K.T. Griffin: He was asked by the Crown Solicitor, not the Stirling council.

The Hon. ANNE LEVY: He was asked by the Crown Solicitor at the request of the Stirling council.

Members interjecting:

The PRESIDENT: Order! The Minister of Local Government has the floor.

The Hon. ANNE LEVY: At the request of the Stirling council, Mr Mullighan was asked to look first at those matters on which the court proposed to hear evidence in England to ascertain whether he felt it was necessary for the court to hear the matters in England or whether those matters could be agreed upon or an accommodation made prior to the court's travelling to England. Mr Mullighan makes it very clear that he turned his attention to those matters first before dealing with any other matters.

He then reported to the Crown Solicitor that it was apparent that there was the possibility of a settlement out of court, and in consequence his instructions from the Crown Solicitor were altered to consider whether the proposed settlement figure would be reasonable in all the circumstances.

Again, if the honourable member has read the opinion, it will be apparent that, in answering that question, while he looked at much of the material that had been presented not only by the lawyers for the council but also by the lawyers for the plaintiffs, a large part of his opinion was based on the costs of continuing the action and not reaching a settlement out of court. He makes it very clear.

The Hon. C.J. Sumner: There was a judge in London doing nothing.

The Hon. ANNE LEVY: Yes, apart from a judge in London, who went to Wimbledon—

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: Mr Mullighan estimated that, if the court case continued, it would have lasted another 60 weeks and would probably still be in progress.

The Hon. J.F. Stefani: Rubbish!

The Hon. ANNE LEVY: If the honourable member reads Mr Mullighan's opinion, he will see that that is what he said.

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: The court case would probably still be proceeding and the legal costs involved would have amounted to at least $5 million. It was on the basis of that saving that Mr Mullighan gave his opinion that, in the circumstances, it was reasonable to settle out of court for the figures on which the parties agreed and for which judgment was given in the court.

THIRD PARTY PROPERTY INSURANCE

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Attorney-General a question about compulsory third party property insurance.

Leave granted.

The Hon. DIANA LAIDLAW: The issue of whether or not third party property damage insurance should be compulsory for motorists has long been a contentious issue. The debate was rekindled a fortnight ago when the RAA released a document entitled 'Can the community afford a $60 million blunder?' The paper argues that the Government should oppose any move to make third party property damage insurance compulsory on the following grounds:

1. that fully insured motorists will be no better off;
2. that the costs of administering the scheme will be astronomical;
3. that there will still be uninsured vehicles on the road;
4. that there will be an increase in litigation; and
5. that every driver will be penalised by being compelled to share the greater cost of insurance fraud and bad drivers.

However, I note that these views are rejected by the Legal Services Commission of South Australia, which is campaigning for the introduction of a compulsory third party property damage insurance scheme in South Australia. The commission argues that such schemes operate in most OECD countries, and that the single biggest factor for tipping consumer debtors into bankruptcy is a car accident for which they are not insured and that this is a particular problem for young drivers. I ask the Attorney-General:

1. Does he support the campaign by the Legal Services Commission to make third party property damage insurance compulsory?

2. Does he endorse the commission's submission to the Minister of Transport to fund an actuarial study to determine the likely costs of introducing a compulsory scheme?

3. If the Minister of Transport does not agree to fund such a study, is it his intention to fund such a study from his own budget lines?

The Hon. C.J. SUMNER: No; no; no.

FUEL DEPOTS

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister of Local Government a question about fuel depots.

Leave granted.

The Hon. M.J. ELLIOTT: This question may perhaps have to be deferred also to the Minister for Environment and Planning and perhaps even the Minister of Health but, in the first instance, I put it to the Minister of Local Government. I have been approached by residents of Kingscote, Kangaroo Island, who, for some time, have been concerned about the location of fuel depots in the residential areas of the town. The concerns centre around the venting of fumes from tankers unloading at the depots.

I have been told that in particular on warm, still nights the fumes from one depot on the corner of Murray and Grenfell Streets are so oppressive that residents of the Unit-

ing Church Manse located behind and slightly downhill from the depot have to vacate the area for several hours. In other weather conditions the fumes cause varying degrees of discomfort for surrounding residents. Not surprisingly, those residents and neighbouring fuel depots are concerned about the health implications of continual exposure to petrol fumes, especially the effect on young children and possibly asthmatic children.

In many towns local council zoning has led to fuel depots being located away from residential areas. However, I am sure that Kingscote is not the only place where fuel depots and residents are incompatible neighbours. My questions are:

1. Are there any uniform State controls over the location of fuel depots?

2. If not, is the Government planning to address the problem where council zoning does not separate houses and fuel depots?

3. Are there any health guidelines governing exposure to petrol fumes in South Australia?

The Hon. ANNE LEVY: I am not aware of any specific controls relating to fuel depots in this way other than would be approved in any zoning regulations which, of course, are under the control of councils. The health implications would be a matter for the Health Commission to investigate, and I am surprised, if people in Kingscote have been experiencing petrol fumes to the extent which the member indicates, that they have not themselves contacted the Health Commission to have the matter officially investigated.

