LEGISLATIVE COUNCIL

Wednesday 13 March 1991

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

QUESTIONS

LPG

The Hon. R.I. LUCAS: I seek leave to make a brief explanation before asking the Minister of Consumer Affairs a question about LPG prices.

Leave granted.

The Hon. R.I. LUCAS: On two separate occasions last year I raised the issue of growing public concern about significant increases in the price of liquid petroleum gas (LPG) in this State. Late last year LPG prices around metropolitan Adelaide were as high as 34c a litre where previously it had been selling for as low as 15c a litre. After initially raising the matter in this Chamber on 24 October 1990, I again raised the issue on 8 November and asked whether the Minister had asked the Prices Surveillance Authority to investigate the justification for sharp increases in LPG prices. The Minister replied in part:

> . . . no, I have not made inquiries of the Prices Surveillance Authority, but have sought information about the current situation regarding the price of liquid petroleum gas . . . Recently there has been some increase and, as I understand it, this is largely due to the Esso dispute, which has reduced the availability of LPG.

The Minister then went on to say that she had been advised by Department of Public and Consumer Affairs officers that there was no evidence of profiteering in LPG in South Australia. Since then the PSA's control over LPG prices has been somewhat diminished by deregulation from 1 January, when price setting was determined by the producers. However, the PSA maintains a monitoring function and can, if it wishes, declare producers or wholesalers who unscrupulously raise prices.

I note that media reports during the past 24 to 48 hours indicate that the PSA will launch an investigation into LPG prices in the Adelaide and Port Augusta areas following continued consumer complaints. It is interesting to note that one media report cited the price of LPG in Adelaide as 32c a litre—prices of the order that caused me to raise the issue with the Minister late last year. My questions to the Minister are:

1. Does the Minister believe that the move by the PSA to investigate LPG prices in Adelaide and Port Augusta is warranted?

2. If not, why not? If so, why does she now believe that the investigation is warranted when last November the Minister admitted that she had not contacted the PSA about the matter and expressed the opinion that LPG price rises in this State were not excessive?

3. If, as a result of the PSA investigations or their imminence, South Australians obtain lower LPG prices, will the Minister accept blame for a delay in that cut because of her tardiness in contacting the PSA since 8 November last year?

The Hon. BARBARA WIESE: The answer to the last question is 'No'. As to the issue of LPG pricing, the honourable member would be aware that LPG is not a declared item under the Prices Act and, therefore, is not subject to price surveillance in South Australia. However, as a result of rising prices in this State in recent times, some monitoring certainly has been undertaken by officers of the Department of Public and Consumer Affairs, particularly to determine whether or not any profiteering was occurring in South Australia.

In terms of comparison of LPG prices in this State, I received information in January, when a comparison was made of LPG prices, which showed that every capital city, except Melbourne, had equal or higher prices for LPG than did Adelaide consumers buying liquid petroleum gas. I say 'equal or higher' in the context that only one State was equal: all the others were higher. As I understand it, as monitoring has taken place at intervals since then, the differentials that applied then have continued to be around the mark.

I have not had a very recent update from officers of the Department of Public and Consumer Affairs about this matter, so I am unable to say whether or not officers have recently been in touch with the Prices Surveillance Authority about it, nor have I received a formal notification yet from the Prices Surveillance Authority as to the nature of its inquiry into LPG prices in South Australia. However, I am certainly looking forward to receiving information from the Prices Surveillance Authority as to the nature and purpose of its inquiry.

At this stage I am not in a position to say whether or not I believe the inquiry is justified because, as I have already indicated, in recent times I have not had up to date information from the Department of Public and Consumers Affairs about this matter. However, as I have indicated, the most recent information that was presented to me about comparative prices of LPG would have led me to believe that South Australians were amongst the better off in Australia in terms of the price they were paying for LPG. I will seek further and urgent information about this matter, and I hope that I will be able to provide a fuller report for the honourable member in the very near future.

NOLLE PROSEQUI

The Hon. K.T. GRIFFIN: I seek leave to make a brief explanation before asking the Attorney-General a question about grounds for *nolle prosequi.*

Leave granted.

The Hon. K.T. GRIFFIN: On 9 September 1987, Justice Millhouse in the Supreme Court delivered judgment in an action by Victor Reginald Winter and David John McDonald against David Edwin Weekes.

McDonald and Weekes owned a fishing vessel, the *Gemini*, and claimed insurance when it sank at sea. The issue before the courts was whether it sank because of 'perils at sea' or was deliberately put down. Justice Millhouse found that 'on the balance of probabilities, the *Gemini* was deliberately sunk on 11 September 1982 with the privity of the owners'. In his reasons for judgment, Justice Millhouse said:

> Improbability is heaped on improbability. I hope it will be apparent from what I have written that there are a number of coincidences in all these events—those in the months leading up to the loss of the *Gemini* and those given in the accounts in evidence of its actual loss.
>
> 1. The ship was lost when she was owned by two men to whom her loss would be a financial blessing.
>
> 2. There was on board a man with a doubtful reputation as a skipper, the owner or part-owner of the vessel and his brother, not a regular crew.
>
> 3. No definite cause has been advanced by the plaintiffs for the vessel to sink.
>
> 4. She was stripped before the last voyage and only a few items returned.
>
> 5. For some reason unknown the watertight bulkhead system broke down.
>
> 6. It happened at night when it would be convenient for those on board to leave the vessel unseen.

7. The bilge alarm did not sound when under ordinary circumstances it should have.
8. The radio did not work.
9. The men did not try emergency lighting or use torches.
10. No-one appears to have seen any distress flares.

I may be able to accept one or even more of these coincidences just as bad luck, but when they are all heaped one on the other, as they are, it is impossible to accept them merely as that.

The inference is irresistible. This vessel, seaworthy, as I have found, when it sailed from Port Adelaide on 10 September, sank not because of a peril or perils of the seas but because it was deliberately scuttled.

Justice Millhouse said that he could 'go further and say I am satisfied of the scuttling beyond reasonable doubt', which is the onus of proof for establishing criminal guilt.

The Crown then laid charges that three men conspired to cheat and defraud by falsely claiming a fishing boat sank as a result of 'perils at sea'. Three years later, on 30 November 1990, the Crown entered a *nolle prosequi* and the charges were dropped.

I have two letters from officers in the Fraud Squad, the latter of which is disturbing. The first is dated 2 November 1990 to a witness and gives the witness details of the trial to commence on 18 March 1991. The second letter, three weeks later, to the same witness informs the witness that the trial has been cancelled. The letter states:

The trial of Winter, Salt and McDonald set down for March 1991 has been cancelled. The Crown Law Department, on instructions from the Attorney-General, has entered a *nolle prosequi* (no prosecution) on the matter. This step was apparently taken on the basis that the cost of a three-month trial far outweighed any deterrent effect a conviction and penalty may have.

Neither the Police Department, O/C Fraud Squad, Detective Senior Sergeant Smith, nor I were consulted regarding this matter and the first we were aware of it was reading it in the *Advertiser* of 1 December 1990.

We thank you for your assistance in this inquiry and apologise for any inconvenience caused.

This matter got an airing in the *Advertiser* a few weeks ago, but, according to that report, the Crown Prosecutor was then on leave and the Attorney-General did not personally comment on the issue. A number of important questions arise from the letter from the Fraud Squad to the witness indicating that the trial would not proceed. My questions to the Attorney-General are:

My questions to the Attorney-General are:

1. Was the decision to enter a *nolle prosequi* taken on the ground of expediency?

2. Are the so-called 'deterrent effect' of a trial and the issue of expediency now the only bases for determining whether or not a criminal trial will proceed and the broader question of criminality is secondary?

3. Why was there no consultation with police in relation to the dropping of charges on which a lot of police and other persons' efforts and resources had been expended in getting the matter ready for trial?

The Hon. C.J. SUMNER: As I understand, there was consultation with the police. That was a matter that I inquired about at the time and, whether or not the police considered the consultation adequate, I do not know. I can certainly check whether there was adequate consultation, but the impression I got at the time was that the police were consulted about the matter and were prepared to live with the decision taken by the Crown Prosecutor, if the Crown Prosecutor felt that the advice should be that the trial should not proceed.

A whole range of factors is taken into account in deciding whether to enter a *nolle prosequi*. The factors that are relied on in South Australia tend to follow the Commonwealth Director of Public Prosecutions' guidelines. When we have our own Director of Public Prosecutions I assume that he or she will promulgate some guidelines also and, of course, when that occurs questions of this kind will not be answered in this Parliament but will be referred to the Director of Public Prosecutions. But there are a number of factors which are taken into account and which are set out in those guidelines. Obviously, the chance of conviction has to be weighed up against potential length of a trial, and there may be other factors as well.

I do not have the docket on this particular matter with me at the present time, but I will get a report from the Crown Prosecutor and bring back a reply. Suffice to say that the advice from the Crown Prosecutor was that the trial should not proceed, and I acceded to that advice.

TOURISM INDUSTRIAL DISPUTES

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Minister of Tourism a question on the subject of tourism as an essential service industry.

Leave granted.

The Hon. DIANA LAIDLAW: I was pleased to note in today's *Advertiser* a report that some 7 500 workers from seven unions have decided not to proceed tomorrow with a national meeting during what would have been the peak domestic flying time in South Australia at 2.30 p.m. A meeting at that time would have stopped all air services in Australia and would certainly have severely affected air traffic to South Australia.

The Minister would appreciate that the tourism industry is a major contributor to the economy of not only this country but also this State. It is also a fact that from time to time the tourism industry has suffered serious disruption from industrial action such as that which was threatened to take place tomorrow, the pilots strike, and the petrol refuellers strike late last year and again earlier this year. Such action not only inconveniences tourists immediately affected by that action but also has damaged Australia's reputation as a reliable tourist destination, and thus impacts on potential visitors' decisions as to whether or not they will visit Australia and this State.

Of course, the wider impact is in the loss of income to the economies of this State and of Australia. I note that New South Wales, three or four other States and, in part, this State, have introduced legislation to maintain the provision of essential services in the event of industrial disputes or of a state of emergency.

I am also led to believe that the Australian Tourism Industry Association, at its annual meeting last October, passed a motion seeking the introduction of essential services legislation that ensures that employee/employer agreements are enforceable and form a compulsory process to be introduced to guarantee negotiation in disputes and to avoid prolonged strikes or the cessation of services, as would have happened tomorrow.

Does the Minister support the concept of the introduction of essential services legislation at the Federal level? I nominate that level because the damaging petrol refuellers strike last year and earlier this year, the pilots strike and similar strikes all involved unions that are covered under Federal awards. My question therefore relates to essential services legislation at the Federal level. If the Minister does not support it, why not?

The Hon. BARBARA WIESE: This issue has not been raised with me as a matter of major concern by representatives of the tourism industry in South Australia. If they considered it to be a major issue, I believe that they would have made representations to me to request my taking up this matter with the State Government or the Federal Gov-

ernment, as deemed appropriate. As I have indicated, they have not considered, or did not consider, it to be of such major significance that it was worthy of such action.

Whether or not I support such legislation is not particularly relevant, and I do not have ministerial responsibility for labour matters. Certainly, my ministerial colleague the Minister of Labour has, and he would be the Government spokesperson on such issues. He would also be responsible for bringing recommendations of this kind, if it were deemed appropriate by the Government, to Cabinet for consideration. I am not aware of any such moves taking place and, as far as I know, there is no call for it from members of the industry here.

The Hon. DIANA LAIDLAW: Mr President, I desire to ask a supplementary question. Is the Minister aware that this matter has been canvassed at the Australian Tourism Ministers Council? What was her response to the national call by tourism Ministers last year to such legislation?

The Hon. BARBARA WIESE: I was unable to attend the last Australian Tourism Ministers Council meeting because of a short notice change to the date and the scheduling of that meeting, and because I had commitments that I was unable to break. If there was discussion about that at the last council meeting, it was not one in which I participated, so I am unable to comment on that.

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Minister of Tourism a question about essential services. The question arises from the question just raised by the Hon. Diana Laidlaw.

Leave granted.

The Hon. T.G. ROBERTS: In view of the answer given by the Minister about tourism becoming an essential service, can the Minister inform me and the Council whether any other countries, other than totalitarian regimes, have nominated tourism as an essential service to be protected, by legislation, from industrial activity?

The Hon. BARBARA WIESE: I am not aware of any country that has deemed the tourism industry to be an essential service, but I am happy to make investigations if the honourable member would like me to do so.

SPEED CAMERAS

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister of Emergency Services, a question about speed cameras.

Leave granted.

The Hon. J.F. STEFANI: Since raising this matter of public interest and asking questions of the Minister on 20 February 1991, I have received further information indicating that there are serious operational deficiencies with the workings of speed cameras and the system of issuing infringement notices. I have been informed that Police Department personnel view picture frames at AWA at Holden Hill. When viewing the developed films taken by the speed cameras, it has been discovered that many expiation notices and fines might have been incorrectly issued to innocent motorists during the first six months in which the speed cameras were used by the Police Department.

More than 35 000 motorists were booked during this period. Concerns have been expressed that unsuspecting motorists who are not able to argue a case of their innocence because they cannot recall committing an offence by the time they receive notice of the infringement are becoming the victims of a faulty system. I have been informed of some equipment malfunction and of the human errors that have occurred. A stobie pole on Port Road was clocked at 73 km/h, without any vehicle in the picture frame. A motor vehicle travelling at 60 km/h was photographed and fined for travelling at the speed of another speeding vehicle that was overtaking it at 120 km/h. A motorcycle, which was being used on a farming property was clocked at 100 km/h on the open highway and the owner received a fine. A motor vehicle was caught for exceeding the speed limit on Glen Osmond Road, yet the owner of the vehicle in question did not leave the South-East country town of Keith on the day of the alleged offence.

I have been further advised that a directive has been issued within the Police Department not to issue expiation notices to STA buses for infringements recorded by speed cameras. It has been suggested to me that speed cameras do not function accurately when timing long buses or trucks towing trailers. Further problems have been discovered when untrained personnel are engaged in adjudicating speed camera photographs. Often vehicle registration numbers are not clearly legible, and assumptions are being made when interpreting the numbers 1 and 7, and 3 and 8. It is obvious that under these circumstances motorists who pay fines without questioning the infringement notice are actually paying a fine for an offence that was committed by the driver of another vehicle. I have been informed of other problems that have been identified in the operations of the speed cameras. Therefore, my questions are:

1. Will the Minister issue a directive to withdraw all speed cameras until all operational problems have been addressed and eliminated?

2. Will the Minister issue instructions to the Police Department to use speed detection devices or speed cameras in black spots and high accident areas instead of allowing the use of speed cameras in high volume traffic flow areas?

3. Will the Minister confirm or deny that directives have been issued within the Police Department to achieve certain quotas and that the Highway Patrol has been told to produce certain monetary results; otherwise its manpower requirements may be reduced?

The Hon. C.J. SUMNER: The answer to the first and second question is 'No'. As to the third question, I am not aware of that matter, but I will refer it to the Minister.

NATIONAL PARKS

The Hon. I. GILFILLAN: I seek leave to make a brief explanation before asking the Minister of Consumer Affairs a question about tendering for the supply of goods to national parks.

Leave granted.

The Hon. I. GILFILLAN: Today I received information from a local Kangaroo Island apiarist concerned over what he believes to be a lack of suitable tendering procedures for a number of the island's parks. He is concerned that the National Parks Service is now competing with local traders in regard to selling souvenirs and such like at the parks' kiosks. He believes there was no tendering process called for the supply of local honey to kiosks for Flinders Chase, Kelly Hill Caves and Cape Borda. Indeed, he suggests that the supply of honey was arranged through the friend of a parks official, who is not in fact an apiarist at all. He is particularly concerned because the production and retailing of honey on the island is his livelihood, and in such a small and relatively closed community it does not take much to upset the finely balanced economy which, as we all know, is under severe economic stress due to the growing rural crisis. My questions to the Minister are:

1. Will the Minister inform the Council whether there is a recognised tendering process for the supply of goods to national parks?

2. If there is, will the Minister indicate when tenders were called for the three parks on Kangaroo Island that I have mentioned?

3. Will the Minister investigate the allegation that goods have been supplied through 'friends' of park officials?

The Hon. BARBARA WIESE: I do not see that this has any bearing whatsoever on my portfolio of consumer affairs. Any tendering processes that exist within the National Parks and Wildlife Service would be the responsibility of the Minister for Environment and Planning. If they are not policies specific to that department, then perhaps they would be the responsibility of my colleague the Minister of State Services through the State Supply Board. I will undertake to refer the question to whichever Minister is appropriate and ensure that a reply is provided to the honourable member.

SMALL BUSINESS

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Minister of Small Business a question about small business.

Leave granted.

The Hon. L.H. DAVIS: The Hawke Labor Government's industry statement of yesterday contained little reference to small business. Last August, in the South Australian State budget, the Premier and Treasurer (Mr John Bannon) also made little reference to small business. As one small business leader told me with some feeling today, to say that Labor Governments even pay lip service to small business is an exaggeration. By coincidence, earlier this week my wife and I received a letter at home from one Terry Cameron, State Secretary of the South Australian branch of the Labor Party.

Members interjecting:

The PRESIDENT: Order!

The Hon. L.H. DAVIS: It was addressed to the proprietor and postage was paid. Dated February/March 1991, it read as follows:

Dear Sir/Madam,

Small business is the lifeblood of the South Australian community. It creates jobs, provides services and contributes new ideas and vital skills to our economy.

Most small business people work long hours, take big risks and often wait years before 'turning the corner' and becoming profitable organisations.

One could agree with all those sentiments, Mr President. The letter continues:

Governments can play a role in helping business make a go of it. Governments can assist with planning and expert advice and by keeping Government costs as low as possible.

By then, my drinking hand was starting to shake with disbelief. The letter continued:

The Bannon Government has already introduced a number of measures to assist small businesses, including:

- the business bookkeeper scheme to assist with financial management—

that scheme was introduced almost one year ago—

- the reduction of electricity tariffs—

and I remind the Minister that suggestions of cutting electricity tariffs by a good margin were denied by the Bannon Government—

- protection for tenants in commercial leasing arrangements—

that is something we have certainly debated, and

- review of Government regulations to cut through red tape.

It is just that, a review. The letter continues:

I have written to you because the Labor Party in Government wants to strengthen its dialogue with business and increase its understanding of how Government can help you.

If you would like to take part in this dialogue please complete the enclosed form and mail it to me in the enclosed Freepost envelope as soon as possible.

I look forward to hearing from you.

Regards,

Terry Cameron, State Secretary

As I said, I read that with some disbelief. I am not sure how I came to receive that letter, but I did receive it and I know that many other people have received a copy. I am not sure whether the Minister of Small Business is aware of this letter or the extraordinarily bad timing associated with its widespread distribution, certainly in the Adelaide metropolitan area.

The State Secretary of the Labor Party claims that small business is the lifeblood of the South Australian community. In fact, there are 55 000 small businesses in South Australia, including 10 000 engaged in agricultural or pastoral activity. They represent 95 per cent of all firms in South Australia and at least 50 per cent of private sector employment. However, an analysis of the amount of money spent on small business in each mainland State of Australia on skill development, information programs, counselling and advice referral shows that South Australia lags behind all other States by a wide margin. Spending by small business corporations or their departmental equivalents shows that the following amounts were spent on small business on a *per capita* basis in 1989-90.

Members interjecting:

The Hon. L.H. DAVIS: They come from the Small Business Corporation annual report in each State and also the departmental equivalent in New South Wales, which does not have a Small Business Corporation. In Western Australia it was $1.76 per head; Queensland, $1.63; New South Wales, $1.13; Victoria, 86c; and South Australia, a measly 77c. In fact, just over $1 million was spent on the Small Business Corporation in South Australia.

I should make clear that I have no criticism whatsoever of the staff of the Small Business Corporation in South Australia. I believe that their work is absolutely first class. My questions to the Minister are:

1. Does the Minister agree that small business is the lifeblood of the South Australian community, as claimed by Mr Terry Cameron? If so, can she explain why the Bannon Government treats small business in South Australia like a leper and spends less *per capita* on it than does any other mainland State?

2. Does she approve of the Hawke Labor Government's industry statement yesterday, which made virtually no reference whatsoever to small business and, in so doing, matched the total lack of interest in small business as demonstrated by the Bannon Government in the 1990-91 State budget?

The Hon. BARBARA WIESE: The honourable member's questions are based on inaccuracies. I would like to address at least a couple of them. The honourable member refers to expenditure on small business but, from what he says, it would appear that when he does so he is comparing the budgets of the respective Small Business Corporations in each State of Australia where they exist. However, that is an inaccurate measure of what Governments spend on small business. For example, the South Australian Government has a number of programs and activities on which it spends money and which far exceed the budget that is allocated to the Small Business Corporation. So, if we are going to measure the success of Governments by the amount of money spent, I would invite the honourable member to

display some greater honesty in the comparisons that he makes and try to be more comprehensive—

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: —in outlining the efforts of particular Governments in the things that they do. As to our own Small Business Corporation, whilst it may have a budget of about $1 million, one of the things we have been able to discover by doing comparisons with the work of Small Business Corporations in other States is that our Small Business Corporation has an output and success rate many times greater than its equivalent in other States, where budgets and staffing levels are much higher.

The Hon. L.H. Davis: Many times greater?

The Hon. BARBARA WIESE: Many times greater.

Members interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: That is very true, and I will be able to provide the information for the honourable member if he is interested in knowing the facts. However, it is true that, in many areas of activity, the Small Business Corporation in South Australia, with its relatively limited budget and small number of staff, has an output and success rate in many of its activities that is many times higher than the success rate of its equivalents in other states. This is the result of careful management and planning undertaken by that organisation and its staff. It certainly has been one of the success stories of the South Australian Government.

The honourable member is also inaccurate in suggesting that the Federal Government's statement yesterday did not make any reference to small business.

The Hon. L.H. Davis: I didn't say 'made no reference'; I said 'made little reference'.

The Hon. BARBARA WIESE: You said 'made no reference', in the latter part of your statement. Regardless of that, the fact is that the statement did refer to the needs of small business, and there were a number of measures that will be of considerable benefit to the many small businesses in South Australia and across Australia. Some of the measures announced in the statement yesterday were high on the agenda of the small business organisations in South Australia when I consulted them some months ago as to their priorities for reform, and they were certainly high on the agenda of the national business organisations with which my Federal colleague, the Minister for Small Business and Customs (David Beddall), has had consultations.

Such issues as the changes to the wholesale sales tax arrangements, for example, are issues that were rated in the top four issues that needed addressing in this country as measured by small business organisations. Of course, some of the other issues relating to depreciation measures and so on are matters that organisations, particularly in the tourism industry and many other sectors, have been calling for for a long time. So, a number of matters have specifically addressed the concerns outlined by small business organisations in Australia in recent times. I am sure that they will be welcomed by many of those small businesses.

However, there are aspects of the statement about which the South Australian Government is not particularly happy, and particularly—

The Hon. L.H. Davis: So you're satisfied with what—

The Hon. BARBARA WIESE: No, what I am saying is that a number of measures in this statement will be welcomed by small businesses, and are certainly welcomed by me. I would have preferred the statement to go further and to address other issues that we have raised with the Federal Government at various times, particularly in the taxation area. Such areas were listed in the Beddall report, and have been—

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order! The Hon. Mr Davis will come to order.

The Hon. BARBARA WIESE:—identified by small business people as being of major concern to them.

The Hon. Peter Dunn: Name one.

The Hon. BARBARA WIESE: Things such as the capital gains tax and capital rollover taxes are issues that have been raised by small businesses as important matters that ought to be addressed. They are issues that were raised by small business Ministers at our meeting with the Federal Minister late last year. A number of other issues could usefully have been addressed by the statement but, unfortunately, were not.

There are other aspects of the statement with which the South Australian Government has expressed dissatisfaction, and these are well known. Such issues relate to tariffs, which will affect many businesses within a regional economy such as ours. We believe that the statement has not taken proper account of the needs of regional economies, and has been rather too broad in its application.

Despite those matters and the ongoing negotiations that the State Government will have with the Federal Government about some of these issues, there is some good news in the statement for small businesses and, as they come to know the detail of some of those measures, I am sure they will find that there is considerable benefit in it for them, particularly at tax time.

MOUNT LOFTY RANGES DEVELOPMENT PLAN

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister for Local Government Relations, representing the Minister for Environment and Planning, a question about the Mount Lofty Ranges Development plan.

Leave granted.

The Hon. M.J. ELLIOTT: It is no secret that the handling of the Government's Mount Lofty Ranges review, and what has happened subsequently, has been absolute chaos, and the people in the Hills are very frustrated at this stage. What has happened so far has smacked very much of adhockery. The Government brought in a development freeze, but had nothing prepared to follow up. I think there has been general support in the Hills for the suggestion that a freeze was necessary so that further applications for developments which were inappropriate did not come into place.

First, there was a blanket freeze, and the Government then released the freeze on certain types of titles and maintained it on others. In consequence, inappropriate development is happening where the freeze has been lifted. In other places some people are being hurt badly. I was recently approached by a number of people—and this is not the first time; it has been going on since the freeze was implemented—by people who hold a property which has a number of titles. One of the things that has happened in the freeze is that further building will be no longer allowed. The properties cannot be split up into separate properties so that there can be a building on each title. Their complaint is not so much that the development itself has been stopped and therefore they cannot split the property up and sell it if they want to, so much as when they purchased the property it carried separate titles.

Those titles gave the property additional value. It is something they paid for and something that has been taken away

from them. Of course, it is most likely that in many of those areas the Government will consider—and quite correctly in many cases—that there should not be further development. These people are waiting, increasingly impatiently, to see what can be done to return to them what is rightfully theirs, not necessarily the right to develop but at least the value of the titles. For quite a long period I am aware that, within the department, and certainly during the Mount Lofty Ranges review process, the possibility of transferability of titles has been raised. The transferability of titles would mean that a person who owned land in areas identified as suitable for development could purchase a title from an area where a person has land but is not allowed to have development occurring. In that way, the title retains its value, the Government does not have to pay directly any compensation but there is no direct loss to anyone, either. I ask the Minister:

1. What progress has been made on this issue, one which was raised during the review?

2. Has the Government considered identifying areas suitable for a development?

3. What progress has been made on the possibility of allowing the transferability of titles?

4. Why has the Government sold off Bakers Gully land for development at virtually the same time as it introduced the freeze, when that is one area to which the Government could have allowed the transfer of titles?

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

WALLAROO DRAINAGE

The Hon. R.R. ROBERTS: I seek leave to make a brief explanation before asking the Minister for Local Government Relations a question about the common effluent drainage system at Wallaroo.

Leave granted.

The Hon. R.R. ROBERTS: I have recently received correspondence from Mr Phil Brand—

Members interjecting:

The PRESIDENT: Order! The honourable member.

The Hon. R.R. ROBERTS: One can see the obvious interest of members opposite, Mr President. It must be as a consequence of the brain drain.

The Hon. R.I. Lucas: We haven't seen you lot for weeks.

The PRESIDENT: Order!

The Hon. R.R. ROBERTS: I have recently received correspondence from Mr Phil Brand, the Town Clerk of the Corporation of the Town of Wallaroo, expressing concern about funding for the common effluent drainage system. In part, the letter reads:

> The corporation has endeavoured to obtain funding for a common effluent drainage scheme for the town of Wallaroo since 1972. In 1978 a partial scheme was approved and constructed to cater for the hospital and commercial areas of the town. Since that time council has been patiently awaiting its turn to complete the system. Council received notification in 1986 that funding was available to complete the scheme. In July 1986, council received a subsidy of $80 000 for the design work and to date no further funding has been received. With the disappearance of the Department of Local Government, council is fearful that funding will dry up.
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> The expansion of the system is urgently needed to allow many property owners in Wallaroo to build on allotments now declared unsuitable for building due to the size of the allotment being under 1200 square metres.

The letter states that further development will be necessary for the marina that is proposed for Wallaroo; however, that costing will be met by the marina itself. Will the Minister explain the future of the common effluent drainage system, its funding arrangements, and how it affects the township of Wallaroo?

The Hon. ANNE LEVY: I am very happy to respond to the Hon. Mr Roberts' question. I can assure him that the long-term future of the STED scheme, as it is known (septic tank effluent drainage), is one of the matters that will go to the negotiating table between local government and State Government. But, as indicated by the honourable member, the STED scheme has been operating for a number of years. Effluent drainage schemes are funded jointly by local councils and State Government, about 20 to 25 per cent of the cost coming from local government and the bulk of the financing coming from the State Government.

In 1980 a priority list of communities which had applied for STED funding was drawn up, the priority list being determined on the basis of seriousness of need, given the circumstances of the particular townships. Last year, a further evaluation was begun. All but three of the townships given high priority in 1980 had had their STED scheme implemented; but in the meantime a large number of other townships had applied for STED schemes, and now 60 to 62 townships have put in applications for STED. The funds for STED, while being maintained, are not keeping up with the rate of applications, both because there are more and more applications coming in and because the cost of installing any STED scheme is and has been rising much faster than the rate of inflation.

The funds for this financial year are fully committed to towns with urgent needs. They are Waterport, Macclesfield and, I think, Streaky Bay. I am sorry; I may have that incorrect. I would not want to raise expectations unnecessarily. Likewise, the funds for the next financial year have been fully committed to townships with very high priority requirements for STED schemes.

The office is undertaking a re-evaluation of all the towns interested in applying for a STED scheme. I may say that, with about 60 on the list, they were all written to late last year asking whether they were still interested in having a STED scheme and suggesting that re-evaluations would be done so that the priority listing would be determined on the basis of those with the most serious and extensive problems in effluent drainage.

A number of the townships written to had changed their mind and decided that they no longer wanted to be included in a STED scheme, though the majority certainly still wished to be included. The STED group has been following up with re-evaluation of all the townships that still want a STED scheme, and Wallaroo has been included in that re-evaluation program. I understand that it was first visited last October and the necessary survey work was begun. Council staff indicated that they would complete the necessary work and send the data to the bureau so that its relative need could be determined along with that of all the other townships. I understand that the data from Wallaroo have not yet been received by the bureau, though it is hoped that they will arrive soon so that an evaluation of the relative need in Wallaroo can be determined.

There is no doubt that there are many townships with an urgent requirement, but I am sure that people will understand that, for health reasons, the allocation of moneys must be on the basis of need, not necessarily on the length of time that has elapsed since an application was first put in.

It is expected that the priority setting exercise will be completed early in the next financial year. An indication will then be able to be given to the 60-odd townships as to where their listing is in the priority list on the basis of the demonstrated need which is evident at the moment. I realise that conditions can change and that re-evaluations are nec-

essary at intervals, because in some townships the situation may worsen considerably, so that what had been considered a relatively minor need may become a major need. In such cases, a reordering of priorities is obviously desirable on health grounds. I would certainly hope that later this year all those townships, including—

The PRESIDENT: Order! The time for questions having expired, I call on business of the day.

TANDANYA

The Hon. DIANA LAIDLAW: I move:

That, recognising the high hopes Aboriginal people attached to the establishment of Tandanya as a facility—

1. to help restore the pride and identity of Aboriginal people through cultural activities, self-help and training programs; and
2. to build bridges and remove barriers between Aboriginals and other Australians,

this Council censures the Bannon Government and in particular the Minister for the Arts and Cultural Heritage for failing to facilitate the management structure and appointment of personnel for failing to insist upon the financial practices which would have helped to ensure that Tandanya realised its noble objectives and fulfilled its vision for all Aboriginal people.

I move this motion today with a sense of anger, frustration and a deep sadness, for it is my belief and that of my colleagues that the sick and sorry state of affairs that engulfs Tandanya today need never have eventuated. Our view is shared by the many people who have sought to meet and speak with me in recent months and, in particular, during the past month.

An honourable member interjecting:

The Hon. DIANA LAIDLAW: Perhaps the Minister is not prepared to listen to me as she has not been prepared to listen to a lot of people on this subject for a long time. I am disappointed that she has seen fit not to be present. Today Tandanya need not be the subject of public controversy; it need not be in a financial mess; it need not be in the hands of a Government appointed Administrator; and it need not be the subject of a potential investigation by the Auditor-General if the Bannon Government had insisted right from the start that Tandanya had in place the senior personnel, management structure and financial practices that would enhance its prospects of success.

Tandanya need not be in its current mess if the Minister for the Arts and Cultural Heritage had responded earlier to help it. Certainly, the warning signs of impending trouble have been apparent since at least last June but, in refusing to acknowledge these signs and in failing to exert constructive influence at an earlier date, the Hon. Ms Levy now believes that she has no choice but to move in with an iron fist and a sledgehammer. So much for the Government's protestations about self-help at Tandanya! In the meantime, her tardiness, neglect and incompetence have seen a dream shattered, and for this alone she and her Cabinet colleagues deserve to be censured.

The concept of Tandanya, and the Aboriginal Cultural Institute, has a long and involved history. It grew out of a desire by Australian Aborigines to collectively express their heritage and contemporary culture in their own terms. It was considered that a program of cultural development and self-help would help to restore the pride, identity and integrity of Aboriginal people, an issue which is now recognised in the wider Australian community as one of the biggest social challenges facing our nation. It was also felt that such a program would enable a younger generation of Aborigines to reidentify with their traditional culture and to develop relevant forms of contemporary cultural expression.

In 1983 the Jubilee 150 Aboriginal Executive Committee initiated the institute concept. In that year a proposal to the committee from Hannaford and Partners Pty Ltd outlined a centre that was to provide a focus for traditional cultural expression including dance, visual arts and the original traditions of music, language and mythology. It was also to provide a forum for the recording and expressing of contemporary Aboriginal culture. South Australia's Jubilee year in 1986 was identified as an ideal opportunity to establish this centre. However, this did not come to pass because the Jubilee 150 Board would not make the necessary financial assistance available without more firmly established proposals from the Jubilee 150 Aboriginal Executive Committee and without some commitment from the State and Commonwealth Governments about ongoing recurrent costs.

Then, in 1987, I understand that the concept of an Aboriginal Cultural Centre was picked up by the Premier's Department. Earlier in that year the Special Projects Unit asked Ms Winnie Pelz to coordinate, in consultation with the South Australian Aboriginal community, a proposal for consideration by Cabinet. The outline recommended was a modest operation, based at the old ETSA building site in Currie Street, which envisaged a low staffing level of seven, a small retail and cafe area, both of which were to be leased out to the private sector, with future expansion dependant upon proven increase in visitor numbers.

This plan for an Aboriginal Heritage and Resource Centre was approved by Cabinet on 9 June 1987. On the same day Cabinet accepted responsibility for an operating deficit of up to $225 000 for a full year (that dollar figure being expressed in the 1987 dollars) commencing in the 1988-89 financial year. Within a year however, the project had ballooned in size and vision. Evidence to the Public Works Standing Committee of this Parliament on 27 October 1988 by the then Director of Tandanya, Mr Tregilgas reveals: '... that the impetus for the growth was provided by the bicentennial year and State Cabinet's preference for a major single project preferably involving Aboriginal culture and tradition'.

By the time Tandanya opened its doors to the public in October 1989, it had grown yet again and was now a major multi-purpose arts complex involving some 17 staff and seven trainees, an ambitious range of enterprise activities and a vast exhibition gallery. It was also the proprietor of at least three registered business names, namely: Tandanya Tourist Development, Tandanya Developments Pty Ltd, and Tandanya Travel. Associated with this grand undertaking were the hopes and dreams of older Aborigines that Tandanya would provide younger Aborigines with access to the training for jobs that they in their youth were not entitled to experience—training in all areas of Tandanya's operation from retail sales and management to catering and restaurant services, financial operations, including budgeting, public relations and administration.

It is clear from my discussions with hosts of Aborigines over some time that the Aboriginal community as a whole was desperate to see that Tandanya was a success, culturally, financially and socially. They knew that there was a lot at stake. Tandanya was breaking new ground but they had faith that Tandanya would help to restore the pride and identity of Aboriginal people, particularly the young. They believed Tandanya would help to build bridges and remove barriers between Aborigines and other Australians. They believed that, with the increasing acceptance and appreciation of the unique art and heritage of the Aboriginal people, Tandanya would provide a unique opportunity for local,

interstate and overseas visitors to experience living Aboriginal culture in its historic context. Conscious of the past Aboriginal experiences that had failed, they wanted Tandanya to help rid the Aboriginal community of the stigma that whatever venture they embarked on ended up in failure.

With the opening of Tandanya it is fair to say that Aborigines in general recognised that they had everything to gain, a great deal at risk and a lot to lose. Certainly, they were vulnerable and they could not afford to see Tandanya fail. Against this background I maintain that the Bannon Government was duty bound to be even more cautious and even more diligent than it may normally wish or seek to be when determining whether or not and on what terms it would financially back any other arts, cultural, tourism or Aboriginal venture.

Recognising that the Bannon Government had overseen an expansion of the project from the modest cultural and resource centre that it approved in June 1987 to the grand scale and complex institute that it then accepted as appropriate in October 1989, and that Cabinet had approved in that time a 200 per cent increase in operational funding to accommodate that expansion, I maintain that the Government had a moral, legal and financial obligation to ensure that Tandanya's management structure, procedures and senior appointments were sound in order to give Tandanya a better than even chance of success.

However, I maintain that this onus of responsibility upon the Bannon Government became even more pressing since mid-1988 when the Federal Government flatly rejected a submission from the then State Minister of Aboriginal Affairs (Hon. Mr Crafter) to make any ongoing contribution to recurrent expenses at Tandanya. I emphasise that the Federal Government was not prepared to be a part of this grand plan that Mr Tregilgas had built up since the State Government had accepted it as a modest scale project in 1987. The Federal Government wanted no part of it.

The State Government did not even understand or get the vibes from that rejection by the Federal Government. In response to what I believe was and continues to be the Federal Government's responsibility to the Tandanya project and Aborigines in general, I suspect that Minister Levy will argue until she is blue in the face that the Aboriginal Cultural Institute is an incorporated body with a board independent of the Government and, therefore, in charge of its own destiny. Technically, this is so. Therefore, the review of Tandanya released by the Minister on Monday makes the same point on page 14 of its report, when it is noted that:

> ... neither the Minister for the Arts, nor the Chief Executive Officer of the Department for the Arts have any power to direct the board or Tandanya's Director.

Further on the review notes:

> There is no provision in the constitution for the board or its Chairperson to be accountable to the Government. Despite the level of Government support, the Government does not have a vote on the board.

These technical or legal matters, however, conveniently ignore the fact that the Government agreed to back Tandanya knowing that these were the terms and conditions. Until the Bannon Government agreed in June 1987 to allocate taxpayers' money for capital and recurrent costs to the project, it was simply a shell or a dream with an *ad hoc* steering committee, a draft constitutuion—not the constitution that the Minister seeks to hide behind today—and it certainly had no arts complex to manage.

As the project evolved and the Government's financial commitment grew over the next two years, the Government always had the capacity, if it so chose, to influence the framing of the constitution to provide for the accountability and a close working relationship between the board, the Director of Tandanya, the Minister of the day and his or her CEO. I would argue that the steering committee was so desperate to see Tandanya start in some form that they would have done virtually anything in the framing of that constitution in order to accommodate any concerns of the Minister and the Government in respect of their inclusion in that constitution.

The Government never chose to exercise this influence prior to the opening of Tandanya, yet today we find that the Minister ducks, weaves and runs for cover under the constitution in order to avoid accountability for all the events at Tandanya. Notwithstanding the terms of the constitution, I hold the view that, following the Government's decision to grant Tandanya funds as early as 1987, the Government from that time assumed an ongoing responsibility for Tandanya—and at least for taxpayers' funds if it was interested in the future of Tandanya—whether or not the Hon. Ms Levy now wishes to acknowledge this responsibility.

Since 1987 the Government has provided $1.5 million in recurrent funds, plus capital funds of $2.46 million for renovating the ETSA building and a further $400 000 for relocating the previous tenants, TAFE. In June last year an additional grant of $139 000 was provided to Tandanya, and last week a further $80 000 was advanced from next year's allocation. Because the Government has command over the purse strings, I believe that it has always had at its disposal direct and indirect power to influence events and to satisfy itself that the board was supported by sound management structure and able personnel, and to ensure that taxpayers' funds were spent prudently.

Certainly, in 1988 the Government was prepared to accept the very same influence to which I have just alluded. It exercised influence over Tandanya when it resolved not to accept Tandanya's original estimates of 90 000 visitors to the centre in the first year. And the fact the Minister has now stepped in so resolutely to appoint an Administrator to take over the running of Tandanya provides further conclusive evidence that the Government has always had the power to exert influence upon the so-called independent board, no matter how subtle that influence the Minister may wish to exert, if it had chosen to do so at an earlier date.

I now wish to address the issue of the appointment of the Director. I believe firmly that in 1988 the then Minister responsible for Tandanya (Hon. Mr Crafter) had at the very least a moral obligation to help the Tandanya steering committee appoint a Director who was an able administrator with an unblemished record, a person who not only genuinely cared about and respected Aboriginal people but who also shared the dream of Tandanya and who was committed to nurturing the project to success.

Considering the complexity of the project, the Hon. Mr Crafter and his colleagues must have known that the position of Director was a critical appointment that would make or break Tandanya and that the person appointed to that position would need to be blessed with exceptional skills in administration, cultural relations and human relations. The record shows, however, that the Hon. Mr Crafter did not exercise his moral, let alone his ministerial, obligations to the future board and to the future of Tandanya. He did not even encourage the steering committee to advertise the position of Director, even though he had the power through the purse to do so.

In recent months I have canvassed this matter with a large number of Aboriginal people from across the State

who have sought to gain various appointments with me and to talk about what they see as the tragedy of Tandanya. To a large measure, many of them have wished to speak about the appointment of Mr Tregilgas. I have learnt that soon after Mr Tregilgas returned from Melbourne his name was forwarded to members of a subcommittee which had been appointed by the steering committee which, in turn, comprised Government representatives, including representatives of the Treasurer, the Minister of Aboriginal Affairs and the Premier. As I say, soon after his return from Melbourne, Mr Tregilgas's name was forwarded to members of the subcommittee appointed by the steering committee as suitable for the appointment of Director, Management, or Development Manager-Aministrator prior to the naming of the Director, once the institute was incorporated; that would be later the same year. The recommendation proposing Mr Tregilgas for the position came through the office of the Minister of Aboriginal Affairs, the Hon. Mr Crafter—the same person who was funding Tandanya.

The person pushing for appointment was the Minister's chief adviser, Mr John Hill, an old mate of Mr Tregilgas. At that time no-one on the appointment subcommittee had any previous experience or knowledge of Mr Tregilgas—good, bad or indifferent. His name simply appeared out of the blue. The election subcommittee was not aware, nor was it informed, of the budget blow-outs, or the lack of accountability that had coloured Mr Tregilgas's association with organisations where he had held a management job or role in the past.

I name the Adelaide Fringe and later his appointments in Melbourne. Nor were they made aware of his personal spending practices at Government expense, and I have already alluded to this earlier in questions concerning the Fringe and his access to a departmental expense account. They were not made aware of his blind conviction that, because he believed in some cause and was working for some cause that was dependent upon Government money, the Government of the day would have to bail out that association, no matter how great a difficulty it got into in respect of financial matters.

The past record of Mr Tregilgas proves that, by any reasonable standard, he had a most odd management style. I am advised that the fact that Mr Tregilgas was recommended through Mr Crafter's office had a considerable influence on the decision of the appointment subcommittee to recommend him as suitable for appointment to the key managerial position at Tandanya. Other matters influencing this recommendation—

The Hon. Anne Levy: What recommendation?

The Hon. DIANA LAIDLAW: This is the advice that I have received—was the fact that the project was being funded at that time by the Minister of Aboriginal Affairs and the fact that the Minister did not require the position of Director to be advertised. Today it is clear from the review of Tandanya's first 12 months of operation that when Mr Tregilgas joined Tandanya he did not leave behind his past management practices, although I suggest that those who had observed his management practices over a number of years now simply sadly shake their heads.

They are not surprised at what has happened at Tandanya. They could have told the Minister long ago that they were shocked by his appointment. They are surprised only about how quickly Tandanya has got into such a mess. However, notwithstanding Mr Tregilgas's past record, Mr Crafter allowed him to be appointed as Director of Tandanya. This appointment was made by the board, in turn, in good faith—a faith that has now been betrayed. I believe that Mr Crafter deserves to be censured for his part in the sense of betrayal that all Aborigines now feel very strongly when they reflect on what has transpired at Tandanya. The Hon. Ms Levy also deserves to be censured for not exercising her ministerial responsibility of ensuring that a tight oversight was maintained on the operations of Tandanya.

Prior to the formal opening of Tandanya in October 1989, ministerial responsibility was transferred from Aboriginal Affairs to the Department for the Arts. While some people have argued that the Arts Department never wanted to take on Tandanya, the fact that the transfer was agreed to by Cabinet meant that the Hon. Ms Levy accepted a special responsibility to see that Tandanya was soundly managed. If the Arts Department was reluctant to take on Tandanya, Ms Levy's political antennae should have been fully extended. She should have smelt the potential for trouble and demanded the department to develop a close working relationship with all at Tandanya.

This absence of a close working relationship was highlighted in the review that the Minister released on Monday as a weakness in Tandanya's current operation. It is apparent that the Minister did not insist upon such a relationship, nor upon the accountability that would naturally flow from such a relationship. She and the department which she administers prefer to stand back, hiding behind the invisible shield of the board's constitution and interpret literally the board's so-called independence. Such an attitude and such an interpretation by the Minister of her responsibilities is reprehensible and deserves to be censured.

The Minister also failed to take into account and act upon other warning signs. In June 1990, the Government agreed to provide Tandanya with a special grant to cover a shortfall in revenue from the lower than expected number of visitors, among some other factors. The visitor numbers for the eight months to 30 June 1990 were approximately 14 000 to 15 000—much lower than the 45 000 visitors projected by Cabinet and certainly much lower than the earlier projections by management consultants of some 90 000 visitors in the first full year of operation. These poor attendance figures should have alerted the Minister that Tandanya might need help beyond the mere injection of funds, but such help was not forthcoming.

In fact, the $139 000 special grant provided to Tandanya had no strings, conditions or expectations attached. On 9 August last year in this place the Minister said in response to a question I asked about the payment of that special grant, 'There was no requirement in providing the extra money for Tandanya to undertake administrative or operational changes.' Essentially, it was just handed across. A month later during the Estimates Committee of 18 September, in response to questions from the member for Adelaide, the Minister said in relation to the same special grant, 'This year Tandanya will be open for a full 12 months, and it is expected to have normal operations throughout this time; certainly no hiccups are expected.'

While the Minister was not anticipating any hiccups this financial year, the reality is that, under her very eyes, Tandanya spent its full year grant to $580 000 in a short six months, and is on the path to bankruptcy. Rather than a hiccup, the Minister now finds herself involved in negotiating a bale out. This is an appalling state of affairs. It is even more tragic because it represents the shattering of the collective dreams and expectations of Aboriginal people of all ages. Aborigines have told me, even as recently as this morning, that they put themselves in the hands of the Minister and the Government, and they have cast them off. That is what they believe.

I find it impossible to believe the Minister's explanation that she and her department did not become aware of the

troubles at Tandanya until December last year. Such an excuse is reminiscent of Premier Bannon's explanation in relation to the State Bank. The fact that Mr Bannon claims that he did not know about the affairs of the State Bank is not an excuse for not knowing. It simply proves he did not ask the right questions, and he did not—

The Hon. K.T. Griffin: If he asked any.

The Hon. DIANA LAIDLAW: Yes—insist upon proper standards of accountability. Exactly the same applies to the Minister for the Arts and Cultural Heritage in relation to the exercise of her responsibilities at Tandanya. The Minister has her own hand-picked representative on the board of Tandanya; I emphasise that. While this representative has no voting rights, that is essentially irrelevant in terms of the representative's alerting, if not informing, the Minister of what was going on at Tandanya. Perhaps the representative did not attend board meetings very often. If that was the case, the Minister should have asked why she was not attending. If the Minister's representative could not fulfil the requirements of attending the meetings, and the Minister found out about it, she should have replaced her with someone who could and would have done so.

What was the Premier's representative on the board doing? Apparently nothing. The Premier appears to be no better informed about what is going on at Tandanya than he is about what is going on at the State Bank. Of course, there is also the issue of the infamous trip to Edinburgh and various other European capital cities, a trip initially estimated to cost $55 000 but which, the review team revealed, may now cost over $100 000. To her credit, the Minister opposed the trip, while the review highlighted that the trip was not even approved by the board. That fact should have been known to the Minister months earlier if her representative on her board had been doing her job.

The Chairman and Director of Tandanya defied the Minister's wishes in proceeding to undertake this trip; yet again, the Minister took no action through her control of funding allocations to attach conditions to those allocations in 1990-91 or to require weekly or monthly financial reports, as opposed to quarterly reports. I understand that it has been only in this past month that monthly reports, as opposed to quarterly reports, have been required. Such inaction and neglect would be farcical if its consequences today were not so devastating, both financially and culturally, for Aborigines.

I turn to the issue of trainees. When I visited Tandanya in the company of friends to see exhibitions or when I attended the opening of various exhibitions, I was soon told how unhappy the trainees and other members of staff were. It is just staggering that the Minister did not pick up some inkling of discontent at Tandanya about the lack of training opportunities for Aborigines and the conditions upon which such training was conducted, if and when training positions were made available. If she did not pick up those vibes, why not? If she did not pick up the discontent, why was she not informed by the Aboriginal adviser in the Arts Department that there was trouble on the issue of trainees?

If the Minister did not gain some inkling from this source, why did she not do so from the numerous reports and consultancy reports that have been conducted into Tandanya's affairs over the past years: the review undertaken by the Department for the Arts on Tandanya's budget performance to 31 March 1990; the auditor's report for the year ended 30 June 1990; the visitation research project of October 1990; and the review of the accounting system by Mr Rod Wallbridge of December 1990? Those reports were in addition to the report by the review team after one year of Tandanya's operation, plus the five earlier consultancy reports commissioned by Tandanya. When one looks at the range and scale of the reports on Tandanya, it is amazing that it is not sinking under their weight as well as under the weight of financial and management incompetence.

I could go on for hours about the troubles at Tandanya, but all further words would merely reinforce the same conclusion. Why is Tandanya in trouble? How has that been allowed to happen? As I stated at the outset, the fact remains that Tandanya need not be in a financial mess; it need not be in the hands of a Government-appointed administrator; and it need not be the subject of potential investigation by the Auditor-General, if and when he can find time between his responsibilities at the State Bank.

The fact is that Tandanya is in trouble. If it was a private company, it would be in the hands of a liquidator by now. It is in trouble because successive Ministers in the Bannon Government have not exercised their responsibility as Ministers for the prudent expenditure of taxpayers' funds or for the well-being of Aborigines, or as custodians of the dream that Aborigines had for Tandanya. They have failed to recognise that the Federal Government did not want a bar of this, yet they have not been more diligent in their oversight of Tandanya, and they have failed to recognise that Tandanya, and the Aborigines in general, just could not cope in this dominant white community with another failure. But this Government has, if not directly, certainly under the umbrella of its administration, shattered the Tandanya dream for Aborigines through this devastating failure. As I say, I wonder when and how many younger Aborigines in particular will recover from this failure.

I believe very strongly that, by insisting upon the best possible person to be appointed to the key role of Director, and by insisting upon sound financial and management practices, the Government and the Ministers to whom I have particularly referred would not have undermined the independence of Tandanya or its board. To the contrary, an insistence upon such basic matters would have ensured that today Tandanya could exercise the independence that it has now been denied, rather than being in the hands of a Government-appointed Administrator who reports directly to the Minister for the Arts and Cultural Heritage. I emphasise this point. The Minister and the Government seem to have taken—I am not sure if it is satisfaction—some recourse to hiding behind the fact of the constitution and independence. The Minister and the Government do not seem to have understood that they could have allowed that independence. However, that does not mean they could not have given guidance, encouragement and help, and insisted on the accountability that they knew was necessary if this project was not only to get up and run but succeed in the longer term.

Hiding behind this so-called wall of fear of treading on Tandanya's independence, the Government has successfully taken away that independence, probably for all time, because I suspect we will see major changes to the board and other matters. In the meantime, the Government has irreparably damaged Tandanya and has certainly lowered the image of Tandanya and many Aborigines in terms of their self-respect and pride, exactly those things that Tandanya was meant to build up. The fact that the Minister has seen the need to make such an appointment, in terms of the Administrator, is in itself an act of self-imposed censure for past incompetence and neglect in exercising her ministerial responsibilities.