Certainly, I cannot imagine that constant exposure to petrol fumes would be desirable. Of course, it is well known that in some areas children regularly sniff petrol fumes, and this can be extremely deleterious and lead to permanent brain damage. However, the Health Commission would obviously be the place from which to seek advice in this matter.

With regard to procedures which the people in Kingscote could undertake, I presume that they have taken up the matter with their council. If not, I would strongly urge them to do so. Certainly, I have received no intimation from the council that it in any way requires assistance in this matter.

The Hon. M.J. Elliott: Existing uses are the problem.

The Hon. ANNE LEVY: I have not received any inquiries from either the residents or the council on this matter. Council would obviously have a health inspector who would be able to look at this matter, and it may be a question of negotiation between the council and the owners of the fuel depot, together with the residents who are being affected. I would strongly urge the people affected to take up the matter with their council, which can pursue the proper avenues to deal with this matter.

STIRLING COUNCIL

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Minister of Local Government a question about the Government's fast-track process.

Leave granted.

The Hon. J.F. STEFANI: On 6 June 1989 the Minister of Local Government wrote a letter to the Stirling council setting out the conditions of the Government's fast-track process. In a letter of reply dated 7 June 1989 the Stirling council requested that adequate and appropriate documentation be obtained by the Government on all disbursements undertaken to Messrs Andersons and forming part of the conditions attaching to the alternate claims assessment procedure initiated by the State Government.

In the report tabled in Parliament, Mr Mullighan, QC advised that, whilst he may have been able to express a qualified opinion about some of the values of the property and consequential losses, time did not allow consideration of the matter with any degree of thoroughness. On the question of personal injuries sustained by four of the five members of the Casley-Smith family, he said that he had no hesitation in saying that it was his opinion that the amounts claimed were excessive and unreasonable and would not be awarded by Justice Olsson, even if he took the most favourable view of each of the plaintiffs and their case.

As the amount paid by the Bannon Cabinet on 17 July 1989 to the Andersons plaintiffs was $9.5 million—the exact amount of the settlement recommended by Mr Gray, QC in his discussions with Mr Mullighan on behalf of the Andersons plaintiffs—my questions are:

1. What detailed documents has the Minister obtained to substantiate the individual payments to the Andersons plaintiffs?

2. In view of Mr Mullighan's opinion about the claim for personal injury by four members of the Casley-Smith family, what was the component of personal injury included and paid by the Bannon Government in the lump sum of $3 million paid to the Casley-Smith family?

The Hon. ANNE LEVY: The $3 million which was paid to the Casley-Smith family was an out-of-court settlement which was agreed between the council and the plaintiffs. The sum was agreed between the two parties to the legal action, that is, Stirling council and the Andersons plaintiffs.

The Hon. J.F. Stefani: The council had no say in it.

The PRESIDENT: Order! The honourable Minister.

The Hon. ANNE LEVY: The sum which was agreed between the parties was a great deal less than had been claimed by the plaintiffs and a great deal more—

The Hon. J.F. Stefani: You are not answering the question.

The Hon. ANNE LEVY: And a great deal more—

The Hon. J.F. Stefani: Answer the question!

The PRESIDENT: Order! The Minister may answer the question in any way she sees fit.

The Hon. ANNE LEVY: The $3 million sum which was settled on four members of the family was a great deal less than they had claimed and a great deal more than had been offered in settlement by the Stirling council. It was the sum that Mr Mullighan agreed was not an unreasonable sum for the settlement of the claims. That advice from Mr Mullighan was provided to Stirling council and to the plaintiffs, and they reached an out-of-court settlement, which was then subject to a court order. The matter was one between Stirling council and the plaintiffs.

The Government provided the method by which the settlement could be reached. It also provided a loan to Stirling council so that, once settlement was reached, it could be paid out. That was the involvement of the Government in the Mullighan process which, I reiterate, saved enormous sums of money for taxpayers generally and for the ratepayers of Stirling. On Mr Mullighan's estimation, this procedure saved at least $5 million in legal costs.

Such a method of arriving at a settlement had been proposed in 1988, but it was not acceptable to the then members of Stirling council. In May 1989, Stirling council members welcomed the appointment of an arbitrator to investigate the claims and to see whether an out-of-court settlement could be reached. There have been many expressions of gratitude from Stirling council that this process was made available and that it was able to achieve the result that it did, avoiding months and months, if not years, of expensive litigation in the courts.

MINISTERIAL STATEMENT: STIRLING BUSHFIRES

The Hon. C.J. SUMNER (Attorney-General): I seek leave to make a statement.

Leave granted.

The Hon. C.J. SUMNER: Last Thursday I tabled in the Council documents which comprised the opinions of Mr Mullighan, QC. Three pages were inadvertently omitted from those documents because, when they were collated after being photocopied, they were left out. I seek leave to table pages 19, 27 and 45, and for them to be published.

Leave granted.