Perhaps the most blatant case of incompetence on the part of the Minister has been her repeated refusal to date to make any ministerial statement in this place about the state of affairs at Tandanya. Rather than being prepared to

be accountable to Parliament, I have had to ask the Minister question after question, day after day, in an effort to extract facts and figures, or at least the facts and figures known at that time. No matter what members opposite may say, I have gained no joy from this exercise. I joined Tandanya as an associate member and as a considerable sponsor right from the start, and I have gained no joy from the exercise in recent times in terms of my questioning the Minister in this place. I recognise that public controversy is not in Tandanya's short or long-term interest, but this controversy need not have eventuated; it need not have been dragged out if the Minister had issued a statement about what was going on from at least the very first day on which Parliament resumed. I was not the only person in this place expecting such a statement from the Minister. It was expected by most people in the media, and rightly so.

I can also assure members that not only would I have respected the Minister for the issue of that statement but I would have respected the fact that perhaps finally she was trying to do the best thing by Tandanya. Her refusal to issue such a statement has hurt Tandanya and, in the process, she has made herself look a fool. For instance, she would never have stumbled over the issue of whether the operating deficit this year may be $900 000 or $500 000 if she had earlier presented the information she had at hand in the form of a prepared statement to this Council. Since Monday she has continued this awful uncertainty about what will happen to Tandanya. The public and the taxpayers generally still have no information whether the Minister or the Government have accepted the recommended courses of action outlined in the report of the review team. The Minister has released that report, but heaven only knows what its status is. Heaven only knows how the Minister envisages that Tandanya will pay its staff and its operating costs, plus its outstanding bills for the remainder of the year.

This afternoon I received the following advice about the outstanding payments that must be met by Tandanya. I mentioned last week that Tandanya has not paid any WorkCover premiums for the whole of this financial year. It owes $8 800 to WorkCover. Its employees' contributions in respect of superannuation are up to about $20 000; it owes $65 000 to SACON; cab charge is owed $3 000 to $5 000; the airlines are owed $3 000; photographers are owed $5 000; and car rental costs are at $3 000. In addition to these amounts, an additional 150 small creditors are owed money, the highest amount being approximately $5 000.

From that list I see that the printer and publisher, whom I noted last week was owed $41 000, must have been paid in the past week from the $80 000 in the Minister's advance, and I am delighted for his sake and for the sake of his staff that that payment must have been made. Clearly, 150 small creditors are still owed money, whilst the fact that Tandanya has not paid any WorkCover premiums since last July must be of concern to all those people who are concerned about the well-being of employees and staff in this State.

The Hon. R.J. Ritson interjecting:

The Hon. DIANA LAIDLAW: I am not sure whether that figure of $8 800 includes penalties. If it cannot pay its premiums, I do not know how it will pay penalties. In the meantime, the staff are vulnerable. Finally, I believe that the material I have presented today highlights a case for censuring the Bannon Government and, in particular, the Minister for the Arts and Cultural Heritage, and earlier the Minister for Aboriginal Affairs.

While it gives me no pleasure to move the motion, I do so because I believe so strongly that, had the Bannon Government and the Minister for the Arts and Cultural Heritage exercised their collective responsibility, Tandanya would be on the road to being a strong and vital organisation that would bring credit, pleasure and long-term benefits to Aborigines and the Australian community at large. The Minister's incompetence and neglect has seen Tandanya lose the independence it was supposed to gain from this project. It has certainly compromised the future of the project and tragically hurt many Aboriginal people in this State. We have seen the loss of an opportunity to bridge the gap which so many Aborigines had hoped would be secured by this project—the gap between Aboriginal Australians and other Australians.

The Hon. CAROLYN PICKLES secured the adjournment of the debate.

ELECTRICITY TRUST OF SOUTH AUSTRALIA (ALTERNATIVE ENERGY) AMENDMENT BILL

The Hon. I. GILFILLAN obtained leave and introduced a Bill for an Act to amend the Electricity Trust of South Australia Act 1946. Read a first time.

The Hon. I. GILFILLAN: I move:

That this Bill be now read a second time.

In moving this second reading of this Bill, I would like just to outline it first. This Bill has as its principle aim the involvement of the State's premier energy utility, ETSA, in progressive research and development of alternative energies for South Australia. This Bill will provide active encouragement for research and development into genuine methods of providing consumers, of not only South Australia, but potentially of all other States, with access in the future to a wide range of alternative energy sources not dependent on the use of non-renewable fossil fuels. The passage of these amendments to the Electricity Trust of South Australia Act will place this State at the forefront of alternative energy research in Australia.

The financial underpining of the Bill could be, and should be, based on a percentage of the State Government's levy of ETSA that would direct money into a well defined area of alternative research. Unfortunately, as I found out last week, the conventions of our Parliamentary system prevent this House from dealing with so called 'money Bills'. However this Bill does not attempt to instruct Parliament over money issues but deals primarily with genuine attempts to develop alternative energy sources. For the consumer the benefits will be considerable: access to other clean fuel substitutes; the implementation of genuine energy conservation measures; the opportunity to purchase energy efficient alternative energy devices; the provision of 'buy-back' rates that are an incentive to an electricity producer, other than ETSA, from renewable sources and/or from cogeneration; and the knowledge that this state is forging ahead with research and development of alternative energies that will provide clean, efficient energy resources for all consumers well into the next century. In this respect, this Bill is truely landmark legislation in its implications and I believe it goes beyond the confines of simple Party politics.

The nature and scope of the problems affecting the environment have gradually been recognised over recent years, beginning with local and regional pollution problems and coming to acknowledge the global consequences of our behaviour. The contribution of the energy sector to global environmental problems is linked primarily to the emission of CO_2 and other gases from the combustion of fossil fuels. Global warming, known as the 'greenhouse effect', is a consequence of the growing content of CO_2 and other gas

emissions into our atmosphere, with incalculable effects on the climate and our conditions of life.

The threatening climatic problems and those stemming from over-exploitation of the world's natural resources and raw materials affect the entire globe. Ultimately they can be truely resolved only through a genuine, integrated global commitment on behalf of all States and nations. However, the beginning of that type of global strategy starts with legislation such as this.

Although responding to what is clearly a growing world-wide environmental crisis, this Bill is proactive, in that it seeks to find genuine alternatives to meeting community demands for energy while, at the same time, placing less emphasis on the continued use of non-renewable fossil fuels. It therefore actively seeks to decrease the threat to our environment posed through the growth of CO_2 emissions.

The Department of Mines and Energy recently produced a State Government Green Paper entitled 'Future Directions for the Energy Sector in South Australia'. This discussion paper, released in January this year, offered as its main thrust, greater reliance on gas-fired power stations for the future. True, gas is cleaner than coal, but it too is a non-renewable fossil fuel and, according to estimates from the Department of Mines and Energy, the State's gas supplies are only guaranteed up till 1994. It is possible that a national gas grid from the north west shelf could supply South Australia, although that too is not definite.

In 1990 the OECD named Australia as high on the list of offenders in CO_2 emissions on a *per capita* basis, a listing which jolted many in the environmental movement and sent a chilling message to all Governments, both State and Federal. Yet the warming had come earlier when in 1985 the OECD listed Australia as the fourth most energy intense country out of 10, a measurement based on the consumption of megajoules per dollar of gross national product. The industrialised countries of the world have lead the assault on our environment, damaging it almost beyond repair.

Unless we as a community start to deal effectively with this problem the legacy of this environmental act of vandalism will be passed to future generations, who will revile us for our incompetence, ignorance and stupidity in destroying the environmental balance of the planet. The development of energy efficient and environmentally acceptable technologies must be undertaken, to a large extent, by the well developed industrialised states and countries. South Australia is such a State.

These problems, however, cannot be resolved without economic growth, which is needed to satisfy the needs of developing countries for better living standards, to provide financial resources for restructuring and new investment for obtaining sustainable development. At the same time there is a need to alter the nature of economic growth so that it is based upon a reduced consumption of resources and impact on the environment. The extent to which these requirements can be united depends to a large degree on technological development of alternative energies. However, even at present it is possible to identify means both to save energy and to achieve more evironmentally acceptable production that will provide advantageous to all South Australians.

Sustainable development is incompatible with a globally uneven distribution of growth between industrialised and developing countries. In the latter, economic and industrial development is a prerequisite for resolving the wide range of development problems, including population growth, general shortages of resources and erosion of the natural resource base, characterising so many of these countries.

The United Nations World Commission on Environment and Development recommended in 1987 that industrialised countries have their *per capita* energy consumption over the next 40 years. This report was followed in 1988 by that of the Inter-Governmental Panel on Climate Change set up in collaboration between the World Meteoroligical Oranisation and the United Nations Environmental Program. The 1988 conference of 'The Changing Atmosphere' was held in Toronto, Canada, with representatives from 48 nations, including Australia. The conference recommended the stabilisation of Global CO_2 emissions by the year 2000 at the latest and a 20 per cent reduction by 2005 as the international target. In the longer view halving of CO_2 emissions was recommended. The State Government's Green Paper on energy acknowledges these aims and last year the Bannon Government formally announced, as policy, the adoption of the Toronto recommendations. However, policy and reality are often quite diverse elements and the Government's own Green Paper states quite emphatically that it is highly unlikely that South Australia will be able to achieve the 20 per cent reduction target of CO_2 emissions by 2005.

Clearly, a new and alternative strategy is needed if we are to effect positive change. This Bill is the catalyst for that change because it does offer genuine alternatives to the conventional reliance we have as a State on fossil fuel energy. Although modest in its initial stages, I believe it will lay the foundations for far greater alternative energy development and energy conservation in coming years. Once the benefit of alterntaive energy research is passed onto the broader community the impetus for change and further, wider developments will be clear. South Australia will place itself at the leading edge of alternative energy development, funded at no cost to the consumer, yet with consumer benefits. A number of European and Scandanavian countries have already taken up the challenge and have begun to implement alternative energy strategies.

Norway has a follow-up program to the Toronto recommendations that ensures that CO_2 targets can be reached by a price and tax policy that allows environmental costs to be properly reflected in energy prices, and also by means of energy savings, renewable energy and local energy planning.

Sweden has taken the bold step of attempting to phase out it dependency on nuclear power stations and increasing energy taxes. Many of these taxes will be ploughed directly back into the funding of alternative energy schemes based on renewable resources with subsidies proposed for cogeneration of heat and power.

Denmark has undertaken research into a wide range of alternative energy forms, including the use of straw as a biofuel alternative for coal-fired and oil-fired district heating plants. Denmark is also phasing in a broader based energy taxation system that reflects higher taxes for non-renewable fuel use, against lower taxes for renewables.

In the Netherlands the Dutch authorities have announced subsidy schemes for energy savings, a special climate fund, the introduction of internationally recognised labelling standards of efficiency for all electrical appliances and a large scale research and development program for alternative energies.

The Federal Republic of Germany has endorsed the Toronto recommendations and committed itself to achieving the reduction targets by 2005 through the implementation of a new energy policy. The details of that policy have yet to be announced, but the history of German spending initiatives in the area of research and development is markedly different from Australia. According to 1986 OECD figures, Germany spends $1 in every $40 on R&D, while Australia spends only $1 in every $200.

The need to fund alternative energy sources that are clean and efficient is obvious. Since the start of this century the world's population has risen from 1.6 billion to more than five billion people. If this growth continues the population of the world will be more than 10 billion before the middle of the twenty-first century.

Since 1900, total annual global energy consumption has risen from 20 000 PetaJoules per year to 340 000 PetaJoules per year (that is a rise by a factor of 17) while average per capita consumption has risen by a factor of 5. One PetaJoule corresponds to 23 900 tonnes of oil equivalent; therefore, the world's current rate of consumption is approximately in excess of 80 billion tonnes of oil each year.

Some 80 per cent of the world's energy is consumed by the richest fifth of humanity, with Australia high on the list of energy intense countries. If energy consumption in all countries were brought up to the level of industrialised nations, it would mean a quadrupling of the world's annual production of energy. If this were accompanied by a doubling in the world's population, then energy production needs would have to increase eightfold. Clearly that is beyond the scope of this planet under the current energy strategies in place, especially in countries such as Australia.

Add to this vast need to consume energy the pollution effects on soil, water and air through the release of dangerous emissions into the atmosphere and we have a recipe for environmental disaster. Emissions of carbon dioxide, as well as sulphur and nitrogen oxides, have by and large been rising in step with the consumption of energy. The emissions of sulphur and nitrogen can be limited by various abatement methods that have already been put in place in other parts of the world. However, it is widely recognised that in practical terms it is virtually impossible, or at any rate extremely expensive, to eliminate carbon dioxide that is formed by burning fossil fuels. The only way genuinely to lower the CO_2 level in the atmosphere is to reduce the consumption of fuel or shift to an alternative energy source that either emits less carbon dioxide per energy unit, or none at all.

What are the alternatives? Today, consumption of fossil fuels accounts for approximately 90 per cent of the world's energy needs. Water power, biomass and nuclear principally account for the remaining 10 per cent of supply and consumption. On current figures the collective oil supplies of the world, known and estimated, are thought to last another 100 years only. Even a relatively modest rise in consumption of, say, 2 per cent per year will reduce the life of the planet's oil reserves to just 55 years. That means that, for many honourable members in this Council, their children will still be alive when the world runs out of oil, unless viable alternatives are found. Indeed, some members may still be pottering around.

The Hon. G. Weatherill: I hope so.

The Hon. I. GILFILLAN: That would make you about 110, George, and still pottering. You will have to give up smoking, mate.

The Hon. G. Weatherill interjecting:

The Hon. I. GILFILLAN: I apologise to the honourable member. It was totally uncalled for, because his interjection was quite benign, Mr Acting President, and I know that you would have sympathy with his position.

Although research is being undertaken here in South Australia into some alternatives, through grants administered by the State Energy Research Advisory Committee (SENRAC), it is too small. In fact, it is worth noting that not all SENRAC money was allocated last year because the quality of applicants for financial assistance was not regarded as high enough. It is important to attract high calibre researchers in alternative energy to work in universities and utilities to improve our knowledge base and to be capable of transferring this knowledge to action.

Money could be used to train ETSA people overseas for a few months or to attract high profile alternative energy 'practitioners' to ETSA for short periods to help establish programs in South Australia. However, with just $350 000 allocated to research and development last financial year, the constraints on finding and developing genuine alternatives under SENRAC are obvious.

I believe the key to future energy alternatives lies with the active participation of a State utility such as ETSA. Currently the ETSA Act effectively prevents it from taking initiatives. By freeing some clearly defined funds, through the creation of an alternative energy development and energy conservation fund, I believe it will release a flood of ideas and initiatives from ETSA and the community. The proposed Bill would allow ETSA to do many progressive and important things currently outside its scope, namely: support energy-conserving technologies and equipment; larger demonstration/pilots of solar and wind units; and implement genuine conservation measures. The Electricity Trust of South Australia contributes a significant amount of funds to State Treasury each year. In 1989-90, that amounted to $43 million.

If this Bill, as I hope, is successful, I would urge the Government to divert part of that levy into an alternative energy development and energy conservation fund. This percentage could be about 5 per cent. Thus, the amount that would be available would be approximately $2 million as a start off figure. This would provide ETSA with the ability to undertake genuine research and development of a wide range of alternative energy forms. It would be paid for by the fund with no additional financial burden being placed on the consumer, nor any diversion of other revenue, other than the levy currently required under the Act by ETSA. The levy is taken from ETSA and paid into the Government's revenue.

As stated earlier, SENRAC provided $350 000 last financial year in grants for research into alternatives. However, ETSA's levy by the Government amounted to more than $40 million last financial year, as I have just said, and, as I have just indicated, 5 per cent of that amount, or whatever amount it happened to be from year to year, would give a substantial rise in the funds which are currently available, and it would be $2 million-plus in today's terms.

This means that, within the space of one financial year, funding for alternative energy in South Australia would increase more than sixfold. The added advantage would be the involvement of the trust as the State's premier energy utility at the forefront of research and development, with the stated aim of developing and implementing cleaner, more efficient energy alternatives and more efficient use of electricity. The benefits to this State in the future would be significant and far reaching and would act as a catalyst for many other initiatives.

I am convinced that development and investment in this area would open up not only production and technology development in South Australia and Australia, but in a large and expanding market in South-East Asia and further afield. As an aside, I would mention that we had a visitor from Ghana—some members may have heard him address a dinner—and he was eager for low-cost alternative energy technologies, such as solar power for pumping and lighting. It would be ideal for us to develop an export industry for countries such as Ghana.

Clause 1 is formal, establishing the short title. Clause 2 provides for the insertion into the principal Act under sec-

tion 25 of a new subsection requiring the annual report of the trust to include details of projects and funding for all energy efficient and alternative energy matters. Clause 3 amends section 36 of the principal Act to include a new subsection (1) *(c)* which provides the trigger to achieve the objects of the Bill. They are:

1. Implementing energy efficiency measures. These measures could cover a wide range of areas and techniques, such as, and certainly including, 'demand management', the single most effective short-term measure to reduce CO_2 emissions and delay the need for another power station. It is well recognised world-wide, particularly in America, that demand management, the more efficient use of power, is head and shoulders ahead of any other single factor which could dramatically reduce CO_2 emissions in the immediate future.

2. Providing for the purchase and installation of energy efficient alternative energy devices. This could cover such items as photovoltaic lighting systems and solar hot water units.

3. Providing demonstrations of alternative energy based generation systems and devices. Small-scale demonstration projects could be established, such as hybrid wind/solar/diesel systems with storage that act as stand alone power systems for small isolated communities or individuals.

4. Providing demonstrations of electricity generation systems which use alternative energy as the primary source and which are interconnected with the grid systems. Large-scale grid connected wind farms or solar thermal/electric systems that do not need storage and feed power directly into the grid.

5. Funding of research into and development of:

(a) energy efficient devices and conservation measures; and

(b) methods of utilising alternative energy. Devices may include items such as more efficient cooktops and long-life, low energy-use light bulbs. In addition, the methods used to produce alternative energy such as wind, biomass, solar, tidal, and many others can also be properly funded.

6. Providing buy-back rates that are an incentive to a producer of electricity (that is, not the trust itself). This will be particularly useful in encouraging the production of electricity by reputable manufacturers and individuals or groups able to take advantage of renewable resources ideal for remote areas, or areas of high and constant wind, such as coastal communities. The production of excess energy could then be bought back into the existing grid system with incentives offered to the producers to generate energy for their own use and to sell surplus to ETSA.

7. Any other purpose that is consistent with the utilisation of alternative energy sources. This creates the opportunity for truly innovative ideas for alternative energy to be investigated and developed.

Clause 36 is further amended by inserting after subclause (3) the following subclause:

(4) The trust must take into account, but is not necessarily to be bound by, the advice of the Office of Energy Planning.

This acts as a cross-reference point in energy developments so that duplication of research initiatives taken in other areas can be avoided. In addition, subclause (5) defines 'alternative energy' as being energy derived from any of the following:

(i) the sun;
(ii) the wind;
(iii) geothermal sources;
(iv) biomass;
(v) tidal and wave motion;
(vi) ocean thermal gradients;
(vii) hydro-electric sources (including pumped storage);
(viii) hydrogen;

and also provides for energy derived using the following:

(i) cogeneration technology;
(ii) fuel cell technology.

However, it makes very clear that this section does not include energy derived from nuclear fission.

Finally, subclause (6) of the Bill includes the provision that ETSA must devote at least .25 per cent of its gross revenue derived from the sale of electricity to the objects of subclause (1) *(c)*, as I have already outlined.

In conclusion, the aims of this Bill are to reduce the environmental impact of the energy sector on our community through the realisation of reductions in energy consumption, efficiency improvements in the supply of energy and a switching to cleaner fuels.

There will be direct benefits to South Australian consumers. First, more efficient appliances and conservation measures will reduce the overall amount of electricity consumed by each household and industry with a direct saving in costs.

Secondly, as demand reduces and renewable energy sources contribute more to our energy requirements, the need to spend $1 billion dollars or so for a new power station is delayed, reducing the day-to-day cost of electricity which would be increased significantly by the funding and the interest on the funding for any such new fossil fuelled power station that is built.

I believe that these changes will win acceptance in the general community and in the industrial and commercial sectors by being both comprehensive and, at the same time, reasonable. We can begin the difficult task of using technology and ideas as a tool for cleaning up the environmental chaos we have created and, in so doing, ensure that a cleaner, more efficient and better world will be left for our succeeding generations long after we have gone. I commend this Bill to the Council.

The Hon. G. WEATHERILL secured the adjournment of the debate.

STA CORPORATE PLAN 1990-94

Adjourned debate on motion of Hon. Diana Laidlaw:

That the Legislative Council take note of the State Transport Authority Corporate Plan 1990-1994.

(Continued from 6 March. Page 3285.)

The Hon. T.G. ROBERTS: I support the motion and make the following observations in my contribution. The basics of the STA corporate plan released earlier this month, follow on the heels of the Collins report, released in 1987, the Fielding report in 1988 and the STA business plan released in February 1990. The corporate plan has come about through consultation with broad ranging interest groups and a process that involved consultation with a cross-section of interested parties, including management, employees, unions, relevant Government agencies, local government, social welfare groups and environmental groups; and consumer groups are now springing up.

From this process there developed a theme that the STA's role is to ensure that Adelaide's public transport needs are met, rather than that of the existing role of being a service provider only. This process ensured that the plan covered the issues that had to be addressed as defined by the people with detailed knowledge of the needs and not issues that

are of concern only to parties with a vested interest. We must separate the two.

To focus on the real needs and interests of consumers, some of the vested political interest must be removed so that consumers' needs are met. The resultant goals and strategies stated in the corporate plan are therefore a sound assessment of what has to be done to solve the problems identified and improve the quality of public transport in Adelaide.

Although some criticisms are made by the Hon. Diana Laidlaw in respect of some of the problems associated with public transport, from time to time there are always areas that can be improved. Generally, Adelaide's public transport, when measured against any other comparable cities in the world, services Adelaide fairly well. I refer to the types and size of buses as well as timing and scheduling.

There is over-servicing in some areas, but consumers would probably not say that. In most cities a wait of 15 to 20 minutes is average, especially in most big cities of the world. When I was in Europe I worked for a while for the Scottish transport system in Edinburgh. The main criticism of consumers there was that, rather than one bus coming every 15 minutes, there would be three buses tail to nose once every 25 or 30 minutes, the criticism was that they came in bunches. Adelaide does not seem—

The Hon. Anne Levy interjecting:

The Hon. T.G. ROBERTS: My colleague indicates that a series of studies on transport problems generally has been done. Adelaide is well serviced. The point the Hon. Diana Laidlaw made is that country areas should have some servicing provisions not equal to those in Adelaide (that would be asking too much) but at least extending out to regional areas along the lines and structure of the STA. Then, certainly, country people would be the beneficiaries, but one has to question the cost.

Some regions already run their own transport services, and there have been many comments in the Lower House about systems that use different forms of transport, for example, smaller buses and rapid light/rail. All those areas have been investigated as well as combinations that could be improved considerably for the outlying suburbs.

Adelaide has distinct problems—as do most other metropolitan areas—with its linear projection and having no major north-south corridor. This presents problems and getting the right mix and match is important. Generally, the corporate plan has tried to come to terms with that. We have a mix and match program of rail and bus and incorporated private programs that cover Adelaide's transport needs quite well.

The Hon. Diana Laidlaw: No private bus companies!

The Hon. T.G. ROBERTS: No, taxis. I note that motels and hotels run shuttle services from the airport. Adelaide Airport is closely associated with the city and is probably one of the most convenient airports anywhere in the world. There are not many airports within 10 or 15 minutes of the centre of any city, although there could possibly be some in New Zealand. Generally, most cities tend to have their airports about 30 or 40 kilometres outside their centres. So, Adelaide is well serviced, especially if those services can be maintained. That is the problem that I see, namely, the cost of the infrastructure to maintain rail and in some cases the duplication of rail and bus services.

Some suburbs are well serviced by rail and bus. Some are serviced by bus alone and some by rail alone. In the combination of transport modes, Adelaide is well serviced. The corporate plan, as with the business plan, is only a document that states what should be done to achieve the goal of the Government policy of the day. In this case the Government supports the direction taken by the current plan. The corporate plan clearly identifies the goals and targets of the STA, and this, together with the monitoring function built into the plan, will ensure that there is a clear understanding of what can be expected of the STA and whether it is achieved.

The Hon. Ms Laidlaw stated that the goals listed in the corporate plan and the business plan are the same. That is not exactly the case. The business plan did not mention any patronage or service provision objectives. However, it is agreed that some of the concepts are similar, but it is only natural that the contents of the corporate plan reflect the earlier documents that are mentioned. If the proposals are still relevant to today's issues, then they need to be picked up.

I suggest that most of the issues revolving around the Collins and Fielding reports and the STA business plan are interrelated and still relevant. What is new about the corporate plan is that, for the first time, the STA has articulated its vision on the direction of public transport and the STA. The business plan was prepared some time ago, and acted as a catalyst for a number of substantial productivity improvements, most notably in the area of award restructuring. Appendix 3 of the corporate plan lists the major initiatives of the business plan and where they have been incorporated in that document.

The two most notable achievements to result from the implementation of the business plan have been savings of $2.9 million from the 'greater flexibility in peak bus service' initiative, and $2.4 million from the 'train strengthens' initiative. As far as the difference between the fare proposals in the business plan and the subsequent outcome is concerned, there is little to debate. It was simply the result of a change in Government policy. The expenditure goal in the corporate plan takes into account the Auditor-General's statement regarding savings achievable through improvements to labour productivity. An amount of $12.8 million has been included in the plan as the targeted savings in operating costs, all of which are to be achieved by productivity improvements. The exact breakdown of savings achieved will be known only after the various areas are reviewed and changes implemented.

The Auditor-General's comments on the value of improvements to labour productivity were not revolutionary as almost all businesses and Government agencies have the highest proportion of their costs in labour, and any improvements in this area will have a proportionately larger impact on the organisation than other cost areas. In the STA, this has been recognised for some time, and considerable effort has been put into finding ways to reduce costs. Because of the impact on labour and people generally, the sensitivity of those negotiations is being maintained by the Government, and considerable headway has been made through cooperation. As a model, it is probably the only way to achieve lasting results and maintain productivity and morale.

If Governments or private sector employers try to steamroll change through, that has a marked impact on the morale of any department. Productivity problems become associated with low morale, and the Hon. Di Laidlaw mentioned that in criticism of restructuring of other departments. I am sure that she observes those sensitivities and, indeed, she made mention of the sensitivities of restructuring in country rail areas and the importance of maintaining those services that can be maintained and ensuring the morale of those people who service that sector in country or regional areas.

Some of the other ways that have been developed to reduce costs include the development of a state of the art

computerised rostering and scheduling system, the development of a computerised berthing and dispatching system for buses, award restructuring negotiations that have resulted in union agreements to initiatives such as part-time employment and multi-skilling, organisational restructuring of the operational areas of the STA in order to reduce the number of management layers and improve decision making, downsizing of support functions within the organisation, specific efficiency reviews that have resulted in staff reductions (for example, queue seller positions), and increased training to improve the effectiveness of staff. That has been included in negotiations with the unions involved. These changes do not happen overnight. As I mentioned earlier, the STA expects that the effects of these and other initiatives in the pipeline will show substantial benefits within the term of the corporate plan.

In relation to the comparative labour productivity review of bus operations between Adelaide and Perth, the consultants, Price Waterhouse and Urwick, found that the productivity of STA's bus operations was 10 per cent better than Transperth's but, in the bus maintenance area, it was 23 per cent worse. That comes about because of the standards of both the STA and Transperth. There has been a lot of criticism of late about private sector maintenance requirements. I am sure that many private sector companies are looking at that as a problem that needs to be overcome.

Savings can be made in lots of areas, particularly in maintenance, but at a cost. In some cases, the cost is safety and, in other cases, it is putting on the road inefficient buses, which break down, making the operation unviable. There is a balance between the effectiveness and efficiency of maintenance methods in transposing itself back into the corporate plan, whether it be a private plan or a public plan. Because of the services that are provided within the maintenance section of the State Transport Authority, I am sure that the standards are as high as the public expects, given the budget allocation. In fact, the standard is probably better than the public expects.

There are problems with graffiti, and I acknowledge on occasions that some buses do not match the standard that would be required by some with respect to cleanliness. That is the exception rather than the rule. I travel regularly by bus from the eastern suburbs into the city, and I find those buses quite comfortable and clean, apart from the odd occasion, particularly after the schoolchildren have been on the bus late in the afternoon. The bus tends to be a little the worse for wear, but that is more to do with the fact that it has not been taken out of commission and cleaned. I am sure that, when the buses go back into their depots, they get a good run over. I am not sure whether the Hon. Di Laidlaw carries a bottle of Jif with her or uses some elbow grease to clean them up, but that might be one suggestion.

The issues raised by Ms Laidlaw relating to public subsidies for travel in country areas and Adelaide are different. In the city, much larger numbers of people are involved; therefore, issues relating to mobility, road congestion, infrastructure and the environment are much more important. The debate should concentrate not on subsidy differences between the country and the city but rather on how the services should be provided to city residents and who should pay for those services.

The corporate plan does not state that a number of measures should be introduced immediately to get motorists out of their cars and into public transport, but it suggests that the STA has a role in the promotion of the benefits of having a healthy public transport system, and that it will lobby for policies and actions that favour the provision of public transport. It can be argued that a number of the current public transport problems can be attributed to existing urban planning policies that support car use, for example, the urban sprawl and the proliferation of car parks in the city centre.

As the honourable member mentioned, the cost of car parks in Adelaide compared with those in interstate capitals is quite cheap. We cannot order people out of their cars and onto buses or trains, but we can make the services reliable, efficient and friendly. One of the benefits of public transport is the interaction of individuals within communities. They can talk to each other freely. I find that a diminishing trait within the community. On any of the major arteries running into the city, one sees one person per car driving into the car park, going to work and doing the same going home to the dormitory suburbs. There is no interaction. Although one sees a lot of people, one does not have the opportunity to talk to them.

Public transport enables that interaction, and more encouragement should be given to that factor to make buses user-friendly. Trains are user-friendly as a mode of transport. Because of the seating arrangements, particularly the group seating areas, people tend to talk more freely. That is to be encouraged. Certainly, anything that the major Parties and the Democrats can do to encourage more use of public transport will eliminate some of the deficit funding faced by the Government. It will also eliminate some of the hydrocarbon problems in the city and make better use of the hydrocarbon fuels that the Hon. Mr Gilfillan spoke about when introducing his Bill. There are steps that can be taken to encourage more people to use public transport. I note the report.

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

SOUTH AUSTRALIAN FILM INDUSTRY

Adjourned debate on motion of Hon. Diana Laidlaw:

That the Legislative Council calls on the Minister for the Arts:

1. To provide a clear statement as to the Government's objectives and priorities for the film industry in South Australia including the future role of the South Australian Film Corporation (SAFC); and

2. To explain why the Government in detemining the terms of a rescue package ignored the following advice of consultants KPMG Peat Marwick—

(a) that further strategic analysis of changed industry and economic circumstances be a precondition for adoption of recommended option 4 (page 12);

(b) that renegotiation of existing employment contracts be a precondition for the provision of additional financial assistance to the SAFC (page 10); and

(c) that to cover the SAFC cash shortfalls with a loan rather than a cash injection was not a financially viable option because increased borrowings would increase interest charges and simply compound future deficits (page 8).

(Continued from 20 February. Page 3057.)

The Hon. ANNE LEVY (Minister for the Arts and Cultural Heritage): In rising to respond to the motion of the Hon. Ms Laidlaw, it will not take me long to detail the transparency of her argument and the illogical and misinformed basis on which she has structured her position. First, let me deal with her oft reiterated call for a statement on the Government's objectives and priorities for the film industry, including the future role of the South Australian Film Corporation. In response to that, we have devised a mechanism for looking at the objectives and priorities for the film industry as a whole, as has been recommended by the consultants, but we are involving people from the industry.

The board of the film corporation, the review steering committee, the Department for the Arts and members of SAFIAC have been given the task of developing a strategy for the industry as a whole.

The Hon. Diana Laidlaw interjecting:

The Hon. ANNE LEVY: This will not be a five minute job. I certainly hope that the time necessary for a thorough analysis is taken so that an appropriate statement of objectives can emerge in consultation with the industry. We also need to take into account the current situation of the industry throughout Australia, and it would be most unwise to state long-term objectives until the appropriate analysis has occurred.

I point out that the Government has previously made a clear statement of its ongoing support to the independent sector following the release of the review of the film funding programs last year. We endorsed the findings of that review but, instead of setting up a film office, which it suggested, we restructured the existing advisory committee. We felt at the time (and we still feel) that the restructured committee comprising members with specialised interests will serve the same purpose as the suggested film office, but will result in a much smaller bureaucracy and hence fewer resources will be required to achieve the same end, leaving more resources to put to actual film production.

The reconstituted SAFIAC has recently been redefining its role and function, and it wishes to broaden its brief to support a diverse range of products while, at the same time, of course, continuing with the support mechanisms it has had. I understand that SAFIAC will be releasing very soon a draft policy document for comment within the industry. I await reaction to it with interest. The Hon. Ms Laidlaw has made great play of the suggestion that changing industry and economic circumstances should be examined as a precondition to adopting the fourth and preferred option of the consultants.

The Hon. Diana Laidlaw: That is what the consultants said.

The Hon. ANNE LEVY: Time did not allow for this comprehensive strategic analysis prior to providing some financial support because, as the Opposition spokesperson should know, the corporation needed an immediate cash injection so that it could continue to operate. It needed that immediate cash injection to pay its staff and its bills. I wonder how the Hon. Ms Laidlaw believes that the corporation could have operated in the period between the consultant's report and an overall industry analysis? Such a review, involving industry consultation, must be thoroughly carried out if it is to be worth doing at all. As I have already indicated, it has been set in train but we do not expect results within a few days.

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: I point out, Mr President, that the Hon. Ms Laidlaw has interjected three times in the first two pages of my speech. I did not interject once during the course of her diatribe a minute ago. I would hope she could do me the courtesy of similar quiet attention.

Members interjecting:

The PRESIDENT: Order! The honourable Minister has the call.

The Hon. ANNE LEVY: That is the fourth time. The Hon. Ms Laidlaw mentioned renegotiation of contracts. She seems to believe that we should have insisted on renegotiation of contracts before providing any financial assistance to the corporation.

The Hon. Diana Laidlaw interjecting:

The Hon. ANNE LEVY: The board of the corporation feels, as do I, that they have acted responsibly in this regard. I should point out, in case Ms Laidlaw is not aware of it, that contracts are legally binding documents.

The Hon. Diana Laidlaw interjecting:

The Hon. ANNE LEVY: That is now six times, Mr President.

The PRESIDENT: Order! The honourable Minister.

The Hon. Diana Laidlaw interjecting:

The Hon. ANNE LEVY: Six times, Mr President. I did not—

The PRESIDENT: Order! The honourable Minister has the floor.

The Hon. ANNE LEVY: I did not interject once during her highly provocative and ill-informed diatribe a few minutes ago.

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: We now have seven.

The PRESIDENT: Order! The Council will come to order. The honourable member will cease interjecting. The honourable Minister.

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order! The honourable Minister.

The Hon. ANNE LEVY: I reiterate that contracts are legally binding documents and they cannot be altered without the consent of all signatories. It was made clear in this situation that such consent was not forthcoming on one side. To terminate the contracts or alter them unilaterally would have required considerable pay-outs or possible legal action against the corporation. I am sure that the honourable member is aware that pay-outs would have placed an additional huge financial burden upon the already strained corporation, without it benefiting from the work that the staff will provide while they are working under their contracts. The board decided that, as the majority of contracts will have expired by June 1992, they should run their course unless a voluntary renegotiation could occur. As I have indicated, such voluntary renegotiation was not forthcoming on one side.

The majority of contracts will expire by June 1992, and by that date the board could take into account both the consultants' recommendations regarding performance-based contracts and the findings of the strategic review. I understand that the first contract does not expire until October this year. I also point out that all existing contracts have been negotiated on a commercial basis and that current staff will continue working on projects in development in the short term.

The next point the honourable member raised related to the $2.4 million loan that we granted to the corporation. The $2.4 million was a loan, not a grant. It will not compound future deficits as it is interest free. This amount will be sufficient to clear the corporation's accumulated debt on a worst case scenario, should it all be required. This was clearly the best option for the corporation. The terms of repayment have yet to be determined in detail, but they will depend heavily on the corporation's performance over the next 12 months.

The honourable member seems to believe that this amount of money should have been a cash injection, not a loan. It is plainly not possible in these economic times for the Government to make a straight-out grant to the corporation of $2.4 million. On principle, we will not prop up an organisation incurring debt without fundamental management and financial restructuring. We will not reward bad management and unwise overspending: that we have made clear. What I will do is add this figure of $2.4 million to the

Opposition's wish list—a list of promises it has made since the last election.

Despite claims to the contrary by the Hon. Ms Laidlaw, I can outline exactly what has been achieved so far regarding the recommendations from the consultants. We have endorsed option 4 of the five options that were outlined by the consultants. This involves continuing the corporation as a production house, but scaling down staff and overheads and restructuring the management. We have not endorsed closing the corporation completely, leaving it as it was, or closing production while maintaining the studio, those being the other options mentioned by the consultants—not recommended by them but mentioned by them.

In line with the recommendations of the consultants, the board of the corporation will move to performance-based staff contracts as the current contracts expire. They are also cutting overheads and restructuring their management. They have advertised for a new Managing Director. The applications closed last week, and I understand they are now in the process of considering these applications. In addition, as I mentioned earlier, the Government has instigated the review of industry objectives in consultation with members of the industry, and is closely monitoring the corporation's activities. These facts debunk the Opposition's ridiculous claim that I ignored the essential parts of the consultants' recommendations when designing the rescue package.

As I have explained on numerous occasions, the corporation was in a severe cash-flow crisis and needed immediate assistance. The Opposition has repeatedly called this 'a risky and potentially unwise loan strategy'. As I have stated, we will not reward bad management. What would the Opposition have done? Would it have simply given the corporation $2.4 million of taxpayers' money, or withheld any assistance for months so that it could conduct its review first and so force the Film Corporation into receivership?

The Hon. Diana Laidlaw interjecting:

The Hon. ANNE LEVY: That is eight times!

The PRESIDENT: Order! The honourable Minister.

The Hon. ANNE LEVY: Ms Laidlaw says that taxpayers are entitled to an explanation as to why the Government has loaned the corporation the money rather than given it as a cash injection. I rather think the Opposition should explain to taxpayers why it would give that amount of money outright, and so reward poor management and overspending. I am well aware that capital is required by the corporation to develop new products and, of the $2.4 million available as advance to the corporation, $200 000 has been allocated for this purpose. Such a capping of the development capital was recommended by the consultants and will be adhered to.

In addition, the good news is that the corporation has recently learnt that its planned production of *Hammer Under the Anvil* has received funding from the Film Finance Corporation against fierce competition from all over Australia. This will go into pre-production later this calendar year, and is expected to be filmed next autumn. I would like to point out that there were over 1 700 applications to the Film Finance Corporation, of which 30 were granted. For *Hammer Under the Anvil* to have achieved success under such fierce competition is something about which the Film Corporation can be very proud. The Hon. Ms Laidlaw leaves me with considerable doubts about what exactly the Opposition would do with the Film Corporation.

The Hon. Diana Laidlaw interjecting:

The Hon. ANNE LEVY: We are now up to 10, Mr President.

The PRESIDENT: Order! I am glad someone is counting! The Council will come to order.

The Hon. ANNE LEVY: Ms Laidlaw says she does not wish the corporation to fail, but she would have it continue as a financier but not as a producer of film. This means that the Opposition is not endorsing the consultants' fourth option, which was the recommended option, which is to reduce staff and reduce the operating budget substantially but continue production. Instead, the honourable member is obviously accepting option No. 3 from the consultants, and not their recommended option. As she admitted in her speech, her plan 'does resemble that option'. It is ironic that she is attempting to castigate me for apparently not following all the recommendations of the consultants when she admits that she would not have adopted the recommended option from the consultants.

It is one thing for me apparently—and I am denying it—to ignore a recommendation from the consultants, but it is perfectly all right for the honourable member to say categorically that she would not adopt their main recommendation but would adopt another one.

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: The honourable member is talking about closing down drama production completely. As the consultants point out, this option would mean the virtual closure of the Film Corporation, except perhaps for the South Australian Film and Video Centre. I hope that all in the film industry are well aware of what the Hon. Ms Laidlaw would have done had it been their misfortune to have her as Minister at the time.

What the honourable member is advocating would not be welcomed by large sections of the film industry. With cessation of production at the Film Corporation, the whole industry in South Australia would slowly wither and die, as there would be insufficient turnover in the State—

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: —to maintain the skilled technical staff and facilities required, and they would gradually leave the State. This consequence of ceasing and closing down production at the Film Corporation is forecast by the consultants' report and by many in the independent sector as well. That is the option that the Hon. Ms Laidlaw would have taken. I repeat that the Government endorsed option 4 of the consultants' report, which was the preferred option. This requires the corporation to cut operating costs by at least $300 000 per annum, to restructure management, to employ a new managing director with particular management and operational skills and to renegotiate contracts with staff, which will be done when it is legally possible. Furthermore, the corporation is currently looking into the possibility of sharing studio facilities and/or renegotiating the lease arrangements at Hendon.

I am very happy to detail the reporting requirements of the corporation. We have continued the review steering committee to oversee the implementation of the consultants' recommendations. This steering committee will be reporting to the Government at regular intervals. Obviously, one of the major recommendations of the consultants' report was to employ a new managing director. As I have said, this is currently being undertaken. Once he or she is appointed, he or she will become part of the steering committee to ensure that the consultants' recommendations are in fact implemented.

In addition to overseeing the implementation of the consultants' report, we have devised safeguards in regard to the $2.4 million loan. We have requested a revised budget before any further funds are made available to the corporation. Drawdowns will be allowed only on a monthly basis,

subject to the provision of regular financial statements. As I mentioned earlier, the total sum includes $200 000 for developmental projects, and this will be the maximum amount allowed for this purpose. In addition, the department will be taking a more 'hands on' role in regard to the corporation's activities, as it has since the corporation's financial position became known.

The Hon. Ms Laidlaw claims to have the best interests of the film industry in mind, but I doubt that this is so. What she is advocating would mean the virtual closure of the Film Corporation, with obvious dire consequences for the whole of the South Australian film industry.

This Government has taken the hard decision to support the South Australian Film Corporation through its financial problems. We organised the consultants to go to Hendon and have a good look at what the corporation was doing and what it was doing wrong. As a result, the corporation will continue as a production house, but with scaled-down staff and management. This was the consultants' preferred option. It is ludicrous for the honourable member to suggest that we have ignored the consultants' recommendations when we have endorsed and implemented their preferred solution and she herself would have thrown it all out of the window and closed all production at the Film Corporation.

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order! The honourable Minister has the floor.

The Hon. ANNE LEVY: We have agreed to lend the Film Corporation up to $2.4 million, with strict conditions being applied. The new managing director will play a part in implementing all these recommendations. We have taken the necessary steps to help the corporation to survive. The Opposition has done nothing but put forward carping criticism and promised that it would have closed the corporation. I know which option the corporation and the whole of the local film industry would prefer.

There is one other matter that the honourable member raised in moving this motion. She made various allegations about matters coming from the Premier's Department. She indicated that she would provide me with a personal copy of the Premier's minutes, but she has not done so.

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order! The honourable Minister has the floor.

The Hon. ANNE LEVY: She promised to provide me with a personal copy of the Premier's minutes.

The Hon. Diana Laidlaw: They are in *Hansard*, Minister.

The Hon. ANNE LEVY: In *Hansard* there are various minutes prepared for the Premier, not coming from the Premier's office. The honourable member speaks here of the documents which she has tabled which come from the Premier's office itself. I am not aware of any documents which have come from the Premier's office itself. In the hope that the honourable member will provide me, as previously promised, with a copy of documents from the Premier's Department, I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

OUTPATIENT FEES

Order of the Day, Private Business, No. 14: Hon. R.J. Ritson to move:

That the regulations under the South Australian Health Commission Act 1976 concerning outpatient fees, made on 1 November 1990 and laid on the table of the Council on 6 November 1990, be disallowed.

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

That this Order of the Day be discharged.

Order of the Day discharged.

PHARMACEUTICAL FEES

Adjourned debate on motion of Hon. R.J. Ritson:

That the regulations under the South Australian Health Commission Act 1976 considering pharmaceutical fees, made on 1 November 1990 and laid on the table of this Council on 6 November 1990, be disallowed.

(Continued from 6 March. Page 3280.)

The Hon. R.J. RITSON: When I sought leave to conclude my remarks, I had made the point that these regulations make a charge against pensioners for the cost of prescriptions which in fact knows no limits as far as the legal status of the regulations is concerned.

In practice, the administration of the hospitals remits and ameliorates the costs of chronically ill pensioners through a safety net scheme which is organised by administrative fiat. I was arguing to the effect that this is, in fact, an open cheque which the Government of the day or any subsequent Government can and may decide to cash in whenever it wants to without the Parliament ever knowing.

I do not think that it is enough to have a telephone assurance from an administrator that pensioners who are chronically ill are not on every occasion charged the amount in the regulations but are given concessions which, at the moment, amount to a charge for a maximum of three prescriptions per month. The Parliament is entitled to know if, in effect, pensioners will have more money extracted from their already meagre purses by a decision in the future of this Government, some other government or hospital administrator to no longer ameliorate the charges, as is being done at the moment.

I have had no indication from the Government that it even recognises the fact that this disallowance motion is being dealt with. I recognise that, if disallowed, it can reintroduce the same regulations but the Parliament ought at least to make the statement that the concessions should be in the regulations, and I therefore commend this disallowance motion to the Council.

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

COUNTRY HOSPITALS

Adjourned debate on motion of Hon. Bernice Pfitzner:

That this Council calls on the Government through the South Australian Health Commission to consult with country hospitals and with doctors providing services in these hospitals and with the communities which the hospitals serve; in order to explain and justify any proposed budget restriction or any proposed other steps which might be expected to restrict or adversely affect the service which such hospitals provide to patients and to the communities.

(Continued from 6 March. Page 3283.)

The Hon. R.J. RITSON: When I sought leave to conclude my remarks I had been commenting that the Government response was extraordinary—

An honourable member: Extraordinarily good?

The Hon. R.J. RITSON: No, it was extraordinarily typical of the public servant in the field when the balloon came down and the balloonist said, 'Where am I?' and the public servant said, 'You are in a balloon.' That is an example of an answer that is not necessarily untruthful and is of no

use whatsoever. That was the sort of reply that we received in which the Government did not actually deny that there had been cuts made to country hospital services but it did not actually admit it either.

Since that time my colleague Dr Pfitzner has gathered some further information which indicates the extent to which the Government has fudged and befuddled this issue and stirred the mud at the bottom of the pool in the expectation that the fine words in the Government reply will conceal the fact that Government country hospitals have been squeezed, are being squeezed and presently have to reduce their services. Dr Pfitzner will deal with that in great detail when she closes this debate. In the meantime, I commend the motion to the Council as thoroughly deserving of passage.

The Hon. PETER DUNN: I wish to just make a small contribution. I congratulate the Hon. Bernice Pfitzner for putting this motion forward and thank the Hon. Dr Ritson for contributing to it. Both of them are medicos and I attack the issue from a slightly different angle—as a recipient of the services provided by the medical profession and the hospitals in the country areas. I must say that they do a superb job. The Government has apparently decided to restrict that service. That is very well laid out in the Hon. Bernice Pfitzner's contribution.

The people who are handling health services in the country are concerned because they can see that the services that they have provided in the past are gradually being eaten away and are not being cost effective because of that. The Government, in its wisdom, has decided to change the method of funding for country hospitals. We know that, in the past, it has tried to change the method of providing those services and has failed. We have only to look at the Blyth/Tailem Bend/Laura fiasco where it failed dismally because the people rose up and said that they did not want that and the Health Commission had to accept it.

The Government has now adopted a different tactic by cutting back the funding to those hospitals or by changing the method of funding. It has said to those hospitals that they will have a global budget: it will not be split into two sections and have one section for the running of the hospital and another section for fee for service to the doctor providing the service to people in those areas who are not privately insured. The cost of private insurance today is so high that many people cannot afford it. On an average salary it is nearly impossible because a married couple or a family, for that matter, need to pay more that $1 800 to provide private health insurance.

Many people in the country benefit little from taking out private insurance because, if their condition requires evacuation to a city hospital for the provision of a bed, etc., the admission to that hospital is already organised from the country hospital. So there is really no necessity for insurance other than in the case of elective surgery being necessary. So, many country people have dropped their private insurance and rely on the public system to care for their health. Of course, that has put a bigger and bigger burden on the hospitals and, now that these hospitals have a global budget rather than a separated budget, it means that something has to happen when more patients come into the hospital.

Obviously, cuts must be made in two areas. The first is to cut back the running of the hospital itself and the other is to cut back the fee for service for doctors until they cannot provide any service at all.

The Hon. T.G. Roberts interjecting:

The Hon. PETER DUNN: The Hon. Terry Roberts calls it a financial vasectomy, and that is so: it really does cut the ability of the hospital to provide a good service. I must say that the method used by the Government to offset that global budget impacts on the provision of country medical centres to take on specialist services. They say it is so expensive to provide them in country areas, and then evacuate everyone, to the city. They want to provide the services in key centres such as Whyalla, Port Pirie, Mount Gambier, Murray Bridge, Port Lincoln and others.

In theory, that was a great idea, but it was not so good in practice. As the Hon. Terry Roberts would know, the provision of those good country hospitals has not come before the Public Works Committee for some time. Port Pirie hospital was the last one. We were told that Mount Gambier and Port Lincoln were to be upgraded, but those projects appear to be away on the horizon. I do not think that the Government is fair dinkum about it.

Indeed, if we look at the Government's public works budget, we see that nothing is to be spent in the country other than on a gaol at Mount Gambier in the next six months. I am not sure that the people at Mount Gambier want a gaol, but I do know that they want their hospital upgraded. Certainly, there is a problem in the country with the provision of those services, and the position is getting more difficult. The Government has always been on about providing medical centres. Lock is one community where a semi-trained medical person is present at all times, and the area is serviced three or four days a week by visiting doctors.

That is fine, except when an emergency arises and the patient has to be evacuated. We have an excellent evacuation system in South Australia provided by the Flying Doctor Service and the St John Ambulance combined. It is a good service, but it is expensive. Let me illustrate that. As a result of my own clumsiness back in October, I cut my hand and went to the local doctor who informed me that I had a couple of sinews that needed stitching up. He thought I might need to be evacuated to Adelaide, but I said I would prefer it to be done locally, and he proceeded to do so.

I had a general anaesthetic and a night in the hospital before going home and fully recovering. The result was very good. The cost was $494 for a night in hospital, the doctor's fee, and so on. However, had I been evacuated (I am trying to demonstrate the cost of such evacuations), the fee would have been broken down to include $400 for the ambulance to come to my property as well as perhaps a night in the Cleve Hospital and then an aerial evacuation to Adelaide, involving $1 300. I would then have had to find my way home. Presumably, fees would have been similar for the doctor, although I suspect that it would have been a specialist and the fee would have been greater.

I got out of it for $500 instead of $2 300. That is a considerable saving. It was not a saving to the Health Commission so much as a saving to the community and me in particular. That is what people are looking for, namely, a hospital and a medico who can provide that sort of service. Mine was neither a major nor a minor injury: it was in between. Although I do not know the medical term for it, it was necessary to have attention. Most people feel much more comfortable having that service and their parents, friends, wives, husbands or children visiting them when they are in hospital.

This debate is about the importance of providing those medical centres and whether they should continue in the future. Certainly, they are particularly sparse in my area and, for the Health Commission to suggest that the services are too expensive is, I believe, inward looking.

I understand that the Health Commission is in trouble with its own budget, but that is the result of the socialist system of medicine. It is free for everyone until they have

to pay and, when they must pay, they pay through the nose. The system has gone drastically wrong over the past 15 years. It is certainly getting worse, and the day is rapidly approaching when people will have to pay more than their 1.5 per cent of taxable income toward the health system. That time is rapidly approaching because we are getting longer and longer waiting lists. Some of those lists are caused by country people requiring elective surgery. Some of that surgery should be, and can be, performed in the country. If there are reasonable hospitals, there is no doubt that specialists will travel from the city to the country to perform operations with the assistance of the doctors in those areas. Families who have received this service have been happy with it when it has been performed by specialists travelling to the area. Furthermore, if there was more of it, I am sure that more specialists would stay in country areas because many of them, once they are in the country, enjoy living there.

Referring now to the Health Commission and its attitude, I have here a letter from Dr Clive Auricht from the Elliston Hospital which states:

> Analysis of the data used by the South Australian Health Commission for country hospital planning reveals three major defects:
> 1. The absence of any component for considering the medical consequences of isolation.