PREMIER'S SAFETY

The Hon. I. GILFILLAN: I seek leave to make a brief explanation before asking the Minister of Tourism, representing the Minister of Housing and Construction and Minister of Public Works, a question relating to the safety of the Premier.

Leave granted.

The Hon. I. GILFILLAN: I and many other South Australians like to feel that our top political officer of the State and his staff are in a safe environment and safe circumstances, and I am sure that the Minister would share that concern. With that in mind, I address the question to her, as well as through her to the other Minister. It has been brought to my notice from what I regard as a reliable source that the State Administration Building is in a very sorry state and that it needs a substantial refit. There are several quite dramatic issues of concern with regard to safety which, if true, are quite remarkable.

In framing my question, I will ask the Minister to verify the allegations that have been put to me, namely, that there are no specific fire escapes and no specific sprinklers to deal with fires, that the building is riddled with asbestos, that the electric wiring is in poor shape and, finally, that the lifts themselves are unsafe and on the brink of being condemned. If those allegations are true, it seems to me that the Premier is indeed in some danger in continuing to work in the State Administration Building. I therefore ask the Minister whether she will check—

The Hon. Diana Laidlaw: What about the others?

The Hon. I. GILFILLAN: Certainly, there are many others, but the Premier is right at the top and, if the lifts malfunction, he will fall the farthest.

The Hon. Anne Levy: The Hon. Mr Blevins is on the floor above him.

The Hon. I. GILFILLAN: Is he? Perhaps we might revise the question.

Members interjecting:

The PRESIDENT: Order!

The Hon. I. GILFILLAN: However, I ask the Minister whether it is true that the State Administration Building is in need of a substantial refit estimated to cost between $30 million and $40 million. Does it currently have no effective fire escapes or sprinkler systems? Is it riddled with asbestos, and is the electric wiring in poor shape? Finally, are the lifts unsafe and about to be condemned?

The Hon. BARBARA WIESE: I will certainly have to refer the honourable member's questions to my colleague in another place who is, of course, much better able to comment on the issues that have been raised. However, I certainly think that many people working in the State Administration Centre would feel that it is probably time that at least some cosmetic changes were made to the building, given that it was constructed in the 1970s and that many parts of it have not been renovated since that time. That is partly because this Government is very careful with taxpayers' money, and we would not want to spend money unnecessarily.

If it is true that some of those issues which the honourable member has raised are correct, then they are safety issues and do not fall into the sort of category that I am talking about. If there is a problem in any of those respects, I am sure that the Minister has the matters well in hand and that action will be taken. I will refer the honourable member's questions to my colleague and bring back a reply as soon as I am able.

MOTOR REGISTRATION DIVISION

The Hon. L.H. DAVIS: I seek leave to make an explanation before asking the Minister of Local Government, representing the Minister of Transport, a question about computers in the Motor Registration Division.

Leave granted.

The Hon. L.H. DAVIS: A new computer system for motor vehicle registration was installed, as I understand it, on 17 July 1990. The Minister would be well aware of some controversy regarding the effectiveness of this computer.

The Hon. Diana Laidlaw: It broke down again yesterday.

The Hon. L.H. DAVIS: As the shadow Transport Minister observes, it broke down again yesterday. At that time, another computer system relating to the vehicle security register was in operation. This important vehicle security register records data, such as interest on vehicles, from credit providers, for example, finance companies, and this is vital information. The name of the finance company having the interest on a vehicle is recorded on the vehicle security register, together with the model description, year of manufacture of the vehicle, engine number, and so on. This information on the security register is then validated against the master file in the Motor Registration Division. If there are any discrepancies between the two records, they are referred back to the finance company for checking.

However, I understand, on very good authority, that the new computer in the Motor Registration Division is not compatible with the vehicle security register computer. In other words, the thousands of interests, including finance company mortgages and hire purchase arrangements which need to be registered each month and cross-checked with the Motor Registration Division computer, cannot be done by computer because of the lack of compatibility between the two. The checking must be done manually, and I understand that people must actually be employed to check manually these thousands of entries. It seems that this is yet another remarkable bungle in the saga of the computers in the Motor Registration Division. My question to the Minister is a very simple one. How is it that such a basic bungle has occurred in the computer systems in the Motor Registration Division as between the master computer, which has been recently installed, and the vehicle security register computer?

The Hon. ANNE LEVY: I had always understood that questions could not contain opinions, which it seems to me have been very much included in the comments and question asked by the Hon. Mr Davis.

The Hon. L.H. Davis: They are expressions of fact, not opinion.

The Hon. ANNE LEVY: It seems to me that they were expressions of opinion, Mr President, and should not have been permitted. However, I will refer the question—

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Davis is out of order.

Members interjecting:

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

Members interjecting:

The PRESIDENT: Order! The honourable Minister.

The Hon. ANNE LEVY: I will refer the honourable member's question and opinion to the Minister in another place and bring back a reply.

LOCAL GOVERNMENT REVIEW COMMITTEE

The Hon. J.C. IRWIN: I seek leave to make a brief explanation before asking the Minister of Local Government a question concerning the Local Government Committee of Review.