That is as plain as the nose on one's face. Elliston is one of the most isolated hospitals within the consolidated area of South Australia, yet that hospital has been asked to perform some rather unusual duties. At one stage Elliston and Wudinna hospitals were sharing a director of nursing, who is an important part of a hospital. The hospitals are nearly 130 kilometres apart, and for a director of nursing to travel from one to the other is not easy.

Also, the executive officer was expected to be shared between the two hospitals. The roads are not all weather roads (they are dirt roads), and sometimes after rain and during winter they are impassable. If there is an emergency at one end of the peninsula and they must travel to the other end (in this case from Elliston to Wudinna), there is a diminution of service. Dr Auricht is quite right in saying that there is an absence of consideration of isolation by the commission. The second defect is:

> 2. The absence of any component for tourists.

Such areas are becoming more and more attractive for tourists, as I am sure the Hon. Terry Roberts and the Hon. George Weatherill, who travelled to Elliston to look at the area in the middle of last year, well understand. They know that it is an attractive area that is visited by more and more tourists, but those tourists are imposing a burden on those hospitals. So, Dr Auricht is correct in that respect.

The third point that Dr Auricht makes is the assumption that the catchment area for a hospital must always equate with the local government area. The Health Commission proposes that the people in that area obtain their service from outside their own local government area. Again, Dr Auricht is correct. People gravitate to their own local government area because local council provides so many of the things that are needed for the social well-being of a community and they naturally want to migrate to the hospital if there is one there. In this case it is the Elliston Hospital, which is a lovely hospital, not very old, with a new residence for the doctor and with all things going for it. It provides a service on the main road from Port Lincoln to Ceduna, where very large trucks—roadtrains—cart wheat. If there is a bad accident, emergency services are needed in that area.

I could say much more about this, but I will not continue because it has been covered very well by the Hon. Dr Ritson and the Hon. Dr Pfitzner. The point is that people live in those areas, and, no matter what, they must be serviced. It is the charter of the Health Commission and of this Government to provide that service. If they do not, they will reap the consequence when we next go to the polls. The Federal Government will particularly, but the State Government also has a role to distribute the funds that it receives from the Federal Government and to ensure that the country gets its share. The country is not asking for more than its share, but it is asking for its share.

I have used the Elliston Hospital as an example for most of the afternoon. It has an overall budget of $711 000. That may seem a lot of money initially, but I understand that it is one of the smallest budgets for any hospital in the State. If the Government cannot provide a service to the people in that isolated area it has failed dismally.

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

TEA TREE GULLY BY-LAWS

Orders of the Day, Private Business, Nos 24-27: Hon. J.C. Irwin to move:

That the Corporation of the City of Tea Tree Gully by-law No. 1 concerning permits and penalties, made on 26 July 1990 and laid on the table of this Council on 2 August 1990, be disallowed.

That the Corporation of the City of Tea Tree Gully by-law No. 2 concerning streets and public places, made on 26 July 1990 and laid on the table of this Council on 2 August 1990, be disallowed.

That the Corporation of the City of Tea Tree Gully by-law No. 3 concerning parklands, made on 26 July 1990 and laid on the table of this Council on 2 August 1990, be disallowed.

That the Corporation of the City of Tea Tree Gully by-law No. 9 concerning caravans, made on 26 July 1990 and laid on the table of this Council on 2 August 1990, be disallowed.

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

That these Orders of the Day be discharged.

The by-laws covered in these matters, made on 26 July 1990 and laid on the table in this Council on 2 August 1990, have been revoked. I understand that new by-laws have been made and that they are satisfactory to the Corporation of the City of Tea Tree Gully and to the Subordinate Legislation Committee.

Orders of the Day discharged.

Orders of the Day, Private Business, Nos 28-31: Hon. M.S. Feleppa to move:

That the Corporation of the City of Tea Tree Gully by-law No. 1 concerning permits and penalties, made on 26 July 1990 and laid on the table of this Council on 2 August 1990, be disallowed.

That the Corporation of the City of Tea Tree Gully by-law No. 2 concerning streets and public places, made on 26 July 1990 and laid on the table of this Council on 2 August 1990, be disallowed.

That the Corporation of the City of Tea Tree Gully by-law No. 3 concerning parklands, made on 26 July 1990 and laid on the table of this Council on 2 August 1990, be disallowed.

That the Corporation of the City of Tea Tree Gully by-law No. 9 concerning caravans, made on 26 July 1990 and laid on the table of this Council on 2 August 1990, be disallowed.

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

That these Orders of the Day be discharged.

Orders of the Day discharged.

WATERWORKS ACT AMENDMENT BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendments.

STATE BANK OF SOUTH AUSTRALIA (INVESTIGATIONS) AMENDMENT BILL

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

STATUTES AMENDMENT (ATTORNEY-GENERAL'S PORTFOLIO) BILL

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Administration and Probate Act 1919, the Crimes (Confiscation of Profits) Act 1986, the Criminal Law Consolidation Act 1935, the Criminal Law (Sentencing) Act 1988, the Judicial Administration (Auxiliary Appointments and Powers) Act 1988, the Justices Act 1921, the Law of Property Act 1936, the Prisoners (Interstate Transfer) Act 1982 and the Supreme Court Act 1935. Read a first time.

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

That this Bill be now read a second time.

In the past few years a tendency has emerged of using a number of small separate Bills to introduce amendments of a minor or non-controversial nature. In February 1990 Cabinet approved guidelines to reduce the volume of legislation in a parliamentary session. The guidelines are designed to ensure, as far as practicable, that minor amendments to legislation can be dealt with in Portfolio and Statute Law Revision Bills during the course of a parliamentary session. This is the first portfolio Bill introduced under these guidelines. Members will note that 11 separate Acts are amended. Introducing the amendments in one Bill represents a considerable saving of parliamentary time. As required by the guidelines the amendments are of a minor, non-controversial character. Major new policy proposals are not included. I seek leave to have the remainder of the explanation inserted in *Hansard* without my reading it.

Leave granted.

Remainder of Explanation

Turning to the amendments:

ADMINISTRATION AND PROBATE ACT 1919

It is proposed that the Registrar of Probates be appointed by the Governor on the recommendation of the Chief Justice. No such requirement exists at present although, of course, as a matter of practice no such appointment would be made without the Chief Justice's concurrence. Section 29 (1) of the Act provides that there shall be one place of deposit of original wills under the control of the Supreme Court. Due to pressure of space, it has now become necessary to deposit wills in storage away from the court. It is no longer possible to ensure storage for all of the wills in one area. Accordingly, the Act should be amended to reflect this change.

CRIMES (CONFISCATION OF PROFITS) ACT 1986

Section 3 of the Crimes (Confiscation of Profits) Act 1986 specifies certain summary offences as 'prescribed offences' for the purpose of the Act.

Amendments to the National Parks and Wildlife Act 1972 means that the offences prescribed in relation to that Act need to be altered. Further, investigators of the Wildlife Protection Branch of the National Parks and Wildlife Service have in recent months confirmed a higher incidence of illegal taking and sale of brush (*Melaleuca uncinirta*), a native plant in demand for brush fencing and green cut Mallee for firewood. Significant profits of many thousands of dollars are being made from this illegal trade. Brush and firewood are diminishing resources which remain in high demand and will continue to be exploited. It is possible to identify the monetary amounts paid to illegal brush and wood cutters and it is appropriate that these illegal profits should be liable to forfeiture. Accordingly the offences of unlawful taking of native plants (section 47), unlawful disposal of native plants (section 48), and illegal possession of native plants (section 48a), have been added to the list of prescribed offences.

CRIMINAL LAW CONSOLIDATION ACT 1935

(i) Year and a Day Rule

The purpose of this amendment is to abolish the rule at common law known as the 'year and a day rule'. That rule states that, where one person causes injury to another, or inflicts injury on another, he or she cannot as a matter of law be taken to have caused the death of the victim if the victim dies more than a year and a day after the injury which in fact caused the death. Some say that the rule reflects nineteenth century medical knowledge and represents a judgment that, in 1800, for example, it was not possible to prove the causal link between injury and death after a year and a day. Others see its original in the procedure of appeal of felony for death in the thirteenth century. Whatever its origin, it retains no present rationale. Further, it may cause positive injustice where an offender injures a victims who lies in a coma for a long period, or where the offender, for example, infects the victim with a disease such as AIDS, which involves a long slow death. The result of repeal will be that the causation of death will now be assessed on the same basis as in any other criminal case.

It is true that, if the rule is abolished, an offender may be convicted of an offence such as malicious wounding and then face a charge of murder or manslaughter at some distance from the event; however, if he or she did cause the death of the victim, then the charge is appropriate. Repeal was recommended by the Mitchell Committee for these reasons.

(ii) Unlawful Sexual Intercourse

The purpose of this amendment is to remove the expression 'mentally deficient', which is offensive to the intellectually disabled, from an offence criminalising sexual intercourse with people who, by reason of an intellectual disability, cannot understand the nature or consequences of the act. The offence, as before, applies only to an offender who knows that such is the case and the redrafting is not intended to alter the scope of the offence at all, either in relation to the class of potential victims or the class of potential offenders. This amendment was recommended by the Bright Committee and prompted by a reminder from the Intellectually Disabled Services Council.

(iii) Miscellaneous

Section 357 is amended by extending the time for appeal to 21 days. It is often necessary for a proposed appellant to obtain assistance from the Legal Services Commission and sometimes to obtain advice from counsel. Applications for an extension of time are an everyday and wasteful occurrence. A period of 21 days is more realistic and the court would feel able to enforce such a period.

Section 360 can be repealed in view of current arrangements as to legal aid. Section 360 provides that a judge may assign to an appeallant a solicitor and/or counsel if it appears in the interests of justice that the appellant should have legal aid. Legal aid is now provided by the Legal Services Commission. It is unclear where the money to provide the legal aid assigned by a judge would come from.

Section 364 (3) is amended by deleting the reference to special treatment as the Correctional Services Department no longer accords special treatment to a prisoner pending

the hearing of his appeal and in consequence the sentence continues to run.

CRIMINAL LAW (SENTENCING) ACT 1988

A new provision is inserted to allow a charge to be made for sending out a reminder notice that payment of a fine, costs etc. are overdue. With the introduction of computerisation in the courts it will be a simple matter to send reminder notices which it is hoped will prompt some people to pay the amounts they owe, saving the need to issue a warrant. It is reasonable that a fee should be charged for this notice. A fee of $10 will be prescribed.

JUDICIAL ADMINISTRATION (AUXILIARY APPOINTMENTS AND POWERS) ACT 1988

This amendment expands the class of persons eligible for appointment as judicial auxiliaries to include retired judges from the superior courts in Australia and New Zealand. The amendment is consistent with a proposal agreed to by the Standing Committee of Attorneys-General whereby a pool of retired judges would be established to meet temporary backlogs in court lists or to serve on commissions or inquiries where local judges are unavailable or unwilling to serve.

The amendment provides that prior service as a judge of a superior court in another jurisdiction is a sufficient qualification for appointment to the judicial pool. Currently, the pool is limited to practitioners of the South Australian Supreme Court.

Judicial servic outside the State is only taken into account for the purposes of determining whether a practitioner of the court has the standing necessary for appointment. The amendment will allow retired judges from other States to be appointed to the pool, even though they are not, or have never been, admitted to practise in South Australia.

This matter has been the subject of consultation with the Chief Justice. He has advised that he sees considerable merit in the proposed scheme and that he has no difficulties with it.

JUSTICES ACT 1921

This amendment to section 106 clarifies the law relating to the use of an audiotape record of an interview with a young child at a preliminary hearing.

In 1987, the Justices Act 1921 was amended to enable the evidence of a young child to be received at a preliminary hearing:

(i) in the form of a written statement taken down by a member of the police force at an interview with the child and verified by affidavit by the member of the police force; or

(ii) in the form of a videotape record of an interview with the child that is accompanied by a written transcript verified by affidavit of a member of the police force who was present at the interview.

The section does not specifically provide for the use of an audiotape recording of the interview.

The conduct of interviews with victims is often very difficult particularly when the child is very young. The Sexual Assault Unit does not presently have the facilities for videotaping of interviews, as allowed for in section 106 (2) *(c)* (ii) of the Act. To ensure accuracy of such interviews, the unit's personnel presently take statements of children on audio cassette tapes. Transcripts are then prepared and used as the statement for presentation at the preliminary hearing.

The Bill makes it clear that an audiotaped recording of an interview with a young child may be received as evidence at a preliminary hearing in the same manner as a videotape record could be presented.

LAW OF PROPERTY ACT 1936

This amendment arises out of a recommendation by the Supreme Court Judges in their 1984 Annual Report. Court is so defined that all claims for partition of land must be heard in the Land and Valuation Court. The majority of such claims arise out of broken *de facto* relationships or partnership disputes. The determination of the rights of the parties in such matters falls within the general jurisdiction of the Supreme Court. The value, sale or division of land is seldom an issue once those rights have been determined. If such an issue does arise, it can be referred to the Land and Valuation Court under section 62c of the Supreme Court Act.

PRISONERS (INTERSTATE TRANSFER) ACT 1982

Uniform interstate transfer of prisoners legislation is in place in all the States and Commonwealth. The legislation allows prisoners to be transferred from one State to another to stand trial or for welfare reasons. The Act makes provision for the Governor to declare by proclamation that a law of a State is an interstate law for the purposes of the Act. A number of amendments to this legislation have been made in other States, which must be declared by proclamation as interstate laws for the purposes of the Act.

In order to eliminate the need to proclaim every amendment hereafter, the Act is amended to ensure future amendments will automatically be recognised as interstate laws for the purpose of the Act. Provision is already made for amendments to the Commonwealth Act to be automatically picked up.

SUPREME COURT ACT 1935

The Bill amends section 129 of the Act relating to the unclaimed suitors' fund.

Under section 128 of the Act, unclaimed suitors' funds are paid to the Treasurer as part of the general revenue of the State and are then not claimable unless released by the court. Section 129 provides that when the court orders release of the money, it is required to 'make an order for payment of the sum to which the applicant is entitled with or without simple interest therein at the rate of three per centum per annum from the time when the money was paid to the Treasurer'.

The Public Actuary has indicated that in the current economic climate an interest rate of three per cent per annum is inadequate. In addition, he considers that the use of simple interest which does not allow for accumulation over time is inappropriate for funds which may be held for several years.

Before unclaimed suitors' funds are paid to the Treasurer, they are held in the Supreme Court Suitors' Fund and are invested in accordance with the Supreme Court Rules 1987.

Supreme Court Rule 109.06 *(b)* provides for investment in a common fund. As soon as practicable after 30 June and 31 December each year, the Registrar of the Supreme court, with the approval of the Auditor-General, fixes the rate of interest payable in respect of funds in Court for the preceding half year. Interest at this rate is credited to the common fund on those dates.

Interest accrues from day to day on money in the fund and if money is paid out of the fund during any half-yearly period, the rate of interest applicable to the previous half year is applied, unless the Registrar directs otherwise. The Registrar may specify a different rate if interest rates have changed.

Once funds are paid to the Treasurer, they are invested by the Treasury along with other Consolidated Revenue funds. The earning rate on these funds should be similar to the rate earned on the common fund.

The Public Actuary considers that it would be more appropriate for Treasury, when paying out unclaimed suitors' funds, to add compound interest at the rate declared by the Registrar under the Supreme Court Rules rather than simple interest at three per cent. This amendment achieves this aim. I commend the Bill to members.

Clauses 1 and 2 are formal.

Clause 3 provides for the interpretation of this Bill. This Bill amends 10 Acts and this clause provides that a reference in this Bill to the 'principal Act' is a reference to the Act referred to in the heading to the part of the Bill in which the reference occurs.

Clause 4 amends section 6 of the Administration and Probate Act 1919. Subsections (2) to (5) that deal mainly with the appointment of the Registrar of Probates by the Governor are struck out and subsections (2) and (3) are substituted. The new subsection (2) provides that the Registrar of Probates will be appointed under Part III of the Government Management and Employment Act 1985 on the recommendation of the Chief Justice. The new subsection (3) provides that the Registrar must not be dismissed or reduced in status except on the recommendation or with the concurrence of the Chief Justice.

Clause 5 amends section 29 of the Administration and Probate Act 1919 by striking out subsection (1) which states that there is to be one place of deposit of original wills under the control of the Supreme Court at a place in Adelaide as directed by the Governor by notice in the *Gazette*. The new subsection (2) which is to be substituted empowers the Governor, by notice in the *Gazette*, to appoint places for the safe custody of wills and any other documents as the Supreme Court may direct. This clause further amends section 29 by striking out subsection (3) which is no longer relevant.

Clause 6 amends section 3 of the Crimes (Confiscation of Profits) Act 1986. Paragraph *(b)* (ii) of the definition of 'prescribed offence' dealing with offences against the National Parks and Wildlife Act 1972 is struck out and a new subparagraph is substituted that reflects the changes that have been made to the National Parks and Wildlife Act 1972 and also takes in other offences committed against that Act.

Clauses 7 to 11 provide for amendments to the Criminal Law Consolidation Act 1935.

Clause 7 inserts a new section after section 17 of the principal Act in that part of the Act dealing with homicide. The new section 18 abolishes the common law 'year-and-a-day' rule by providing that an act or omission that in fact causes death will be regarded in law as the cause of death even though the death occurs more than a year and a day after the act or omission.

Clause 8 amends section 49 of the principal Act by striking out subsection (6). The current subsection uses language which is no longer acceptable. A new subsection (6) is substituted which uses language that is not offensive to the intellectually disabled without changing the nature of the offence enacted in the current subsection.

Clause 9 amends section 357 of the principal Act by extending the length of time in which a person can appeal under this Act or can obtain leave of the Full Court to appeal from ten days to 21 days from the date of conviction.

Clause 10 repeals section 360 of the principal Act. This section is no longer necessary in view of the current arrangements in relation to the provision of legal aid in this State.

Clause 11 amends section 364 of the principal Act by striking out certain words from subsection (3) that are no longer appropriate given the current practice of the Correctional Services Department in respect of an appellant attending court for the determination of his or her appeal.

Clause 12 inserts a new section after section 60 of the Criminal Law (Sentencing) Act 1988. The new section 60a enables the appropriate officer of a court to issue a reminder notice to a person who has been in default of payment of a pecuniary sum for 14 days or more. The cost of issuing the notice is to be added to the amount in respect of which the notice was issued.

Clause 13 amends section 3 of the Judicial Administration (Auxiliary Appointments and Powers) Act 1988 to make retired judges of the High Court of Australia, the Federal Court of Australia, the Supreme Court of another State or Territory of Australia and of the Court of Appeal of the Supreme Court of New Zealand eligible for appointment to act in a judicial office on an auxiliary basis.

Clause 14 amends section 106 of the Justices Act 1921. Insertions are made into the current subsection (2) to allow the evidence of a child at a preliminary hearing to be given in the form of an audiotape accompanied by a written transcript verified by affidavit of a member of the Police Force who was present at the interview that was audiotaped. Consequential amendments are made to the current subsection (5).

Clause 15 amends section 7 of the Law of Property Act 1936 by striking out the definition of 'court' and substituting a new definition that defines 'court' to be the Supreme Court or a judge of that court.

Clause 16 amends section 5 of the Prisoners (Interstate Transfer) Act 1982 to provide that future amendments to any Act that has already been declared to be an 'interstate law' will not have to be separately declared by the Governor.

Clause 17 amends section 129 of the Supreme Court Act 1935. The current section 129 deals with the payment out of Treasury of funds originally held in the Supreme Court as part of that court's suitors' funds. Under section 128 of the principal Act, suitors' funds which have been unclaimed for six years have to be paid to the Treasurer. Section 129 provides that the Supreme Court may subsequently order the payment out of Treasury of those funds to any applicant who is entitled to them. At present, the Supreme Court can also order the payment of simple interest at the rate of 3 per cent per annum on the sum to which an applicant is entitled for the period for which that sum was held by the Treasurer. This clause repeals that authority to order 3 per cent simple interest and replaces it with authority to order payment of whatever additional amount would have accrued (as interest or otherwise) had the sum to which the applicant is entitled been left in court all along.

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

PARKS COMMUNITY CENTRE (MISCELLANEOUS) AMENDMENT BILL

The Hon. ANNE LEVY (Minister for Local Government Relations) obtained leave and introduced a Bill for an Act to amend the Parks Community Centre Act 1981. Read a first time.

The Hon. ANNE LEVY: I move:

That this Bill be now read a second time.

This Bill aims to provide a suitable framework for the continued operation of the Parks Community Centre as a public sector organisation. It is appropriate that the centre's board now have as its major focus a policy and planning role and a greater community orientation, and that principles for the role of the Chief Executive Officer, as administrator of the centre, be defined. The operations of the centre and the role of the board are now to reflect principles of public administration as set out in the Government

Management and Employment Act 1985 while still recognising that the centre is not an administrative unit in the Public Service.

The changes proposed by this Bill were initiated by a major organisational review of the centre which was then followed by extensive consultation with the operating branches, and with the services provided by other public agencies within the centre. The board has endorsed the proposed changes. The Bill contains two major elements:

- a restructuring of the board to provide a more outward-looking community oriented membership which will be better able to respond to the community's needs as they change;
- a definition of the role and functions of the Chief Executive Officer in relation to those of the board, in line with principles for the management of a public sector organisation, while still recognising that the centre is not an administrative unit.

Previously, casual employees at the centre were not defined as staff for the purposes of representation on the board. The Bill provides that casual staff may now be eligible for election to the board as a staff representative, but not as a community representative, thus ensuring that views of the centre can be represented as intended in policy and planning for the centre. The membership of the board will now comprise:

- six members nominated by the Minister, three being women and three being men, one of whom the Minister will nominate as chair of the board;
- one person nominated by Enfield council;
- three persons elected by the registered users in accordance with the Act (these being representatives of the community), and one person by the staff of the centre in the manner prescribed in the Act.

Members will continue to be appointed to the board for three year terms.

The Bill also provides that, where vacancies occur on the board within 12 months of an elected member's term expiring, the Minister may appoint a person to that vacancy. Previously this could occur only where a vacancy occurred within three months of the former member's term expiring, thus requiring the full election procedure under the Act for staff and community representatives, in order to fill vacancies for relatively short periods. This has proved to be unnecessarily time consuming and cumbersome.

The role and functions of the Chief Executive Officer will include being responsible for the effective and efficient management of the centre, for the management of staff and resources, and for the implementation of management plans and budgets determined by the board. These functions reflect those of Chief Executive Officers of other State organisations, as set out in the Government Management and Employment Act 1985. I believe that this Bill provides for the more effective and efficient operation of the Parks Community Centre, and that the review of the organisation has provided for the centre's continuing role in meeting needs within its community. I seek leave to have the detailed explanation of clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal.

Clause 2 provides for commencement on a day to be fixed by proclamation.

Clause 3 recasts the definition of 'member of staff' of the centre so as to include persons employed on a casual basis.

Clause 4 re-enacts the provision of the Act that deals with the establishment and membership of the board. The membership is reduced from 13 to 11, by reducing the number of Government appointed members from six to four. Certain provisions that were of a transitional nature relating to the first appointments to the board have been deleted.

Clause 5 recasts subsection (1) of section 7 by deleting reference to transitional matters.

Clause 6 empowers the Minister to fill casual vacancies in the board membership elected by the registered users of the centre if such a vacancy occurs less than 12 months before the particular office is due to expire.

Clause 7 reduces the quorum of the board from seven members to six.

Clause 8 highlights that the power of the board to delegate includes the power to delegate to the chief executive officer as well as to any other member of staff.

Clause 9 provides that the approval of the Minister will no longer be required for the obtaining of any liquor licence or permit by the centre.

Clause 10 re-enacts section 17 of the Act which deals with the appointment of the chief executive officer of the centre and other staff. It is now provided that all staff appointments (including the chief executive officer) will be made by the centre, whereas at present some may be Public Service appointments. Terms and conditions of office will require approval by the Minister to ensure parity with Public Service terms and conditions of employment. New section 17a provides that the chief executive officer is responsible to the board for the management of the centre and sets out the other primary functions of that position, much along the lines of the provisions of the Government Management and Employment Act 1985 relating to chief executive officers. The chief executive officer is required to give effect to public sector principles of public and personnel management when performing his or her functions. New section 17b gives a full and unfettered power of delegation to the chief executive officer.

Clause 11 inserts a schedule of transitional provisions that provide for the offices of all Governor appointed members of the board to become vacant on the commencement of this Act so as to enable fresh appointments to be made.

The schedule to the Bill makes various statute law revision amendments to the Act, none of which purports to be substantive.

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

LAND AGENTS, BROKERS AND VALUERS (INCORPORATED LAND BROKERS) AMENDMENT BILL

The Hon. Anne Levy for the **Hon. BARBARA WIESE (Minister of Consumer Affairs)** obtained leave and introduced a Bill for an Act to amend the Land Agents, Brokers and Valuers Act 1973. Read a first time.

The Hon. ANNE LEVY: I move.

That this Bill be now read a second time.

The purpose of this Bill is to amend the Land Agents, Brokers and Valuers Act 1973. The proposed amendments will permit land broking practices to incorporate and thereby take the benefit of certain tax, administrative and other advantages. The professional incorporation model upon which amendments to the Land Agents, Brokers and Valuers Act are based is contained in the Legal Practitioners Act 1981. It is provided in the Legal Practitioners Act 1981

that the personal liability of members of incorporated legal practices is not affected by incorporation. It should be clearly understood that a decision to allow land brokers to incorporate is made only on condition that incorporation is permitted to facilitate business arrangements with no effect on the personal liability for negligence, fraud or otherwise of members of incorporated land brokers' practices.

The Bill permits incorporation of land brokers' practices where the 'sole object' of the company is to carry on business as a land broker. In other words, the incorporated body must only carry out the duties of a land broker as defined by the Land Agents, Brokers and Valuers Act. Pursuant to that Act a land broker means a person, other than a legal practitioner, who for fee or reward prepares any instrument as defined in the Real Property Act 1886 in relation to any dealing in land. Land brokers who carry out any other activity such as finance broking, mortgage financing or other related businesses will not be permitted to use this model to incorporate. A person carrying out those activities may of course incorporate separately under the Companies Code.

The Bill also establishes strict stipulations in respect of the holding of shares and broking rights within the incorporated practice. The effect of these provisions is to ensure that ownership of the company remains with a licensed land broker or land brokers and his, her, or their relatives or employees. No more than 10 per cent of the issued shares may be beneficially owned by employees for most licensed land brokers. Voting rights in the company may only be exercised by licensed land brokers who are directors or employees of the company. The Bill effectively ensures that ownership remains with the land brokers who are active in the business by requiring that shares be acquired by the company when a person ceases to meet the criteria for membership set out in the Bill.