Leave granted.

The Hon. J.C. IRWIN: In August 1989—over a year ago—the Minister of Local Government set up a committee of review following the problems associated with the City of Flinders proposal. It made a progress report in April this year and intended to make a final report following wide discussion within local government and the general community. When setting up the committee, the Minister of Local Government said in a statement in this Chamber that the Local Government Advisory Commission would not make any decisions on boundary changes or amalgamations until the committee of review process had been completed and changes made so that future amalgamation proposals would go through a much more acceptable process and perhaps give a much better chance of success. The Minister made one qualification, and that was that the Mitcham matter would be finalised and proposals such as the two Jamestown proposals would proceed if there was total agreement.

I ask the Minister exactly what local government and community consultation has taken place since the interim committee report was received by her in April. When will we see the final report and debate any changes for a better commission process? Finally, will the Minister break her promise and announce any commission decisions before the review process has gone through to completion?

The Hon. ANNE LEVY: The answer to the last question is 'No'. As the honourable member mentions, the committee of review put out a draft report in April. This was circulated very widely throughout the local government community, and comments and submissions were sought regarding that draft report. I understand that a large number of individuals and councils took advantage of that opportunity and made comments to the committee of review which has considered all comments made to it and prepared a final report which is its considered opinion in the light of the considerable consultation that it undertook both before and after publishing its draft report.

I have received a copy of the final report, and I hope to discuss it very soon with the Local Government Advisory Commission, which will be the body to which the new procedures refer. It will be for that commission to implement new procedures. I hope soon to be able to make a statement and release the final report of the committee of review.

NO-FAULT MEDICAL COMPENSATION

The Hon. R.J. RITSON: I seek leave to make a brief explanation before asking the Minister representing the Minister of Health a question on the subject of no-fault medical misadventure compensation.

Leave granted.

The Hon. R.J. RITSON: In recent months, and as long ago as the Sax report, there have been mentions that the Government may introduce a medical no-fault misadventure compensation scheme. I understand that means, in addition to the normal process of law and medical defence insurance which results in the compensation of people who are harmed as a result of the fault of either a doctor or an institution, that the Government is examining the question of compensating medical misadventure, whatever that is, where there is no fault. There are indications that this may be being discussed between the States with a view to bringing in uniform national legislation. I noticed a report in the Melbourne *Age* in April that the Victorian Government was considering a scheme and was having discussions with an officer of the Federal Government in Canberra.

This leaves open many questions: for instance, will we create an organisation worse than WorkCover, since there is a good deal more natural illness than work-caused illness? I foresee enormous problems as to where one draws the line between a medical misadventure and a normal and expected complication of a condition, as well as in relation to people doing costs and calculations based on data concerning existing behaviours of hospitals, patients and doctors without realising that when the rules are changed the behaviour changes in an unforeseeable way.

What does the Government intend in relation to this matter? If such a scheme is under serious consideration, what are the rules whereby compensation will be awarded? What will be the global cost of the scheme? Where will the funds come from? Will public money be involved? What will be the mechanism for resolving the inevitable disputes involving causation and the quantum of compensation (for instance, will a statutory authority be required to administer the scheme)? Will an appeal authority be established? What cap, if any, will be put on the quantum of compensation? Will common law damages be limited or eliminated in cases where there is fault (in other words, will the no-fault scheme take away the rights of people to pursue real damages when they are harmed by the fault of a professional worker)? I look forward to a fairly swift reply to these questions because I have more questions coming.

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

OPAL PROSPECTING

The Hon. PETER DUNN: I seek leave to make a brief explanation before asking the Minister of Local Government, representing the Minister of Lands, a question about opal prospecting on Lambinna Station.

Leave granted.

The Hon. PETER DUNN: Recently, prospecting for opals has occurred on Lambinna Station (which is near the Northern Territory border a little north-east of Mintabie) because the Mintabie fields are very rapidly being depleted of opal. Also, miners have not been able to negotiate further mining in the Anangu Pitjantjatjara lands in the Walatinna area in which the Mines Department has proof of opal deposits, although the amount is unknown. Although mining has occurred on Lambinna Station for a number of years, the opal taken was not of the highest quality and that site has been left.

There is now an influx of people into the area. The owners of Lambinna Station (Mr and Mrs Williams) must operate

under the new Pastoral Act, which forbids them from clearing land and pulling bores. However, miners with an access permit can go to that country and, without restraint in and near watering points, can bulldoze access tracks and erect buildings. I believe more than 600 applications have been made to prospect in that area, so the problem is fairly large. To make it more difficult, some of the permits have been sought by people living in Melbourne.

In view of the large number of permit applications, does the Minister believe that pastoralists are adequately protected under the Pastoral Act? Are there any known cases of unlicensed access? Will the Minister ensure that commonsense prevails and that when prospectors apply for a licence they be given adequate instructions regarding livestock, watering holes and other disruptions to the normal activities of Lambinna Station?

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

WILPENA DEVELOPMENT

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister of Tourism a question about the Wilpena development.

Leave granted.

The Hon. M.J. ELLIOTT: The Government recently released a paper entitled 'Wilpena Station—Responsible Management of People, Parks and our Environment'. One section of it, which is devoted to the background information on Ophix and the developers, talks about what a wonderful job Ophix has done in other developments. In the past, concern has been brought to my attention about Ophix and its principals, in particular, an allegation that Bruce Lever, who is now the head of the South Australian National Parks and Wildlife Service, was working in the snowfields in the New South Wales national parks department at the same time as certain developments which involved Mr John Slattery went through there. We now find that Ophix was given the chance to build the development at Wilpena—an opportunity offered to no other company.

The Hon. Diana Laidlaw: No tenders.

The Hon. M.J. ELLIOTT: There were no tenders, and people have been asking questions about how that came about. It has also been brought to my attention that Mr John Slattery was at one stage, and still may be, a principal of Permasnow Australasia Limited. The *Financial Review* of Thursday 11 August 1988 contained a report that there were attempts by members of the board to have Mr John Slattery and another director removed from the company. It states that one of the developments he owned—and it mentioned a number—was the first Permasnow indoor facility in Adelaide, Mount Thebarton. My understanding is that Mount Thebarton and the company that owned it went into receivership.

There is no development about Mr Slattery's involvement in that company and its lack of success. My questions are:

1. Why were no tenders offered to other developers because of the concern that some people had about possible links between the present Director of the National Parks and Wildlife Service and Mr Slattery in the past?

2. Why, in the document released by the Government, does it give the good news of their involvement in developments and not the bad news?

The Hon. BARBARA WIESE: My colleague, the Minister for Environment and Planning, is responsible for the Flinders Ranges National Park. The Minister of Environment and Planning also had carriage of the matter when decisions were taken about development within the national park. It would therefore be my intention to refer to my colleague for an appropriate reply to those questions with respect to discussions that took place at the time of the appointment of Ophix.

As to the information about Ophix that is contained in the document to which the honourable member refers, that information, as I think is indicated in the document itself, provides information about the developers as supplied by the developers themselves. The issues related there, the involvement in certain projects, which are tourism-related projects, were provided by Ophix. As to its involvement with the Mount Thebarton company, I am not in a position to comment, except to say that from my knowledge that property has changed hands at least once since it was originally developed. Whether or not Ophix was involved in the early stages or has been involved in subsequent stages I am not in a position to say.

However, I certainly hope that, before the honourable member stands up in this place and makes allegations about the business propriety and the business management skills, etc., of this or any other company, he checks his facts, because it would be a totally inappropriate use of the Parliament if the honourable member suggested here that a company was in some way inadequate or inappropriate without having checked on those matters. It seems to me that there is far too much easy talk in this Parliament and in this State, based on rumour and innuendo, about whether or not companies are good, bad or indifferent. I certainly hope that the honourable member is not engaging in that sort of practice. I will refer the honourable member's questions to my colleague in another place and bring back a reply on the issues.

CONSUMER CREDIT LEGISLATION

The Hon. K.T. GRIFFIN: I seek leave to make a brief explanation before asking the Minister of Consumer Affairs a question about consumer credit legislation.

Leave granted.

The Hon. K.T. GRIFFIN: The Minister recently announced a commitment to uniform consumer credit legislation across Australia. The first attempt at such uniformity foundered last year when a Bill, which was prepared for the Standing Committee of Consumer Affairs Ministers and I think drafted by the Law Reform Commission of Victoria, was shown to be substantially flawed. There were mistakes in drafting, concepts were awry and there were difficulties in comprehension.

Whilst that draft was purported to be drafted in simple English, it was confusing to both lawyer and layperson alike. Noting the Minister's recent commitment to uniformity, I ask whether she will indicate what principles on which uniformity may be achieved have been agreed by the Minister? When is the drafting likely to be available for public perusal? What is the time frame within which so-called uniformity is to be achieved? Finally, what consultation has occurred and is proposed?

The Hon. BARBARA WIESE: The general basis of the agreement reached by Ministers at their most recent meeting concerning uniform consumer credit legislation talks about legislation which will be broadly applicable. We in South Australia (and some other Ministers agreed) believed that the Bill drafted by the Victorian Law Reform Commission was much too narrow in focus and, therefore, would confine the scope and applicability of the legislation.

We have attempted to include all financial institutions in legislation of this kind. Currently, they are not included in

consumer credit legislation in various States of Australia, because over time there has been a change in the provision of consumer credit. Generally, in Australia, consumer credit legislation was drafted at a time when finance companies were the leading providers of credit. Since that time other financial institutions, such as banks, building societies, credit unions, etc., have become involved in the market and, in fact, now cover the majority of consumer credit lending. However, as I say, they are not covered by the consumer credit laws in States of Australia where there is consumer credit legislation of any kind.