Where the stipulations required by the Act are not complied with, such non-compliance must be reported to the Commissioner for Consumer Affairs and the Commissioner may apply to the Commercial Tribunal to ask that the company be ordered to comply with the terms of the Act. It will be grounds for disciplinary action which may be taken by the Commissioner for Consumer Affairs in circumstances where there is non-compliance with the Act. No additional staffing or resource implications for the Department of Public and Consumer Affairs would flow from the enactment of this Bill. I seek leave to have the detailed explanation of clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal.

Clause 2 provides for commencement on a day to be fixed by proclamation.

Clause 3 amends section 6 of the principal Act which provides definitions of terms used in the Act. The clause replaces the definition of 'director' of a corporation with a definition that is in the same terms as that for a company director under the Corporations Law. The clause inserts new definitions of 'prescribed relative', 'spouse' and 'putative spouse' which are used in the new provisions relating to incorporated land broking businesses (for which see clause 6 of the Bill). 'Prescribed relative' is defined as a spouse (which includes a putative spouse), parent, child or grandchild of the person in relation to whom the term is used.

Clauses 4 and 5 make amendments that are consequential to the amendments providing for the incorporation of land broking businesses.

Clause 6 inserts a new section 57a providing that a company is entitled to be licensed as a land broker under the Act if the Commercial Tribunal is satisfied that the memorandum and articles of association of the company comply with certain requirements. These include requirements—

(a) that the sole object of the company must be to carry on business as a land broker;

(b) that the directors must be licensed land brokers (or, where there are only two directors, one a licensed land broker and the other a prescribed relative of that person);

(c) that beneficial ownership of shares in the company is limited to licensed land brokers who are directors or employees of the company, to prescribed relatives of such persons and to employees of the company;

(d) that all voting rights at meetings of members of the company must be held by licensed land brokers who are directors or employees of the company;

(e) that no more than 10 per cent of the shares of the company may be owned beneficially by employees who are not licensed land brokers;

and

(f) that no director of the company may, without the approval of the tribunal, be a director of another company that is a licensed land broker.

Clause 7 makes a further amendment of a consequential nature only.

Clause 8 inserts a new Division IIA of Part VII of the principal Act containing provisions regulating incorporated land brokers.

Proposed new section 59 requires a company that is licensed as a land broker to report to the Commissioner for Consumer Affairs any non-compliance with the stipulations required to be included in the memorandum and articles of association of the company. The clause provides that the Commercial Tribunal may, on application by the Commissioner, give directions to secure compliance with any such stipulations. Non-compliance with any such directions is, under the proposed new section, to result in suspension of the company's licence.

Proposed new section 60 provides that a company that is licensed as a land broker must not carry on business as a land broker in partnership with any other person without the prior approval of the Commercial Tribunal.

Proposed new section 60a provides that any civil liability incurred by a company that is a licensed land broker is enforceable jointly and severally against the company and persons who were directors of the company at the time the liability was incurred. Proposed new section 60b requires alterations to the memorandum or articles of association of a company that is licensed as a land broker to have the prior approval of the Commercial Tribunal.

Clause 9 makes consequential amendments to section 85a of the principal Act relating to the causes for disciplinary action against licensed land brokers.

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

ROYAL COMMISSIONS (SUMMONSES AND PUBLICATION OF EVIDENCE) AMENDMENT BILL

Second reading.

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

That this Bill be now read a second time.

As this Bill has been dealt with in another place, I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

On 12 February 1991 the Government announced its intention to establish a royal commission to inquire into and report on matters relating to the State Bank of South Australia. These matters were the subject of a detailed ministerial statement by the Premier to the Parliament on that day and need not be canvassed again.

The Government has determined that the inquiry into the bank will proceed both through a royal commission and an Auditor-General's inquiry pursuant to section 25 of the State Bank of South Australia Act 1983. The reasons for proceeding in this manner have been discussed publicly in this place and elsewhere but bear repeating in the context of these proposed amendments.

It is considered that a royal commission conducted along conventional lines will have adverse consequences on the operations of the bank. Royal commissions are conducted along adversarial lines with counsel representing the various parties making submissions, calling witnesses and examining and cross-examining witnesses.

A royal commission examination of financial transactions which are often complex and may involve a number of parties and agents is likely to be protracted.

The impact of a protracted inquiry on the bank is likely to be twofold. Firstly, management and staff would be distracted from the important task of rebuilding the bank. Secondly, individual and corporate confidence in the bank may be undermined by a prolonged investigation and one which may require their affairs to be disclosed in relatively public manner. A specialist investigation by the Auditor-General does not share these serious disadvantages.

There are some aspects of the inquiry which can quite properly be dealt with by a royal commission. In particular, the relationship and extent of communication between the Government and the bank board falls solely within the royal commission terms of reference. The relationship between the board and the Chief Executive Officer is another matter which should be dealt with by the royal commission. In relation to this latter issue, the royal commission will have the benefit of access to the detailed investigation and findings of the Auditor-General's inquiry into the bank.

Notwithstanding the efforts to structure the inquiry process in a manner which will allow the inquiry to proceed expeditiously and with due regard to confidentiality, it is considered that some changes to the Royal Commission Act are warranted to deal with particular problems associated with this inquiry.

As indicated, it is anticipated that detailed investigations into specific transactions will be undertaken by the Auditor-General. However, the royal commission, under its terms of reference, may touch upon confidential matters and may in fact go beyond the material provided by the Auditor-General. Such further inquiries may also touch upon matters which can properly be regarded as confidential to the bank and its customers. It is therefore considered essential that the royal commission have at its disposal the means to maintain that confidentiality.

Principally, therefore, this Bill proposes that the commission be empowered to make orders—

- prohibiting the attendance of specified persons at the proceedings;
- prohibiting the publication of specified evidence;
- prohibiting the identification of a witness before the commission or a person alluded to in evidence.

It is worth noting that the royal commission is not required to make such orders but may do so at its discretion on a case by case basis where this is in the public interest or where undue harm or prejudice could otherwise be caused.

While such powers have already been written into the Royal Commissions Act, section 16a (4) confines the operation of those powers to the 1980 royal commission into the prison system. The Bill before the House removes this restriction.

This Bill also revises the definitions of 'record' to include information stored through the means of a computer and the device upon which such information is stored.

Provision has also been included to allow the royal commission to seek a summons from a magistrate requiring the attendance of a person before the commission to answer questions or produce documents. The royal commission will also be authorised to seek a warrant from a magistrate directing authorised persons to apprehend any person failing to comply with a summons.

This measure reinforces the existing powers of a royal commission by enabling the provisions of the Commonwealth Service and Execution of Process Act to be relied upon to enforce attendance of witnesses located interstate.

In summary, this Bill will ensure that the royal commission into the affairs of the State Bank has adequate powers to ensure confidentiality, obtain records however stored and secure the attendance of witnesses located in another jurisdiction in Australia.

The Government believes this legislation should be accorded high priority and is anxious to secure passage of the Bill through all stages without delay.

I commend the Bill to the House.

Clause 1 is formal.

Clause 2 amends the interpretation section of the principal Act, section 3, by adding a definition of 'record'. 'Record' is defined as including information stored or recorded by a computer or any other means and as also including a computer tape or disk or any other device on or by which information is stored or recorded.

Clause 3 amends section 10 of the principal Act which sets out the powers of a commission. The clause amends the section so that the powers to require the production of and inspect documents extend to records as defined by clause 2.

Clause 4 makes an amendment to section 11 of the principal Act that is consequential to the amendment proposed by clause 3 with respect to the production of records.

Clause 5 inserts a new section 11a relating to the issuing of summonses and warrants by a magistrate. The proposed new section provides that a magistrate may, on application by the commission or a person appointed by the commission, issue a summons requiring a person to appear before the commission and answer questions or produce documents or records. The proposed new section also empowers a magistrate to issue a warrant for the apprehension of any person who disobeys such a summons. These powers are intended to be in addition to the power of the commission to itself summon a witness or require the production of documents or records. The provisions are designed to attract the operation of the provisions of the Service and Execution of Process Act 1901 of the Commonwealth for the service of summonses and execution of warrants in respect of persons outside the State. The grounds of an application for a summons or warrant under the proposed new section are to be verified by affidavit. A person who has disobeyed such a summons and is brought before the commission in pur-

suance of such a warrant is to be liable to be imprisoned or otherwise dealt with by the commission under section 11.

Clause 6 amends section 16a of the principal Act which empowers the commission to exclude persons from proceedings and suppress publication of specified evidence or publication of material naming or tending to identify witnesses or persons alluded to in proceedings of the commission. These powers may be exercised in any case where the commission considers it would be desirable to do so in the public interest or to prevent undue prejudice or undue hardship to a person. The clause amends this section by removing subsection (4) which limits the application of the section to the Royal Commission to Inquire into and Report upon Allegations in relation to Prisons under the Charge, Care and Direction of the Director of the Department of Correctional Services.

Clause 7 makes an amendment to section 19 of the principal Act which makes it an offence to destroy or render unintelligible of indecipherable or incapable of identification any book or document to prevent it from being used in evidence before the commission. The clause amends this section so that it also applies to the destruction of or interference with records as defined by clause 2.

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

[Sitting suspended from 5.52 to 7.45 p.m.]

STATE BANK OF SOUTH AUSTRALIA (INVESTIGATIONS) AMENDMENT BILL

Second reading.

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

On 10 February 1991 the Premier announced that the Government had indemnified the State Bank against losses arising from non-performing loans. This matter was the subject of a detailed statement to the Parliament by the Premier on 12 February 1991.

Her Excellency the Governor appointed the Auditor-General on 9 February 1991 pursuant to section 25 of the State Bank of South Australia Act to investigate and report on specific matters relating to the operations and financial position of the bank. Since this appointment, a royal commission has been appointed to inquire into the affairs of the State Bank.

Upon the Parliament having dealt with this Bill it is proposed to recommend to the Governor that she revoke the current appointment pursuant to section 25 and issue a new appointment with broader terms of reference. The proposed terms of reference have been released to the Parliament and the public generally.

The royal commission and Auditor-General's inquiries are expected to proceed concurrently, though each will concentrate on different aspects of the affairs of the bank. The inquiries will however be integrated to the extent possible.

Under the terms of reference contained in the appointment of the royal commission, the commission is authorised to receive and consider any report by the Auditor-General relevant to the commission's terms of reference.

The proposed terms of the Auditor-General's investigation will require the detailed examination of aspects of the bank's affairs and operations, including specific transactions, which can properly be regarded as confidential to the bank or to its customers. The Government has confidence that in undertaking his investigation the Auditor-General will be able to maintain the confidentiality of that information. The very nature of his inquiry, compared with, for example, a royal commission, will facilitate confidentiality. However, it can be anticipated that difficulties in maintaining confidentiality will arise if any reports of the Auditor-General are publicly released. The Government believes that it is highly desirable in the present circumstances that as much as possible of the Auditor-General's report be made public. It is therefore proposed that the Auditor-General report in a manner which allows his findings and recommendations to be considered separately from any confidential information.

To facilitate this process of reporting from the Auditor-General to the royal commission and to ensure the fullest public release of documents while maintaining confidentiality, it is proposed to amend the principal Act. The amendments will enable the Governor to give directions to persons appointed pursuant to section 25 as to the manner in which the results of the investigation are to be reported including any direction requiring reports to be presented to a specified person or body in addition to the Governor.

To guarantee accountability, the amendment requires that any directions made pursuant to section 25 (though not the appointment itself) be published in the *Gazette*. In this instance the Government proposes to publish the instrument of appointment and directions.

To assist in the investigation, it is proposed to authorise the Auditor-General to seek a summons from a magistrate requiring the attendance of a person before the Auditor-General to answer questions or produce documents. The Auditor-General will also be empowered to seek a warrant from a magistrate directing authorised persons to apprehend a person failing to comply with a summons.

This provision will enable the Commonwealth Service and Execution of Process Act to be relied on to enforce attendance of witnesses located interstate.

As it stands now, the Auditor-General's powers under section 25 of the State Bank of South Australia Act are expressed by reference to the Audit Act which has been repealed. This casts some doubt about the Auditor-General's powers to require persons other than directors, officers and employees of the bank to appear before him. The Act will therefore be amended to make it clear that the Auditor-General's powers are as extensive as those contained in the Public Finance and Audit Act.

The Auditor-General will therefore have the power to require any person with relevant knowledge or documents to appear before him.

An investigation pursuant to section 25 is into such matters as are determined by the Governor relating to the operations and financial position of the bank group. Although the term 'operations of the bank group' would encompass a very wide range of matters relevant to the investigation, questions of legal interpretation might arise as to the scope of the investigation. In that event it is intended that there be power available to make a regulation spelling out that operations of a particular company, entity, trust arrangement or any other arrangement, form part of the operations of the bank group. This measure will ensure that, in the event of a doubt arising, arrangements or entities not included on any of the bank group's balance sheets can nonetheless be included in the investigation.

The definition of record will also be amended to include information stored through the means of a computer and the device upon which such information is stored.

In conclusion then, this Bill will allow for the royal commission and Auditor-General's inquiry to be integrated where appropriate, clarify the powers of the Auditor-General, enforce the attendance of interstate witnesses and better define the operations of the bank group.

As indicated earlier, the Government intends to reappoint the Auditor-General pursuant to section 25 of the Act to undertake an inquiry into the bank. The Government is therefore anxious to secure passage of the Bill through all stages without delay.

I commend the Bill to the House.

Clause 1 is formal.

Clause 2 amends section 25 of the principal Act which empowers the Governor to appoint the Auditor-General or some other suitable person to investigate and report on the operations and financial position of the State Bank.

Existing subsection (2) requires a person so appointed to investigate such matters relating to the operations and financial position of the bank as may be determined by the Governor and to report to the Governor on the results of the investigation. Existing subsection (3) provides that the investigator shall have, in relation to the accounts, accounting records and officers of the bank, the same powers as the Auditor-General has under the Audit Act 1921 in relation to public accounts and accounting officers.

The clause replaces subsections (2) and (3) with new subsections (2) to (15).

Proposed new subsection (2) requires a person so appointed to investigate such matters relating to the operations and financial position of the bank and the bank group as the Governor may determine and to report to the Governor on the results of the investigation.

Proposed new subsection (3) provides that the Governor may include, within the scope of an investigation, the purposes for which and manner in which any transaction was entered into in the course of the operations of the bank or bank group. It specifically enables inclusion of any suspected ulterior or improper purpose, breach of fiduciary duty or misconduct on the part of any director or officer of the bank (or any subsidiary) in connection with the transaction and of the extent to which the bank or any subsidiary and the directors and officers of the bank or any subsidiary exercised proper care and diligence in connection with the transaction.

Proposed new subsection (4) provides that a person so appointed must comply with any directions of the Governor published in the *Gazette* as to the manner in which the investigation is to be conducted and the manner in which the results of the investigation are to be reported, including any direction requiring reports to be presented to a specified person or body in addition to the Governor.

Proposed new subsection (5) provides that a person so appointed may, if he or she sees fit to do so in connection with the investigation, make public statements as to the nature and conduct of the investigation and may invite and receive information or submissions as to any matter relevant to the investigation from such persons as he or she thinks fit. The power is subject to any directions of the Governor.

Proposed new subsection (6) provides that a person so appointed must, when presenting to the Governor any report that the person considers need not remain confidential, also present copies of the report to the President of the Legislative Council and the Speaker of the House of Assembly who must in turn, not later than the first sitting day after receipt of the reports, lay them before their respective Houses.

Proposed new subsection (7) provides that the investigator and any person authorised by the investigator will have the same powers as the Auditor-General and authorised officers have under Division III of Part III of the Public Finance and Audit Act 1987 and that the provisions of that Division (including section 34 (2) and (3)) are to apply in relation to any such investigation and the exercise of such powers as if the investigator or authorised person were the Auditor-General or an authorised officer exercising those powers under that Division.

Proposed new subsection (8) provides for the issuing by a magistrate, on application by the investigator, of a summons requiring persons to attend before the investigator and answer questions or produce documents or records. Under the subsection, a warrant may be issued by a magistrate for the apprehension of any person disobeying such a summons. These powers are intended to be in addition to the powers of the investigator under the Public Finance and Audit Act to summon witnesses and documents and records. This provision is designed to attract the operation of the Service and Execution of Process Act 1901 of the Commonwealth for the service of summonses and execution of warrants in respect of persons outside the State.

Proposed new subsection (9) requires proof of the grounds of an application for a summons or warrant to be by affidavit.

Proposed new subsection (10) makes it an offence to disobey such a summons.

Proposed new subsection (11) protects the investigator or an authorised person from criminal or civil liability for an act or omission in good faith in the exercise or purported exercise of powers under the section.

Proposed new subsection (12) protects any person from criminal or civil liability for anything done in good faith in compliance or purported compliance with a requirement of an investigator or authorised person under the section.

Proposed new subsection (13) defines certain terms for the purposes of the section. The 'bank group' is defined as being the bank and its subsidiaries. 'Operations' of the bank or bank group is defined as including operations of a company or other entity specified by regulation or operations carried out in pursuance of a trust scheme, partnership, joint venture or other scheme or arrangement specified by regulation. 'Records' are defined as including information held by a computer or other means and as also including computer tapes or disks or other devices on or by which information is stored or recorded.

Proposed new subsection (14) provides that a reference to a subsidiary of the bank is a reference to a body that would be a subsidiary of the bank according to the provisions of the Corporations Law assuming for that purpose there were substituted in section 46 *(a)* (iii) of that law for the words 'one-half of the issued share capital' the words 'one-quarter of the issued share capital'.

Proposed new subsection (15) is designed to overcome a possible problem with the definition of subsidiary in the Corporations Law arising from the fact that the State Bank is an agent of the Crown and holds its property for and on behalf of the Crown.

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

CHIROPRACTORS BILL

Adjourned debate on second reading.

(Continued from 7 March. Page 3370.)

The Hon. BARBARA WIESE (Minister of Tourism): In winding up this debate, I would like to thank members for the attention they have given to the Bill. I am pleased to note that there is a large measure of support for it. A number of issues were raised—some no doubt will come up in Committee—and I will attempt to canvass as many as I am able to now.

The Hon. Dr Pfitzner queried whether clause 18 (2) *(a)* (i) was too narrow and would preclude a chiropractor or a chiropractor company from running educational or refresher courses. My advice is that it would not. The purpose of this clause is to ensure that a company which is registered by the board is not engaged in activites outside the chiropractic profession. There is nothing to prohibit a registered chiropractor from conducting educational seminars either within his or her company or without. However, a question of degree is involved. If it is an ancillary function that they perform as part of their practice, it would be covered. However, if conducting courses is virtually all their business and they are not actually practising as chiropractors, they may have a problem.

The board has a policy that educational seminars must be conducted under the auspices of a teaching institution or a professional association. This is done so that the educational seminars are overseen by these organisations in order to maintain the highest standards and avoid the proliferation of 'technique peddlers' seen in the United States. Included within the functions of the board (that is, in clause 15) is the responsibility for:

> . . . monitoring the standards of courses of instruction and training available to . . . registered chiropractors seeking to maintain and improve their skills in the practice of chiropractic . . . The board must exercise its functions under this Act with a view to achieving and maintaining professional standards of competence and conduct in the practice of chiropractic.

The board intends to consult with the professional association, the Chiropractors Association of Australia, and educational authorities in relation to the establishment, maintenance and improvement of such courses.

The Hon. Dr Pfitzner also raised the vexed question of 'fee or reward'. This is a common provision in registration acts. I think the Hon. Dr Ritson put it well when he said one has to determine whether one wants to eradicate totally manipulation by unqualified persons and produce an ideal world, if indeed that is possible, or whether one should target the section more in need of regulation; that is, those who seek to market their services under an apparently professional guise. The board is interested in prohibiting the practice of chiropractic by untrained and unscrupulous persons who are not registered as chiropractors. These persons perform spinal adjustments on the unsuspecting public under the guise of other treatment and then claim that these adjustments were not part of the other treatment being billed.

On the other hand, the board does not seek out, for example, the friend or family member who performs some manoeuvre on another, which could possibly constitute manipulation. Clearly, the receiver of such treatment knows the provider is not a qualified practitioner. The Government believes it is important that provision remains. It really gets back to what is practical, reasonable and realistic to regulate.

The honourable member was also concerned about the indemnity against loss provisions. Keeping in mind the high cost of professional indemnity insurance, this clause is intended to allow the board to exempt, for a period, registered chiropractors who suspend their activity as practising chiropractors but wish to maintain their registration. This may apply to a chiropractor taking sabbatical leave for study, research or other purposes, going for an extended period overseas where his or her insurance may not be valid, engaging in teaching only at an approved college or university, and so on. It gives the board latitude to exempt a chiropractor from the requirements of this clause where there are reasonable grounds to do so. Exemption is not intended to apply to a person practising chiropractic.

The Hon. Mr Elliott raised a number of issues, first, the matter of the medical member of the board. Of course, this has been the situation since the 1979 Act, and is not uncommon in health profession registration acts. Indeed, the Hon. Dr Ritson's comments on this matter are well made. It is true to say that, originally, chiropractors were not keen on the idea of the presence of a medical practitioner on their board. However, it must be said that experience has proven that the medical member on the board has been most useful, and his help and advice is valued.

The previous two medical practitioners have been sensitive and not hostile to chiropractors and they have made a positive contribution to the relationship between the professions. To say that this medical practitioner should have expertise in musculo-skeletal matters is to misunderstand where that value and usefulness lies. The board is made up of a majority of chiropractors who have the expertise needed in that area. The medical practitioner provides valuable advice in the areas of organic disorders and case management where patients may be in need of chiropractic care as well as medical help and where one might be seen to infringe upon the other.

The medical practitioner also provides an important point of view based on his or her medical backgound, and his or her presence adds to the safety and protection of the public which is seen as the most important function and responsibility of the board. One could perhaps say that it is an area where useful 'cross-fertilisation' can occur.

Turning to clause 18 (1) *(c)*, relating to qualifictions and experience, I am advised that currently the Australian courses include a 'field work' or experience component prior to graduation. I understand that this may not be the case in the near future, and it is the recommendation received form at least one of the teaching institutions that upon graduation a chiropractor be required to complete a six or 12 months 'internship' before being allowed to go into solo practice. This clause allows the board to give such a person 'limited registration' under the supervision of a competent practitioner in a suitable environment before this requirement has been met and full registration after it has. The quality of the experience (or internship) can be controlled by the board in this way for graduates practising in South Australia.

The Commonwealth Government is also looking at the possibility of introducing national competency based standards for registration purposes for overseas trained persons and possibly Australian trained persons. An assessment of these standards could be considered as meeting the experience requirements for registration.

In addition, it also removes a vexed situation which the board has had to contend with in the past, and that is the situation where an overseas graduate (say, a Palmer graduate from the United States) holds a qualification prescribed in South Australia and must be registered but would not be allowed to practise in the country where he has graduated without sitting a proficiency examination involving practical experience. The board is therefore looking at the future developments in the profession of chiropractic: it cannot give exact details of what relevant experience should be at this point in time as it would depend on individual circumstances. It should be noted, of course, that the schedule

ensures that persons registered under the existing Act will continue to be registered under the new Act.

Clause 18 (2) *(a)* (v) is common to other Acts, and would control 'entrepreneurial activities'. The board does not intend to withhold its approval for a person to be a director of more than one company without very good cause. It will be useful, however, through this approval, to keep informed of the activities of persons or companies registered under the Act and monitor the trends. I have already canvassed the 'fee or reward' question.

In relation to companies not practising in partnership with any other person, this provision is standard in other recent modern health legislation. It is intended that a company registered under the Act cannot practise in partnership with any other person unless authorised by the board. There may be a conflict of interest occurring, such as a chiropractic company practising in partnership with a health food store. This situation, unless controlled, would be seen as unacceptable. It is similar to the restriction placed on a medical practitioner under the Medical Practitioners Act 1983.

The honourable member also raised the matter of the sufficiency of the 14 days notice of an inquiry. The board meets once each month, and there has never been a case where a person has not been given reasonable time to prepare for an inquiry. In addition, it is usual, in the first instance, to meet to establish the procedure of the inquiry which will vary in each case. Nonetheless, the Government has no objectioin to lengthening that to 21 days.

In relation to clause 29 (1), I am advised that professional indemnity insurance is currently provided through the professional association and is also available outside the association from reputable private insurers, such as Lloyds and the AMP. The board will continue to accept these insurers and will be guided by the association as to the minimum extent of insurance cover necessary (presently $5 million). This amount will obviously increase over time given inflation and the American trend of an increasing number of litigious actions. An agreement between an insurer and the board would ensure that every practising chiropractor would have an adequate level of professional indemnity insurance cover. The board would only require that proof of insurance be shown. It has no intention of becoming an insurer or insurance broker.

The final speaker was the Hon. Dr. Ritson. He canvassed some matters on which the Government finds itself in agreement. He also raised the matter of appeals, as provided in clause 47. If the word 'may' is replaced by the word 'shall', every order of the board would be suspended pending an appeal to the Supreme Court, the determination of which could take a considerable time. Depending on the nature and gravity of the case, both the board and the Supreme Court have an option to suspend an order. The board and the Supreme Court should retain this option, as is the case in the 1979 legislation. There may be a situatioin whereby a chiropractor has a severe mental or physical incapacity or a drug problem which seriously affects his ability to practise chiropractic and to perform delicate spinal and neck manipulations safely. It is the prime responsibility of the board to protect the public, and this it could not do in the above circumstances if the word 'may' was amended to 'shall'.

I think that I have covered the main points that were raised during the debate, but there will be a further opportunity during the Committee stage to cover these matters in more detail or to deal with other matters should they arise.

Bill read a second time.

FREEDOM OF INFORMATION BILL (No. 2)

Adjourned debate on second reading.

(Continued from 6 March. Page 3297.)

The Hon. C.J. SUMNER (Attorney-General): I thank members for their contributions on this Bill. A number of issues have been raised to which I will now seek to respond.

The Hon. Mr Griffin has raised a number of matters relating to the Bill. He has also filed a number of amendments. Obviously these matters can be dealt with in more detail in the Committee stage. The Hon. Mr Elliott has also sought clarification of a number of issues. The Hon. Mr Lucas has harshly criticised aspects of the Bill. However, it is worth noting that much of the Bill is based on the New South Wales legislation introduced by the Greiner Liberal Government.