It was the general wish of Ministers that this problem should be rectified. During the past few years since the matter has been back on the agenda, one of the problems we had in reaching agreement was the difference of views on the legislation covering housing in particular and the different situations that apply with lending arrangements for housing as opposed to other forms of borrowing. We were able to reach an agreement on that matter and housing will be included in the new legislation, but it will be included in a separate part. Questions relating to fees and charges were also a stumbling block. In general terms, on that question the Ministers have agreed that, when a loan is applied for, an establishment fee can be charged but under the legislation no other fees or charges will be allowed. Of course, in the area of housing these things will vary according to the particular circumstance.

We are attempting to give as broad an application and coverage to consumer credit lending as we can whilst reaching compromises on some of the key issues upon which some States differed most. The intention is to have a Bill which is drafted in plain English and which will be easily understood by credit providers and consumers alike. The drafting so far has been undertaken by the South Australian Parliamentary Counsel, since it was the South Australian Commissioner of Public and Consumer Affairs and officers of that department who were involved in chairing the relevant committees that have led ultimately to the agreement that has now been reached.

We hope that a draft Bill will be available by the end of September, when the consultations with the various organisations that have been represented on both the working party and the consultative committee will have an opportunity to study the draft and comment on it. On those bodies there is representation from all State Governments and the Federal Government as well as lending institutions and consumer organisations. I believe that covers the parties with an interest in the matter. We hope that the outstanding details that are currently being addressed by the working party and the consultative committee will allow Ministers to meet again later this year, if necessary, to put the final seal of approval on the arrangements to be made. We then hope to be in a position to introduce legislation in the Autumn session.

The Hon. K.T. Griffin: Will the draft be circulated?

The Hon. BARBARA WIESE: The draft will be publicly available at some stage. As I have indicated, it will certainly be circulated to the various organisations that are formally involved in the consultative process, so I imagine that the Bill will be rather widely circulated throughout the community.

SELECT COMMITTEE ON ADELAIDE CHILDREN'S HOSPITAL AND QUEEN VICTORIA HOSPITAL (TESTAMENTARY DISPOSITIONS) BILL

The Hon. R.R. ROBERTS: I move:

That the time for bringing up the report of the select committee be extended until Tuesday 16 October 1990.

Motion carried.

ADDRESS IN REPLY

Adjourned debate on motion for adoption.

(Continued from 16 August. Page 347.)

The Hon. C.J. SUMNER (Attorney-General): I thank members for their contributions. The only matter to which I wish to refer very briefly is the issue raised by the Leader of the Opposition in dealing with the Premier's statements relating to the outcome of the recent Premiers Conference. The impact of Commonwealth decisions on South Australia's budget for 1990-91 compared with 1989-90 was as follows:

1. A cut in the real level of financial assistance grants of $40 million and a cut in the real level of capital grants of $3 million.
2. A reduction of water quality grants of $53 million.
3. A change in the Grants Commission period, $50 million.
4. The cost of the national teachers' award of $34 million.

This makes a total of $180 million. South Australia, along with the other States, did, in fact, receive cuts in Federal funding at this year's Premiers Conference and that has been accepted not only by the Labor Premiers involved, but by Mr Nick Greiner, the Liberal Premier of New South Wales, who joined in the protest of the Premiers at that time against the attitude taken by the Commonwealth Government.

The Leader of the Opposition suggested—or attempted to suggest—that South Australia had not suffered a financial cut at all at the Premiers Conference. That is simply not true. It is somewhat surprising that the Opposition is attempting to argue that South Australia has done extremely well at the Premiers Conference. It is one thing to oppose the Government; it is a very different thing to oppose South Australia's interests—the approach taken by the Opposition. The fact of the matter is that as a result of the Premiers Conference there was a substantial hole in the budget because of Federal Government cuts. There were grants that we did not receive and there were expectations of continuing support that we did not get.

Members will have to watch tonight's budget to know precisely the size of the revenue shortfall that South Australia will experience from the Commonwealth. I would not be surprised to find that the figure of $180 million ends up being conservative. The Leader of the Opposition is simply not acknowledging reality when he says that there were no cuts. The Federal Treasurer, when advising the States of their revenue grants for this year and in his speech to the Premiers Conference, in fact, invited all States to cut their services in light of the more stringent financial position, and offered the Federal Government's support for this exercise of cutting services.

Dr Hewson, the Federal Leader of the Opposition, and Mr Reith, the Federal shadow Treasurer, have said that the cuts made by the Federal Government to the States, whilst substantial, should, in fact, have been more; they should have been deeper. So, although members opposite seem to

think that South Australia did not receive any cuts at the Premiers Conference, Dr Hewson and Mr Reith have acknowledged that there were cuts, but have said that they did not go far enough. The fact is that the State's income from Federal sources is declining and there can be no question about that.

Six years ago South Australia received just over 60 per cent of its revenue from the Federal Government. It is now 50 per cent and continuing to decline. So, there has been a trend over the period of the Bannon and, indeed, the Hawke Governments, of a reduction in Federal funding to the States—a reduction from 60 per cent of revenue received from the Federal Government to 50 per cent in six years, which amounts to a severe reduction. The management of Government expenditure in South Australia has been extremely tight in order to cope with that decline in financial support from the Federal Government. South Australia's reputation in managing its public sector financial affairs is very good. For instance, Moody's says quite clearly that South Australia is in a very good position. Difficult decisions have been taken and will continue to be taken. As is obvious to anyone, difficult decisions are to be made this year about local taxes and about the provision of local services. Obviously, decisions will also have to be made about employment and the appropriateness of certain Government functions. Much of this is a continuing feature of ensuring that South Australia's public sector remains efficient and effective.

However, further restructuring is being brought about because of the reduction of Commonwealth support available to the States. I am not able to do much more today but to indicate to the Leader of the Opposition that he should await the budget speech of the Federal Treasurer this evening, and the speech of the Premier on Thursday as he delivers the State budget, when the extent of the financial difficulties that South Australia faces will be obvious. The figures that I have outlined constitute the Premier's assessment of the Premiers Conference outcome and, as I have said, there was a cut in the real level of financial assistance grants totalling $43 million. The fact is that the extra $41.7 million real increase in specific purpose payments does not compensate for the $43 million real cut in general revenue funding. The fact is that specific purpose payments from the Commonwealth have little impact on State Government budgets. Roads account for 20.9 per cent of the specific purpose payments to the States; this includes national highways. An increase of 12.6 per cent in other net specific purpose payments will mostly go to higher education or local government.

Government schools will get increased grants of 4.2 per cent, which will include the Commonwealth share of the national teachers' benchmark. On that, South Australia will have to find its share from general revenue. South Australia's share of the funds under the Commonwealth/State housing agreement will decrease from $104.5 million to $95.2 million. The fact is that increases in specific purpose grants (given by the Federal Government to the States for specific purposes) do not compensate for losses of general revenue funding. The water quality grants of $53 million are not a one-off payment and never have been. South Australia received increased funding for water quality over the past three years and it reasonably expected that this funding would be continued in 1990-91.

For the past decade, the Grants Commission has adopted a three year period. The Commissioner's 1990 report recommends a continuation of that policy, and that was the stated intention of the Federal Government, indicated by the Prime Minister. So, it is legitimate to claim the loss relating to change in the Grants Commission period. The national benchmark salary for teachers ($43 million) was negotiated by the Commonwealth and is an additional cost to the State, for which we should be compensated.

That deals briefly with major items in the $180 million that the State has lost as a result of the Premiers Conference. As I said, the State anticipates that that will be a conservative estimate of the loss, but I suggest to the honourable member that he takes an interest this evening in the Federal budget and the accompanying budget papers. No doubt he will be able to re-examine and reconsider this issue when the State budget is before the Council.

Other members commented on a number of matters, but they do not require specific replies. The Leader of the Opposition specifically directed my attention to this issue, and I have now dealt with it.

Motion carried.

The PRESIDENT: I inform the Council that His Excellency the Governor has appointed 4.15 p.m. today as the time for the presentation of the Address in Reply to His Excellency's opening speech.

ACTS INTERPRETATION ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 7 August. Page 36.)

The Hon. K.T. GRIFFIN: The Opposition proposes to support the second reading of this Bill, but whether or not it is supported thereafter depends on the Attorney-General's responses in relation to clause 5, which seeks to insert a new section 40. The Bill does three things. It provides that a statutory instrument includes any instrument of a legislative nature made or in force under an Act of Parliament including instruments such as proclamations and ministerial notices. The Opposition has no difficulty with that.

Second, it proposes a new section 14ba, which ensures that, where a provision in an Act requires something to be done in accordance with another part of that Act, it also requires compliance with such statutory instruments as regulations made under or in relation to that part. The Opposition has no difficulty with that.

Third, section 40 of the principal Act is proposed to be amended to provide that, unless the contrary intention appears, regulations made under an Act or any rules or by-laws may apply, adopt or incorporate the provisions of any Act or statutory instrument or any material contained in any other writing in existence when the regulations, rules or by-laws are made or at a specified prior time. That provision means that codes of conduct or standards can be adopted by regulation without the Act under which the regulations are made necessarily granting specific power to enable that to be done. It is that which worries the Opposition.

It suggests a much wider ranging power to make regulations than might be expressly included in an Act of Parliament. Codes of conduct and standards may be adopted by regulation in cases where specifically they have been provided in principal Acts and, of course, when they do that, they have to withstand the scrutiny of subordinate legislation procedures, although even in that it reduces the scrutiny by Parliament in the sense that Parliament does not make a deliberate decision to allow a code of conduct or standard to be adopted by way of regulation.

If one looks at the drafting of new section 40, it can be seen that even paragraph *(a)*, in some respects, avoids subordinate legislation procedures, because it enables the regulation, rule or by-law to pick up the provisions of any Act or of any statutory instrument as in force from time to time. That means that any amendments that might subsequently be made, although they may be subject to scrutiny

in the specific context in which they might be made, might not be subject to scrutiny in relation to regulations relating to different subjects or topics which pick up those provisions. That is a problem.