The Hon. Mr Griffin has proposed that the Act should come into operation on a day to be fixed by proclamation or six months after assent, whichever is the earlier. The Government is opposed to the insertion of such a provision. The Bill will have a significant impact on Government agencies. Employees will be required to come to grips with the context of the legislation. Systems will need to be established to ensure an efficient method of handling requests for access. Although departments are aware of the contents of the Bill, there has not been significant work done yet on the formulation of training modules and so on. Obviously, it is not appropriate to expand resources until the final form of the Bill is known. Therefore, whilst the Government will endeavour to have the Bill operational at an early opportunity, it may not be possible to implement the legislation within six months of assent.

The Hon. Mr Griffin has queried the objects of the legislation and the fact that it refers to the 'rights of the public' and 'members of the public'. The Government does not expect that the potential difficulties raised by the Hon. Mr Griffin will be an issue. The scheme of the Act is not framed so as to restrict access to individuals. Organisations and bodies may also seek access to information.

The Hon. Mr Griffin has indicated that the legislation should apply to Government agencies, departments, and so on. He has indicated that it should not be possible to extend the operation to what are private individuals or private agencies. The Government does not intend to extend the provisions of the Bill to private individuals or agencies.

It is clear from the objects of the Bill that the aim of the Bill is to deal with information held by the Government. I note that the Hon. Mr Griffin has raised objection to the definition of 'agency'. One of his concerns is that it may extend the operation of the Act to universities and their officers. I do not agree that it is inappropriate for a university to be covered by the legislation. I understand some of the universities have already examined the legislation and at least one does not consider that it will cause it any problems. Interstate legislation or FOI picks up the operations of universities.

In addition, the Hon. Mr Griffin has queried the use of the term 'public purpose'. I do not consider that the term would be read broadly so as to include associations established under the Corporations Law or Associations Incorporation Act. The proposal put forward by the Hon. Mr Griffin for the use of the term 'governmental purpose' is considered too narrow.

The definition of 'exempt agency' allows for an agency to be exempt by virtue of a proclamation. Some concern has been expressed at this. The Hon. Mr Elliott also expressed some concern at the list of exempt agencies in schedule 2.

The Government considers that there is a need for some bodies to be excluded from the operation of freedom of information legislation. Certain persons or bodies or certain functions and specific positions need restrictions upon access to their documents in order to allow them to perform their functions effectively. The Government has given careful consideration to the bodies which should be exempt. The Government considers that to expose the bodies listed to the legislation would jeopardise their operations. It is common in the other FOI Acts around Australia for there to be a list of exempt agencies and the Government has generally picked up those lists of exempt agencies in that interstate legislation.

The Hon. M.J. Elliott: It is a longer list.

The Hon. C.J. SUMNER: It covers basically the same ground as the other Acts. I have already said that the Bill is based on the New South Wales legislation introduced by the Greiner Liberal Government, and we assume it would be acceptable to members opposite in preference to that introduced by the Labor Government in Victoria.

The Hon. Mr Elliott has suggested an amendment to clause 9 to require an information statement to include a statement listing all boards, councils, committees and other bodies constituted by two or more persons and whose meetings are open to the public or the minutes of whose meetings are available for public inspection. The Government is not convinced of the need for such an amendment. Some of the boards, etc., may fall within the definition of 'an agency' for the purposes of the Act and would have to have a separate reporting mechanism.

The Hon. Mr Elliott has also suggested that information relating to library facilities, etc., should be provided in the statement. The Government does not consider that such a provision is needed.

The Hon. Mr Griffin has also queried the exemption relating to Ministers of the Crown in clause 11 of the Bill. It should be noted that the provision allows an agency that is a Minister to be declared by regulation to be one to which the Part applies.

The Hon. Mr Griffin has raised an issue relating to clause 14 and the transfer of applications. He has indicated that where transfers take place from agency to agency the 45 day period should be the overall time limit. I do not accept that such an amendment is warranted. Clause 16 (6) provides the time frame to be adopted when an application is transferred from one agency to another. An application is taken to have been received on the day on which it was transferred or within 14 days from the original application, whichever is earlier.

The Hon. Mr Elliott has indicated that he considers the 45 day time frame in clause 14 to be too long. He proposes to reduce the period for dealing with applications to 30 days. The Government considers that a 30 day time frame is too short. The 45 day time limit is a general standard across Australian jurisdictions for FOI legislation. The Government would accept that many applications may be dealt with in a shorter period, but it is important to have a realistic maximum period—one that takes into account the time needed to process the more complex requests.

The Hon. Mr Elliott has also suggested that additional time frames ought to be included, for example, to notify within five working days that a request would be a drain on resources. The Government would not support such an amendment. It is important that agencies negotiate with applicants, but such limited time frames could encourage agencies to refuse to deal with applications rather than give proper consideration to them.

The issue of advance deposits has been raised by a number of members opposite. Clause 17 provides some protection to agencies. The Government considers that it is a reasonable safeguard and that it should be retained. Quite substantial costs could be incurred by agencies, if they respond to complex requests. There is no guarantee that the applicant will actually collect the information or, if he or she does come to collect the information, pay the required fee. It is not sufficient to say that the material need not be handed over, as the work has already been done.

Concern has also been expressed by members at the possible effect of clause 18, which provides for an agency to refuse an application if it would substantially and unreasonably divert the agency's resources. The Government does not share the concerns raised that this provision will have the effect of defeating the legislation. Provision should be made for refusal where public resources will be unreasonably diverted for the benefit of an individual or minority group. The provision is an administrative check to ensure the system is not abused. However, at the same time it is important that there is some external review of the decision. This provision will encourage both the applicant and agency to negotiate so as to determine the specific information requested.

Section 24 of the Commonwealth Act provides for requests to be refused in certain cases. New South Wales legislation has a provision relating to unreasonable diversion of resources. It does not provide for an external review. Yet, even still, the provision has only ever been used sparingly. The Victorian Legal and Constitutional Committee recommended the insertion of a 'voluminous request' provision. The Queensland Electoral and Administrative Review Commission also recommended the insertion of such a provision. It was the view of the commission that a provision which allows Government agencies to refuse to deal with a request which would substantially and unreasonably divert resources would encourage the applicant and the agency to negotiate so as to determine the specific information requested. The commission stressed the need for an external review. The South Australian Bill provides for external review.

Subclause (8) provides that a refusal is a determination; therefore, it is subject to review. The refusal can be reviewed to determine whether the application would have substantially and unreasonably diverted the agency resources. This would be an objective test by the review body.

The Hon. Mr Elliott, the Hon. Mr Lucas and the Hon. Mr Griffin have all raised the issue of retrospectivity. The Government does not support general retrospectivity. In respect of personal affairs documents, the Bill already confers a general right of access, irrespective of the age of the document. In any event, that is the situation at the present time under the administrative guidelines.

No time limit is imposed where access is reasonably necessary to enable a proper understanding of another document to which an applicant has lawfully been granted access. To introduce aspects of retrospectivity would mean that a document created when FOI was not in operation would be available. Authors of documents would not have expected access to be given to the documents. Some of the information may have been received in confidence. Information regarding the receipt of that information may be hard to ascertain.

In addition, practical difficulties may arise in accessing documents that are no longer current. It should be remembered also that, contrary to what the Hon. Mr Lucas said, the legislation would not prohibit access to earlier documents. The legislation is a minimum standard.

There are circumstances where retrospective legislation is agreed to by the Parliament. That usually applies in exceptional circumstances. The Government does not see why the general principle against retrospectivity which is strongly supported by the Liberal Opposition should be waived in this case.

The Hon. Mr Griffin has suggested that clause 26 is inadequate in that consultation cannot occur with a dead person. This matter is already dealt with in subclause (5), which provides for consultation with the person's closest relative who is of or above the age of 18 years.

The Hon. Mr Elliott has queried why the provision should provide protection to the dead when defamation laws do not. The Government considers it reasonable for a relative of a deceased person to be consulted before personal information relating to that person is released. There may be highly sensitive material held on the deceased person which would cause distress to the family if it was released.

The Hon. Mr Elliott has queried why the Ombudsman should not be able to review a ministerial certificate. The Government considers that, given the nature of the material, and the form of the review provided with respect to ministerial certificates, it would be inappropriate for the Ombudsman to be involved in such reviews. Indeed, it would be generally inconsistent with the role of the Ombudsman, who is not involved in the review of ministerial decisions.

As to the question of appeals, the Hon. Mr Griffin considers that appeals should lie to the Supreme Court on matters of both law and fact. The Government does not consider it necessary to provide an appeal on matters of fact to the Supreme Court. The District Court is an appropriate body to make such rulings.

Clause 42 (2) relates to the role of the Minister at an appeal involving public interest. The subclause provides that the Minister makes known to the court his or her assessment of what the public interest requires and that the court must uphold that assessment unless satisfied that there are cogent reasons for not doing so. The Hon. Mr Lucas has been highly critical of this provision.

It should be noted that the provision allows the court to overrule the Minister's assessment where there are cogent reasons to do so. It should also be noted that, contrary to the statements made by the Hon. Mr Lucas, the provision relates to the Minister responsible for the administration of the Act, not the Minister responsible for an agency. Therefore, the Minister's view would be not merely an extension of the agency's views but rather an assessment made with the objects of the legislation taken into account.

It would be a decision made by the Minister with the responsibility for the administration of the Act. I consider this clause an important one in legislation of this kind, as it asserts the importance of elected officials making policy decisions and does not hand over to the courts the making of policy decisions which in my view generally is inappropriate. Policy decisions in our system of government principally should be made by elected representatives who are accountable to Parliaments and ultimately accountable to electorates.

Such decisions should not be made by unelected members of the judiciary. Accordingly, this provision is in my view a significant and important one in this legislation. It is a provision that I would support in any legislation which hands over to the courts the power to make decisions on policy matters. I would support a similar provision in any administrative appeal tribunal legislation, for instance, because it is quite wrong in my view and contrary to the public interest to have unelected members of the judiciary making essentially policy decisions.

Whilst in this case the final decision has to rest in the court, I think it should be obliged to take into account the public interest as expressed by the Minister because, in our system, it is after all Ministers who are in the best position to determine the public interest, as ultimately they are accountable to Parliament and accountable to electorates—judges simply are not.

The Hon. M.J. Elliott: It is different from the New South Wales legislation.

The Hon. C.J. SUMNER: Yes, it is different from the legislation in New South Wales. I said that it was a clause that I felt was important to put in this legislation; it is important in any legislation of this kind. In recent times, at the philosophical level, Parliaments have been too ready to give away their decision making powers to unelected organs, tribunals, courts, and the like, and that has been to the detriment of the democratic process.

If we must have a court making these final decisions of review in these areas, and it seems that the public or at least the Parliament will not accept Ministers making those final decisions, the court should still have to take into account what the Minister deems to be in the public interest. Frankly, I think there is a strong case for allowing the Minister the capacity to make final decisions in these areas because ultimately Ministers are responsible to Parliament and to the electorates, and judges are not. Members of tribunals are not and, frankly, they should not be making decisions where they purport to determine the public interest.

They are not equipped to do it; it is not their job and they are not accountable, except to the law. It is parliamentarians and Ministers who should make policy. It is judges and tribunals who should adjudicate on the law as laid down, and not generally (although they do of course to a considerable extent) get involved in policy, particularly when the structure of legislation is such that a Minister elected and responsible to Parliament can have a view of the public interest.

Some members have also expressed concern at the provisions of section 46 dealing with ministerial certificates. The proposed system is based on the provisions in the New South Wales legislation. It is also consistent with the recommendations of the Queensland Electoral and Administrative Review Commission. The commission considered that, because of the need for secrecy in some areas, certain matter, which ought to remain secret must be conclusively characterised as exempt. It should be noted that the certificates can only be issued with respect to certain types of documents as set out in part 1 of schedule 1.

The restricted documents are a special category of document and should not be freely available. It should be stressed that the certificate will not be provided by the Minister responsible for the agency. By ensuring that there is a ministerial assessment of the documents the provision should guard against improper use of certificates. The District Court is able to review the certificates. If the District Court considers that there are not reasonable grounds for the claim that a document is restricted, it may make a declaration to that effect.

The Minister administering the FOI Act may confirm the certificate. If he or she does confirm the certificate Parliament must be informed. The Government considers that this system will ensure that the issue of ministerial certificates is not abused, because ultimately the question of the Minister's confirming the certificate will be notified to the

Parliament and the Minister will have to account to the Parliament and ultimately to the electorate for that decision.

An honourable member: How do you know?

The Hon. C.J. SUMNER: Then you are acting contrary to the legislation. Parliament must be informed, and a Minister who does not inform the Parliament obviously would be in breach of the information.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: Sure, but you know what the issue is about. You know what is the information that has been requested and you can challenge the Minister as to why he has confirmed the certificate. In any event, it is the provision that exists in legislation of this kind interstate, certainly in New South Wales. Ultimately, it puts the responsibility back where it belongs, which is on Ministers of the Crown. It should not rest with the courts.

The Hon. M.J. Elliott: Ultimately it is about information getting to the public.

The Hon. C.J. SUMNER: Of course, that is right, but there are certain categories of information which everyone agrees, whether we are talking about FOI in the United States or in any State in the Commonwealth, ought not to be able to be made public, for a whole variety of reasons that are set out in the legislation.

With the ministerial certificate, if the Minister confirms the certificate in the final analysis, the Parliament must be informed. The Parliament can then question the Minister about his reasons for refusing that certificate. That is the appropriate mechanism to adopt, and it is consistent with the principles of responsible parliamentary government.

Considerable criticism has been levelled at clause 53 dealing with costs and charges. The Government believes that FOI should be a user-pays system but at the same time accepts that there may be a need to waive or reduce fees in appropriate cases. I should say that when the Hon. Mr Cameron introduced his FOI legislation on previous occasions he specifically indicated that he would be happy for it to be administered on a cost recovery basis; he is on the record in *Hansard* as having said that.

Clause 53 (2) *(a)* requires the Minister, when establishing guidelines, to ensure that disadvantaged persons are not precluded from exercising their rights merely because of financial hardship. I again draw members' attention to the comments made by the Hon. M. Cameron on this matter, as follows:

> If the Government wishes to head towards cost recovery on such a piece of legislation, let us talk about it. That is the way to go. There is plenty of opportunity in the Bill to do that—it is entirely up to the Government. Certainly, it will receive no criticism from me if it attempts to recover costs as much as possible.

That is the Hon. Mr Cameron, the architect of FOI in South Australia.

The Hon. R.I. Lucas: The Bill that you fought and voted against for about five years. That is on the record, too.

The Hon. C.J. SUMNER: The Government supported the principle of FOI on previous occasions and indicated that it would introduce FOI legislation, as it is now doing.

The Hon. R.I. Lucas: When it looks as though you will lose Government.

The Hon. C.J. SUMNER: The Hon. Mr Lucas is indicating that we are introducing the legislation because we are about to lose Government, but I point out to the honourable member that the next election is about three years away. I would not necessarily be as confident as he seems to be about his being involved in winning the next election. I remember before the last election the grin which was on his face but which was not there when we resumed Parliament last year.

The Government does not support the prescription of fees and charges by regulations. The Hon. Mr Griffin has suggested that reports to Parliament should be submitted before September rather than December. This issue has been raised with the New South Wales FOI unit. It appears that there is significant information to be obtained and collated. I would prefer to leave the reporting date at December but to review it in time once agencies are more familiar with the requirements.

The Government does not consider it necessary to stipulate, in great detail, the information to be contained in the report. Clause 54 (3) makes clear that information relating to record-keeping will be provided to the Minister. Schedule 1 of the Act sets out the exempt documents for the purposes of the Act. The Hon. Mr Lucas has raised some concerns regarding the extent of the exemption in clause 1 dealing with Cabinet documents. The Government considers that the form of the provision is appropriate. The provision will ensure that deliberations and decisions of Cabinet remain secret in order to preserve the proper and efficient conduct of government. The Hon. Mr Lucas is critical because it does not require a submission to be 'prepared by a Minister'. The Government considers that to include such a provision would be detrimental to the concept of Cabinet confidentiality.

The Hon. Mr Griffin and the Hon. Mr Elliott have expressed concern at clause 5 dealing with documents affecting inter-governmental or local governmental relations. The Hon. Mr Griffin has indicated that whether or not they affect relationships ought not to be a relevant consideration. The Government considers that such a classification of exempt documents is warranted. I draw members' attention to the conclusion of the Queensland Electoral and Administrative Review Commission that there will remain instances when inter-governmental relations may be damaged by the disclosure matters under FOI legislation. In a particular case there might be specific factors to consider. The attitude of the other Government concerned is likely to be relevant; hence the reverse FOI provision whereby consultation should occur with the other Government before release of any such document. That is, in fact, a provision that is in the Commonwealth legislation.

The Hon. Mr Elliott suggested that the words 'could reasonably be expected to cause damage' in clause 5 should be replaced with the test of serious prejudice. The Government does not support such an amendment. Whether damage is of sufficient gravity to damage relations between the two Governments will be a matter of judgment to be considered in the light of the facts of a particular case. It must be established that there will be a likelihood of damage, and not simply a possibility of damage.

The Hon. Mr Griffin has raised a query regarding the interpretation of clause 6 as it relates to allegations or suggestions of criminal or improper conduct. This provision is an important protection to individuals. Unproved allegations against a person should not be able to be accessed. If an allegation has been proved in court, the protection offered by this provision is removed.

Clause 7 deals with documents affecting business affairs. The Government would not support the deletion of agencies from this provision.

Statutory authorities engaged in commercially competitive activities are subject to the legislation. It is essential that FOI legislation contain an exemption to protect the need for secrecy in relation to such activity. In addition, business organisations need protection to ensure that FOI

legislation cannot be used for industrial espionage. The interest of Government agencies in the flow of information to Government from the business world is also protected by the exemption.

Clause 8 deals with research. This provision is included to protect research proposals, etc., from release. As this legislation will extend to universities and to other bodies where research may be sponsored, it is important that such protection is available. For example, in the university system, a person putting forward an idea for research may need to explain it to a research or ethics committee to get a clearance or to seek Government funding. It would be inappropriate for such information to be made available to other people who may wish to conduct similar research. It should be noted that clauses 5, 6, 7 and 8 of schedule 1 all involve reverse FOI, that is, the views of the third party, who would be affected if access was given, are sought.

Some concern has been expressed at clause 9 of the schedule dealing with internal working documents. The provision is important as it provides a degree of confidentiality in the decision-making process. It is important that there can be a frank exchange of views and advice between Ministers and advisers. Working records disclosing such views and advice on issues which are still current should not be subject to mandatory disclosure.

The Hon. Mr Elliott has expressed a concern regarding the operation of clause 10 of the schedule dealing with legal professional privilege. I do not consider that an amendment is required to clarify what is covered by 'legal professional privilege'. The concerns raised by him can be dealt with by ensuring that information provided to agencies regarding the implementation of FOI adequately explains the meaning of this term.

The Hon. Mr Elliott and the Hon. Mr Lucas have also expressed concern at aspects of clause 16 dealing with the operations of agencies. The Hon. Mr Lucas has suggested that subclause (1) *(a)* (i) should be deleted. Such an amendment would be strongly opposed. The section is necessary to ensure that the integrity of tests, examinations, etc., are protected. It should be remembered that this legislation will cover areas within the education system.

The Hon. Mr Elliott has indicated that 52 per cent of refusals under the Commonwealth Act in 1985-86 cited subclause (1) *(a)* (iv) as the reason. According to the Senate Standing Committee Report the figure of 52 per cent related to exemptions under the whole of section 40—not just section 40 (1) *(d)*. There were 3 097 claims for exemption under section 40 (1) *(d)* in 1985-86. The Commissioner of Taxation used the paragraph on 2 894 occasions to make deletions from the requested document and on a further 11 occasions to refuse access altogether.

It should be noted that the test requires that it must be reasonably expected that disclosure would have a substantial adverse effect on the effective performance by an agency of its functions and would, on balance, be contrary to the public interest. This requires a degree of gravity over and above prejudice to the agency's operations.

Several of the clauses in schedule 1 refer to the 'public interest'. It is a term widely used in freedom of information legislation. It has been the subject of consideration in a number of the jurisdictions. In 1985, the Administrative Appeals Tribunal made the following statement regarding the public interest:

> Relevant considerations include matters such as the age of the documents; the importance of the issues discussed; the continuing relevance of those issues in relation to matters still under consideration; the extent to which premature disclosure may reveal sensitive information that may be 'misunderstood or misapplied by an ill-informed public'; the extent to which the subject matter of the documents is already within the public knowledge; the status of the persons between whom and the circumstances in which the communications passed; the need to preserve confidentiality having regard to the subject matter of the communication and the circumstances in which it was made. Underlying all these factors is the need to consider the extent to which disclosure of the documents would be likely to impede or have an adverse effect upon the efficient administration of the agency concerned.

Therefore it can be seen that the 'public interest' test is a convenient method of taking into account a number of issues which may bear upon a decision whether to release a document.

The Hon. Mr Griffin also raised a number of provisions in the Cameron Bill for which he wants consideration to be given. The first of these is a Cabinet Register. The Government opposes the inclusion of a Cabinet Register. The Government is aware that the Victorian legislation has such a provision. However, I refer members to the Senate Standing Committee Report on FOI. The commitee did not support a proposal for the establishment of a public register of Cabinet decisions. The committee concluded that, if a register were to be established, it would be essential to incorporate into the register a mechanism by which to omit references to sensitive decisions (for example, impending tax changes). A partial register might convey a misleading impression of Cabinet activity.

Clause 9 of the Cameron Bill refers to a statement of documents in the possession of agencies where that statement must be published. The Government does not accept that such a provision is needed. The Bill already provides for the publication of information relating to the structure, function and internal laws of an agency; that information should be sufficient to inform the public of the workings of an agency.

Clause 10 of the Cameron Bill follows on from clause 9. The Government does not consider that such a provision is warranted. It is unnecessarily complicated. If an agency has not included information which it is legally required to do, there would be other options open to a person—contact the Minister responsible for the agency, the Minister responsible for the Act or the Ombudsman.

Clause 13 of the Cameron Bill provides that the Minister and agencies should administer the Act with a view to making the maximum amount of Government information promptly and inexpensively available to the public. The Hon. Mr Griffin has suggested that such a statement should be included in clause 3 of the Bill. The Government does not support such a provision in the Bill—it is unnecessary. The objects of the legislation are clearly stated.

Clause 56 of the Cameron Bill deals with costs in proceedings before a court. It allows the court to order that costs incurred by an applicant should be borne by the defendant.

Clause 57 also allows a court to waive or reduce certain charges. The Government does not consider that such a provision is warranted.

Clause 59 of the Cameron Bill deals with disciplinary actions where an officer or agency has been guilty of a breach of duty or of misconduct in the administration of the Act. The Government has already included a provision dealing with the reporting of improper conduct. The Government does not consider that the proposed amendment would add anything to the provision.

Clause 64 of the Cameron Bill deals with the preparation of a report by the Government Management Board relating to difficulties in administration of the Act. The Government does not support such a provision. It is merely more work for little reward. If the board considers there are difficulties in the administration of the Act, it may report to the Minister responsible for the administration of the Act who

may, if appropriate, include such information in his or her annual report.

Bill read a second time.

REHABILITATION OF OFFENDERS BILL

Adjourned debate on second reading.

(Continued from 20 February. Page 3069.)

The Hon. K.T. GRIFFIN: The Opposition opposes this Bill and will do so vigorously. It is misnamed because, rather than providing for rehabilitation of offenders, it deals only with making some convictions spent convictions after the lapse of a particular period of time without the convicted person reoffending. The Bill makes a lie lawful, even when that lie is made under oath in the circumstances of disclosure of particular offences. Not only that, it puts ordinary citizens in a position where, if they disclose a spent conviction for a first offence where that does not meet the limited criteria by which spent convictions may be disclosed, they are subject to a maximum penalty of $8 000 and, for a second or subsequent offence, a period of imprisonment of four years or a $15 000 maximum fine or both, penalties which are in excess of the original penalties for the convictions that are the subject of this Bill.

The Bill provides that, except in identified circumstances, a person who has been convicted of an offence and sentenced to less than 30 months imprisonment or fined less than $10 000 and does not commit another offence within 10 years from the date of the conviction if an adult, or five years in the case of a child under 18 years of age, is not required to disclose the existence of that conviction. The protection afforded by the Bill does not apply in the circumstances that are set out in clause 4 (3) of the Bill. I will deal with those matters in detail later.

The Bill provides that a person cannot lawfully be asked for or required to furnish information relating to a spent conviction, or any circumstances surrounding a spent conviction, except in limited circumstances set out in the Bill. In answering a question or in response to a request for information, a person may suppress information relating to a spent conviction or any circumstance surrounding a spent conviction without incurring any civil or criminal liability or committing any breach of good faith even when, as I said earlier, a person with a spent conviction may indicate under oath that he or she does not have any previous conviction.

In any court or tribunal evidence tending to prove a spent conviction or any circumstance surrounding it may only be adduced by leave of the court or tribunal, which can only grant that leave if satisfied that justice cannot be done except by the admission of the evidence, or the evidence is required to be given by another Act of Parliament, or the so-called rehabilitated person consents to the production of the evidence in those proceedings.

A person who discloses the existence of a spent conviction or any of its surrounding circumstances contrary to the provisions of the Bill is guilty of an offence and liable to a penalty, for a first offence, of a fine of not more than $8 000 and, for a second offence, as I have already indicated, a fine of not more than $15 000 and imprisonment for not more than four years. There are some defences to a prosecution, and they are set out in clause 8 (2) of the Bill, and again I will deal with those matters later.

In addition to an offence being committed by a person who may disclose a spent conviction, the rehabilitated person is entitled to compensation from the person who made any disclosure where the disclosure is made with the intention of causing harm to the rehabilitated person or with reckless indifference as to whether the rehabilitated person suffers harm in consequence of the disclosure.

In his second reading explanation, the Attorney-General draws attention to the fact that Queensland has the Criminal Law Rehabilitation of Offenders Act 1986, Western Australia has the Spent Convictions Act 1988, and there is a Federal program entitled the Spent Conviction Scheme, which came into operation in July 1990. All have similar objectives. Over the years, there has also been a number of Law Reform Commission reports on this subject. I suggest that, whilst it is useful to refer to those Acts of Parliament and to the scheme and the various reports, ultimately we have to make a decision in South Australia as to whether or not such a scheme is appropriate. The Government has indicated on a number of occasions since the early 1980s that it has been considering the concept of this legislation. It first saw the light of day during the 1982 election campaign in the Labor Party's platform. Subsequently, a discussion paper was published in 1984, and the matter has surfaced periodically until this Bill was introduced. To my recollection, until this Bill, there has not been a Bill that has crystallised the Government's proposals.