Paragraph *(b)* of new section 40 enables any material contained in any other instrument or writing to be picked up by regulations, rules or by-laws. The detail of them may not necessarily be subject to review in the subordinate legislation process. Writing can extend beyond codes of conduct and standards to other material which a Government might seek to apply to an industry or to a particular topic of interest, and it seems to me that that creates problems. I have the feeling that, by passing this provision, we will tend to lose even more control as a Parliament over the legislative and regulation making process.

New section 40 really turns the procedure around not to necessarily require a specific regulation making power, rule making power or by-law making power in an Act of Parliament which might pick up a standard or code of conduct or some other writing and translate it into law through a regulation, rule or by-law. In those circumstances generally, even if the Act of Parliament does not authorise it, this provision will allow it. At the moment, if the Act of Parliament authorises it, regulations, rules or by-laws can be made, but it takes a specific and conscious Act of Parliament to give that power.

If new section 40 is passed, when legislation is before us, we will have to be consciously vigilant about what sort of standards, codes of conduct or other writing might be picked up by regulations, rules or by-laws, and make a specific provision disallowing that procedure if we believe that that is an appropriate course.

I think that that is the wrong way to go about regulations, rule making and by-laws. I think that as a Parliament we ought to make a conscious decision in the principal legislation before us to determine whether or not such regulations will be allowed. The tendency we have in modern legislation is to give more power, rather than to restrict it, and I am concerned about that trend. So, as far as clause 5 is concerned, the Opposition is not presently prepared to support it. It is too wide, it sets an undesirable precedent and, even though the Commonwealth Acts Interpretation Act appears to have a similar provision, it is not, in my view, sufficient argument for that to be allowed in State legislation. There are some undesirable precedents at the Commonwealth level which I think are unwise for us to adopt here. So, as presently advised, clause 5 will be opposed.

I have sought some feedback from lawyers, the Law Society and others. Although the Bill was before us in the last session, and I did take the opportunity then to circulate it widely, there are one or two observations still to be made to me, particularly on the provisions of clause 5. If we are not successful in opposing clause 5, or unless there is no satisfactory explanation of the reasons why a wider power should be granted, we could well end up opposing the third reading. That is a matter to which we will give further consideration in the Committee stage of the Bill. For the purpose of enabling the matter to continue further, I support the second reading.

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

ADMINISTRATION AND PROBATE ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 15 August. Page 300.)

The Hon. K.T. GRIFFIN: This Bill provides for regulations to be made fixing the amount or rate of any commission or fee which might be recovered by Public Trustee for administration of estates, whether deceased estates or estates for which it has the management responsibility.

It also allows, in fixing those regulations, both a maximum and a minimum rate. It certainly gives Public Trustee the flexibility which it does not have to compete in the market place, as far as a reduction in fees for certain work is concerned. I see no difficulty with the general concept of flexibility. The Trustee Companies Association does not raise any objection to it. However, in the context of the consideration of this Bill, I would like the Minister to give some attention to issues which I think Public Trustee needs to address.

It would be helpful for the Council to have some idea of the current rates of fees and commissions which are being charged by Public Trustee and what is proposed for new regulations under this amendment. In addition, it would be helpful if we could have from the Minister some indications as to whether or not Public Trustee, on the income which it earns, other than from estates (that is, its own commissions and the fees it charges), pays to the State Treasurer any payment in lieu of the income tax it would have paid if it had been a private sector corporation paying company or other income taxes to the Federal Treasurer. Because it is a public statutory authority of the State of South Australia, it certainly would not be paying Federal income tax unless that were tax on income of estates which it administered.

Obviously, however, the private sector trustee companies all pay Federal tax and other duties and charges. Before we finalise this Bill, I would like to know from the Minister whether or not there is any provision for Public Trustee to make a similar sort of payment for duties, charges and an amount akin to Federal income tax. If not, can the Minister indicate whether that is envisaged in order to put Public Trustee on a similar basis to private sector organisations, as far as administration of estates is concerned? In responding, I would also ask the Minister to indicate, if such fees, duties and charges are paid by Public Trustee, the amounts paid in the past financial year? Subject to those issues, the Opposition supports the second reading of this Bill.

Bill read a second time.

ADDRESS IN REPLY

The PRESIDENT: I remind the Council that His Excellency the Governor will receive the President and members of the Council at 4.15 p.m. today for the presentation of the Address in Reply. I therefore ask all members to accompany me to Government House.

[*Sitting suspended from 3.44 to 4.50 p.m.*]

The PRESIDENT: I have to inform the Council that, accompanied by the mover, seconder and other honourable members, I proceeded to Government House and there presented to His Excellency the Address in Reply to His Excellency's opening speech adopted by this Council today, to which His Excellency was pleased to make the following reply:

Thank you for the Address in Reply to the speech with which I opened the second session of the Forty-Seventh Parliament. I am confident that you will give your best consideration to all matters placed before you. I pray for God's blessing upon your deliberations.

ADJOURNMENT

At 4.52 p.m. the Council adjourned until Wednesday 22 August at 2.15 p.m.