On each occasion that this issue has been raised publicly, the Liberal Party has indicated its opposition to it and has drawn attention to its concerns about the operation of this legislation. There are a number of reasons for opposing the legislation. One is the matter of principle, that such legislation really legalises lying. It endeavours to make something white which is black and that, whilst legislatively possible, is not appropriate in our view in principle. I want to refer to a number of matters in the Bill but, before doing that, I indicate that discussions with the Victims of Crime Service indicate that they are very strongly opposed to this Bill, and have been over the years.

The Hon. C.J. Sumner: What about OARS?

The Hon. K.T. GRIFFIN: I am coming to that. The Victims of Crime Service, having a particular concern for victims of crime, in my view quite rightly objects to this legislation. The Attorney-General interjected: 'What about OARS?' For the sake of completeness, I intend to refer to that and to another response which supports the legislation and, in fact, seeks to have it widened. The Offenders Aid and Rehabilitation Service, though, does make the observation that the title of the Bill is a misnomer, stating:

> It should be the Spent Convictions Act or such like as applies in other jurisdictions. You know as well as I do that one cannot rehabilitate offenders by Act of Parliament.

The Offenders Aid and Rehabilitation Service also indicates that there should be some extension to the scope of this Bill. Similarly, the Prisoners' Advocacy Group supports the Bill and also calls for a widening of its scope to convictions where a person is sentenced to imprisonment for up to five years or where a fine of up to $50 000 is imposed. Lawyers differ. Those in the criminal jurisdiction tend to support the Bill, whilst others, who are not involved in that jurisdiction, have harsh criticism of the scheme.

I want to deal with some of the clauses to explain what I see as some of the problems with the Bill away from the principle. The Bill applies to a conviction where the convicted person is sentenced to imprisonment for a period of less than 30 months or to pay a fine of less than $10 000. That period of imprisonment may either be imposed immediately or be suspended, and a conviction includes a formal finding of guilt made by a court or a finding by a court that a charge has been proved.

It is interesting to note that the Bill applies not to specific offences, but to the sentence which has been imposed. In

that context, I want to refer the Council to the 1989 Crime and Justice Statistical Report from the Office of Crime Statistics. In the Magistrates Court there were a number of convictions for breaking and entering a dwelling. It is interesting to note that in those 67 cases the average sentence of imprisonment was 40 weeks with the minimum being eight weeks and the maximum 84 weeks—well within the 30-month maximum penalty below which convictions may be spent convictions. In the courts of summary jurisdiction, there were 11 cases of breaking and entering other buildings with intent where the minimum period of imprisonment was 12 weeks and the maximum 104 weeks. In that context, the total number of those who were convicted, but not necessarily sentenced to imprisonment, was 45. One is looking at pretty close to 20 per cent of those who were convicted and sentenced to imprisonment, and who would benefit from this legislation if they committed no other offence in the ensuing 10 years.

I turn now to the Supreme Court and District Criminal Court where periods of imprisonment are graded less than six months, six months up to one year, one year up to two years, two years up to three years, and so on. As regards offences against the person, in 1989, 23 persons were sentenced to periods of imprisonment up to two years; for robbery and extortion, three were sentenced to imprisonment up to two years; for sexual offences, 13; for fraud and deception, 19; for breaking and entering, 33; for causing death by dangerous driving, one; for wounding or assault with intent to cause grievous bodily harm, four; and for assault occasioning actual bodily harm, four. All of those were sentenced to immediate imprisonment of up to two years. For robbery with a firearm there was one and for robbery with violence there were two.

There are quite serious crimes for which convictions are recorded and which have penalties of less than 30 months imprisonment, and that is in 1989 only. Of course, that is a much more significant number over a period of years.

The other aspect of the statistics to which I want to refer illustrates probably a more serious problem, remembering that the period of 10 years for an adult and five years for a young offender runs from the day of conviction. The Supreme Court and District Criminal Court statistics for 1989 indicate a number of cases where the total imprisonment was greater than that imposed for a single charge receiving the highest penalty in circumstances where more than one conviction was recorded at the same time. I will go through a few of these. For wounding with intent to do grievous bodily harm, there is one instance where a single charge receiving the highest penalty resulted in two years and six months imprisonment being imposed (that is, 30 months imprisonment), but the total period of imprisonment imposed was three years and six months (42 months). If that were aggregated, the Bill would not allow that conviction or those convictions ever to be spent convictions; but, taken separately, they are eligible for consideration as spent convictions automatically on the expiration of 10 years if there has been no other conviction for an offence during the ensuing period.

There is another wounding with intent to do grievous bodily harm where the highest penalty for any charge was one year and six months (18 months imprisonment), but on other offences the cumulative period of imprisonment was three years and nine months (45 months imprisonment).

There is a common assault where three months imprisonment was imposed, but, when taken cumulatively upon the sentence that was then being served, it was nine years and three months. That means that that particular criminal may be able to regard the common assault as a spent conviction within only a year or two after the cumulative sentence had been completed, provided that, whilst that cumulative sentence was being served, no other offences were committed.

But let us take a case of armed robbery where the head sentence was two years and six months. Now that will qualify to be a spent conviction, yet there were other counts of burglary and damaging property and the total period of imprisonment for the three crimes was five years. Individually, they will be spent convictions if no other offence is committed for which a conviction is recorded over a period of 10 years. One can refer to a number of others: there is a case of incest of one year and six months imprisonment but then other crimes of unlawful sexual intercourse which resulted in a total period of six years being imposed. Yet the incest will, for a number of purposes, be regarded as a spent conviction.

There is a case of fraudulent conversion where the penalty imposed was two years and six months yet, when taken together with other charges and cumulative penalties, it totalled five years. Yet the three offences to which that cumulative penalty relates will all be the subject of the spent convictions legislation.

There are a number of others: there is a false pretences case where the first penalty was one year and six months but another four charges of false pretences resulted in a cumulative sentence of six years. Now, all of those will be regarded as spent convictions and, of course, the 10 years will run from the date of those convictions. Even if the criminal is released in four years, taking into account any remission for so-called good behaviour, that leaves only six years for the criminal not to re-offend, or if to re-offend, not to be caught and convicted.

There is a case of housebreaking and larcency where the penalty was two years but, when other crimes were taken into consideration and charges laid and convictions recorded, the cumulative penalty was seven years and two months. Those charges were housebreaking and larceny on which there was a prison sentence of two years imposed; shopbreaking and larceny, two years; and housebreaking and larceny, two years. They were all cumulative on the unexpired portion of a non-parole period (for an offence for which the offender, at the time of the offence, was on parole) of one year and two months, and it totals seven years and two months.

Then there is the case of larceny of a motor vehicle where the major charge and the penalty imposed was one year but there were other charges: one of larceny for which the penalty was six months; another charge of illegal use of a motor vehicle, eight months; carrying an offensive weapon, two months; and imposition, one month. They were to be served cumulatively with a sentence of two years which was currently being served, making a total of four years and five months.

Now, I repeat that what this Bill will allow is that, provided that a criminal does not commit an offence for which he or she is apprehended and convicted in the 10 year period after the convictions, they will be regarded as spent convictions and will not be required to be disclosed in many circumstances, and will be the subject of action if some other person should say, 'Well, you should not trust that person because 10 years ago at least there were four previous convictions for larceny of a motor vehicle, larceny, illegal use, carrying an offensive weapon and imposition.' I cannot believe that any reasonable person in the community would regard that as being a reasonable outcome and in any way a protection for ordinary law-abiding citizens.

Under clause 4 of the Bill the protection conferred by the Bill on convicted persons in relation to spent convictions is subject to certain qualifications. It does not apply to any administrative or judicial inquiry into or assessment of the fitness of a person to have the guardianship, custody, care, control, supervision of or access to a child. And that is fair enough. It does not apply to a person who is seeking or who has obtained enrolment, registration, appointment or employment as a barrister or solicitor, a judicial officer including a justice of the peace, a member of the Police Force or a company director.

Now, there are a number of questions that one can raise in relation to that. One can ask, 'Well, what about a member of the jury?' The Attorney-General may well say, 'Well, we intended to have that declared by regulation.' But, being a member of a jury is a very important responsibility and I think it is quite outrageous that, if this Bill were to pass, a person who perhaps has the four or five convictions to which I referred earlier should be able to sit on a jury and perhaps make a judgment on the same sorts of charges as he or she was convicted of some 10 or more years ago. By any standards, that would be regarded as compromising the administration of justice.

But if one looks at those who have not been referred to specifically in clause 4 (3) *(b)*, company directors are referred to. So you cannot claim the benefit of this legislation if you want to be a company director. What about a director of a building society who has a business that is much more extensive than many other companies? A company director may be in charge of a small, private company or a big, public company. Why then should there be no reference to a director of a building society, a cooperative, a credit union or even an association, many of which are very large operations that undertake charitable work and carry on business for the benefit of disadvantaged members or others whom that organisation might service? What about incorporated health units under the South Australian Health Commission Act, the big public hospitals or the small community health centres, the people who work there not necessarily all being medical experts?

What about other statutory corporations, directors of the State Bank of South Australia or the State Government Insurance Commission, the Electricity Trust of South Australia or the South Australian Timber Corporation? They are all in business activities but, if one of them happens to have a spent conviction, they can claim the benefit of the legislation whereas company directors cannot. What about candidates for parliamentary office? There is no provision here that excludes candidates for parliamentary office from the benefit of this legislation. What about candidates for local government office? The same question can be asked.

Another area that comes to mind involves accountants. We have accountants in positions of trust—in many respects as significant a position of trust as a barrister or solicitor. We have landbrokers, and they are not referred to. One can be a landbroker or an accountant with a spent conviction; a whole range of examples come to mind.

If I continue with consideration of clause 4, the spent convictions legislation does not apply in relation to persons who are seeking or who have obtained registration or employment as medical experts, where they have committed offences against the person or drug related offences such as the production, sale, supply, possession or use of a drug. Medical experts are defined as a medical practitioner, dentist, psychologist, an optician, a physiotherapist, chiropractor, podiatrist and an occupational therapist.

There is some question as to why nurses or those who might be on the periphery of medical care—the naturopaths or homeopaths—should not be included. One can think of a number of other areas of health care where those sorts of offences might equally be relevant, considering whether or not a person is a fit and proper person to carry on that activity. If you are a medical expert, the spent convictions legislation does not apply to offences committed against the person or drug related offences, but what about offences like Medibank fraud or conspiracy to defraud in relation to rehabilitation under the WorkCover legislation? I would have thought that they were equally pertinent to those medical experts' activities. Clause 4 does not apply to persons employed or seeking employment in positions involving responsibility for the education, care, control or supervision of children, but only to the extent that those persons may have committed offences against the person. But it does not extend to all those others who might be working in institutions and providing education, care, control or supervision of children but who do not specifically have a responsibility for those functions.

One can think of those who might be caretakers, bursars or maintenance workers: they are persons who have close contact with children but whose past convictions for child molestation would not be able to be disclosed where the conditions set out in clause 4 might be satisfied. Of course, the clause does not give benefit in circumstances declared by the regulations, but there is no indication as to what might be included in those regulations. In any event, if the Bill were to pass, there ought to be consideration at least of the matters to which I have referred.

Let me also deal with teachers. At present the Bill relates only to offences committed against the person, so that teachers with such convictions will not be able to gain the benefit of this legislation. I would have thought that a person who had been convicted of fraud or dishonesty offences, for example, even if they occurred some 10 years previously, might still have some question marks over them in relation to their suitability to teach. To give the right to lie about those spent convictions when seeking positions in those circumstances, I would suggest, compromises integrity and raises questions about the suitability of those persons to be placed in the care of children. It also raises serious questions about the example that I think all teachers ought to set to children in their care.

Clause 5 deals with spent convictions. As I have indicated, a large number of charges might result in lengthy imprisonment but for which no single penalty exceeds 30 months. If one looks at the Summary Offences Act, one sees that almost all the offences created have penalties of less than 30 months but some of them are serious offences. Cumulatively, a number of those offences charged at the same time might carry an aggregate penalty of more than 30 months. The range of penalties imposed under the Summary Offences Act nevertheless is for serious offences, and I can give a few examples.

Carrying an offensive weapon has a maximum penalty of $2 000 or imprisonment for six months; and a person who manufactures, sells, distributes, supplies or otherwise deals in dangerous articles may attract a maximum penalty of $8 000 or imprisonment for two years. As to larceny, a person who steals an article fixed to or forming part of land or a building can be liable to a maximum penalty of $2 000 fine or imprisonment for six months. Being unlawfully in the possession of personal property, carries a maximum fine of $8 000 or imprisonment for two years. For false pretences, there is a maximum fine of $8 000 or imprisonment for two years. And so it goes on. Almost all the offences under the Summary Offences Act attract penalties of less

than 30 months maximum. Nevertheless, they are serious offences.

The information that a person is prevented from asking for is extensive. Clause 7 (1) provides:

> Except as provided by this Bill—
>
> *(a)* a person cannot be lawfully asked for, or required to furnish, information relating to a spent conviction or any circumstance surrounding a spent conviction;
>
> and
>
> *(b)* a person may, in answering a question or in response to a request for information, suppress information relating to a spent conviction or any circumstance surrounding a spent conviction without incurring any civil or criminal liability or committing any breach of good faith.

That latter provision is a moral nonsense, and it is not appropriate for the law to embody such a moral nonsense. What happens when an employer who 10 years ago had an employee who was convicted of three or four offences of larceny as a servant, embezzlement or fraud (with none of those charges attracting penalties of more than 30 months) and no other offence has been committed or, if committed, been detected and been the subject of a conviction in the intervening period? That former employer may be asked for a character reference by another person who may be considering employing that person.

It puts the former employer in an invidious position when asked, 'What do you know about that person who is seeking a job?' Does the former employer say, 'Well, I am sorry, I cannot answer that question', or does the former employer say to himself or herself, 'I cannot say that there have been previous convictions because they are spent convictions' (provided, of course, that that employer knows the provisions of this Bill)? Can the former employer say, 'Well, that person was sacked'? If that former employer says, 'That person was sacked,' the immediate question is, 'Why?' 'Well, I cannot tell you' must be the response. But, even the statement, 'That person was sacked' may be caught by the provisions in clause 7 as the information that surrounds a spent conviction.

Clause 7 also creates some difficulties for courts or tribunals because no evidence tending to prove a spent conviction or any circumstances surrounding a spent conviction may be adduced in proceedings before a court or tribunal without leave of the court or tribunal. That is a very difficult position to argue. What are the criteria? The court may grant leave if the court or tribunal is satisfied that justice cannot be done except by the admission of the evidence, or the production of the evidence is required by another Act; or the rehabilitated person consents to the production of the evidence in those proceedings.

The curious aspect of this is, of course, that an application for leave to adduce evidence should not, except as authorised by the court or tribunal, be heard and determined in public and should be heard and determined in the absence of any jury. That means that the court or tribunal has to close the court and exclude the media and any interested persons, and may exclude witnesses except those who may be parties in the proceedings.

That raises some important questions of principle as well: the court is hearing a matter in private and is making a decision that will not be able to be published or be subject to public scrutiny. That is undesirable. There can be no publication, if the court sits in private, of any matters which might be considered to be relevant to the overall case but which depend particularly on the evidence about the spent conviction.

Clause 8 deals with the defences. Under subclause (1), a person (other than the rehabilitated person) who discloses the existence of a spent conviction or any of its surrounding circumstances is guilty of an offence. I remind members that for a first offence the maximum fine is $8 000 and for a second or subsequent offence a $15 000 fine and four years imprisonment. That is to be dealt with summarily and not by a jury. It raises the question on a prosecution whether the nature of the offence can be made public, that is, that this person is charged with an offence of disclosing a spent conviction in relation to a named individual.

Under clause 8 (2) there are some fairly narrow defences. In raising the defences, one should initially have been aware of what they are, but most ordinary people talking about someone's past convictions will not know, first, about this law and, secondly, what the defences are. The first defence is 'that the disclosure was made with the consent (whether expressed or implied) of the rehabilitated person'. That is straightforward.

The second is 'that the disclosure is authorised by the regulations or by or under this or any other Act'. That, too, is reasonably straightforward. The third is 'that the disclosure is made in circumstances to which the protection afforded by this Act does not apply'. That is limited and, so far as I can ascertain, relates to clause 4 (3) in particular.

The fourth is 'that the disclosure constituted a fair and accurate report of proceedings before a court or tribunal in which the existence of a spent conviction was disclosed and was not in contravention of an order of the court or tribunal'. That relates to the court proceedings where the existence of a spent conviction was disclosed, and not to the original proceedings. It raises the question whether, with the existence of a spent conviction having been referred to in a court or tribunal, it is appropriate or permissible to go back 10 or 12 years and refer in detail to the circumstances surrounding the case to which the spent conviction relates. Can one then in a sense regurgitate all the events surrounding the original court hearing? Can one disclose a spent conviction under parliamentary privilege? There must be a question mark there.

The fifth area is that the disclosure was made in the ordinary course of the publication or use of a textbook, report, article or collection of material published for historical, educational, scientific or professional purposes, or in the course of any lecture, class or discussion given or held for any such purpose. That does not mean that one can refer to the spent conviction, which might be referred to in any publicly available article such as the original court report, but only where the report might have been published for historical, educational, scientific or professional purposes. That must relate to the textbook, report, article or collection of material that has been published. That, too, raises questions, whether one can go back to the original report—the transcript of proceedings in the court—or to publicity relating to any appeal that might have accompanied a consideration of the original conviction. I would suggest that most probably one cannot do that.

The sixth area is that disclosure was contained in a genuine series of law reports on proceedings in courts or tribunals. The focus of that is on the disclosure in the law reports, not disclosure by referring in some other debate, discussion or public event of the law report. It suggests to me that there may even be a restriction on publicly using the law report of a proceeding that related to the original conviction. That creates some significant difficulties and raises important questions of censorship. If this Bill goes through, I would have thought that anything on the public record ought to be capable of being referred to anywhere, even where it might name a particular individual who has a previous conviction, which might have been 10 or 12

years ago. There ought to be no restriction on raising the issue in Parliament, if necessary.

Let me turn to the last area that I want to address in detail. Clause 10 provides that, where a person discloses contrary to this Act the existence of a spent conviction or any circumstances surrounding a spent conviction, the disclosure is made with the intention of causing harm to the rehabilitated person or with reckless indifference as to whether the rehabilitated person suffers harm in consequence of the disclosure, and the rehabilitated person suffers loss as a result of that disclosure, the rehabilitated person is entitled to compensation from the person who made the disclosure for the loss.

That exposes an ordinary citizen who might intentionally disclose the spent conviction, for example, in the circumstances of a prospective employer seeking information from a past employer. It puts that person in an invidious position, liable both to prosecution and compensation. I do not believe that ordinary law-abiding citizens required by the law to lie should be penalised if they do disclose a spent conviction, and that is the difficulty. An ordinary citizen is required by the law to lie or to cover up, and I do not think that that ought to be tolerated.

As I said at the beginning, this Bill is significantly misnamed. The point has been made to me that a person who has a conviction wants a job as soon as he or she is released from prison, and that person will have a conviction, the knowledge of which will be available to the prospective employer. It does not matter what happens in 10 years time: it is what happens when the person is released from gaol. Many people live with their conviction, obtain employment and become law-abiding citizens in the community, but they have committed a crime and must live with the consequences of that crime. I know there are circumstances where maybe it was a frivolous aberration, but they are not the norm. I see no reason why we ought to be passing legislation that allows the offender to escape accountability even over a period of years for what has been done. That person has to face up to it and, if that person does make a fist of employment, the conviction becomes irrelevant in the relationship between employer and employee.

I am told by people who work in the area of placing offenders in employment on their release from gaol that they have a significant measure of success because not only does the convict face up to (and is required to face up to) the conviction and come to terms with it but the employer does too. It is one of the facts of life that we have to face up to: if you commit an offence and are convicted, you have to live with that and not brush it under the carpet and require others to lie, cover it up and brush it under the carpet. It is also a fact of life that Governments and voluntary agencies in the community have an obligation to endeavour to assist those persons who have committed crimes to rehabilitate.

It is in the interests of the community at large to achieve that objective, but so far the prison system does not provide the necessary incentive in many instances for rehabilitation. In many cases, Governments reduce resources available to technical and further education in the prison system and support for offenders who genuinely want to make a go of it in the community on their release from prison. This is not about rehabilitation of offenders: it is about expunging past convictions. Rehabilitation occurs soon after release and not 10 years down the track.

The other point that needs to be made is that, while this Bill relates to convictions, and we have to focus on convictions, the fact is that only one in 20 housebreakers in South Australia has a chance of being caught. The smart operator will not be caught. It is the foolish one, the first offender, who will be caught, and someone who may be convicted now may—

The Hon. T.G. Roberts: If all first offenders were caught, there would be no second offenders!

The Hon. K.T. GRIFFIN: That is not so, because the recidivism rate is fairly high. The fact is that, if you can avoid being caught, if you are a professional housebreaker (and the prospects are one in 20 that you will be caught—and that one is generally the inexperienced, the first offender), and if you are not convicted for 10 years, your past convictions are eliminated, regardless of what you have been doing in that intervening period of 10 years.

There are a number of important issues about this Bill. If it does get past the second reading, I indicate that the Liberal Party will not even support that stage of the consideration of the Bill and will oppose it at all stages.

The Hon. T.G. ROBERTS secured the adjournment of the debate.

LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 2)

In Committee.

(Continued from 12 March. Page 3460.)

Clause 8—'Substitution of s. 67 and Division II of Part VI.'

The Hon. ANNE LEVY: I move:

Page 6, lines 3 to 5—Leave out paragraph *(a)* and insert—

(a) to assist councils at their request in developing and implementing equal employment opportunity programs and, for that purpose, provide councils with advice, guidelines and statements of objectives;

New section 69d is concerned with the functions of the Local Government Equal Opportunity Advisory Committee, the composition of which we were discussing when last in Committee. Following discussions with the Local Government Association, it was agreed that certain amendments to the functions were desirable. This amendment is a rewording of the first function, making quite clear that the assistance the advisory committee is able to provide to councils in developing and implementing EEO programs and devising guidelines is to be done at the request of councils, and that they can make a request to the advisory committee, which will be able to provide this assistance to them.

The Hon. J.C. IRWIN: I am happy that the Minister has introduced this amendment, and that the LGA has indicated that it is happier with the wording of this measure. I support the amendment.

Amendment carried.

The Hon. ANNE LEVY: I move:

Page 6, line 6—Leave out 'monitor' and insert 'collate information as to'.

This amends paragraph *(b)* of the functions of the EEO committee. Obviously, if it is to take note of what is happening, the advisory committee, will need to collate the information from the councils as to what is occurring. However, the LGA felt that this was a better wording than to use the word 'monitor'.

The Hon. J.C. IRWIN: For want of a better word, I think it is less sinister to use the expression 'collate information as to' than the word 'monitor' so I am happy to support the amendment.

The Hon. ANNE LEVY: Whilst I am very happy to accommodate the LGA in this amendment, I reject the implication that 'monitor' is in any way sinister.

The Hon. J.C. IRWIN: I did say, 'for want of a better word'.

Amendment carried.

The Hon. ANNE LEVY: I move:

Page 6, lines 9 to 12—Leave out paragraphs *(c)* and *(d)* and insert—

(c) to promote the purposes and principles of equal employment opportunity within local government administration.

This amendment relates to paragraphs *(c)* and *(d)* of the functions of the EEO committee. After discussions with the LGA, it was felt that the important principles in both paragraphs *(c)* and *(d)* could be accommodated in one reformulated phrase, hence proposed new paragraph *(c)*, which is before the Committee.

The Hon. J.C. IRWIN: I support the amendment.

Amendment carried.

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

Page 6—

Line 13—Leave out '1996' and insert '1994'.

Line 40—Leave out '1996' and insert '1994'.

These amendments seek to reduce the 30 June 1996 date to 30 June 1994.

Amendments carried.

The Hon. J.C. IRWIN: I want to ask the Minister about draft programs and annual reports to be submitted to the advisory committee. New section 69*f*(1) provides:

A council must—

(a) submit to the Local Government Equal Employment Opportunity Advisory Committee for its advice and comment a draft equal employment opportunity program for the council . . .

Pardon my ignorance in this area, but does that mean that the council and the committee will look at the outside work force and the inside work force to see what males and females are employed in the whole area of the council's employment and then devise plans for more equal opportunity of employment?

The Hon. ANNE LEVY: I take it that a program would be prepared by the council with any assistance that it would like from the advisory committee, using guidelines which I am sure the advisory committee will make available to anyone who wishes to see them. As to how an equal employment opportunity program can be devised and subsequently followed into implementation, I take it that this would refer to the entire council work force. It would not just be a question of men and women; it would include people of non-English speaking background, people with disabilities, Aborigines, and any other disadvantaged groups who receive the protection of the Equal Opportunities Act. The prescribed day will be decided subsequently under regulation, but I am sure that a reasonable prescribed day will be chosen—probably more or less in tune with the production of the annual report.

Clause as amended passed.

Clause 9—'General principles relating to conduct of officers and employees.'

The Hon. ANNE LEVY: I move:

Page 7, lines 6 and 7—Leave out paragraph *(a)*.

This is in line with the simplification of the principles relating to councils. A number of sections have already been simplified: the general management functions and objectives of councils; the clause relating to chief executive officers and their responsibilities with regard to management and administration; the simplification of the principles of personnel management; and the simplification of the functions of the advisory committee. We now have a simplification relating to the conduct of officers and employees, which is more or less to leave out the last two and have a simplified form of wording which achieves the principles but results again in a simplification.

The Hon. J.C. IRWIN: I support the Minister's amendment.

Amendment carried.

The Hon. ANNE LEVY: I move:

Page 7, lines 14 to 16—Leave out paragraph *(d)*.

I spoke to this on the previous amendment.

Amendment carried; clause as amended passed.

Clause 10—'The auditor.'

The Hon. ANNE LEVY: I move:

Page 7, lines 19 to 23—Leave out paragraph *(a)* and insert:

(a) by striking out subsection (3) and substituting the following subsection:

(3) No person is eligible for appointment as a council's auditor except—

(a) the Auditor-General;

(b) a person who holds a practising certificate issued by the Australian Society of Certified Practising Accountants or The Institute of Chartered Accountants in Australia;

or

(c) a person who was eligible for such appointment immediately prior to the commencement of this subsection.

This amendment relates to the position of the auditor for a council. I will speak to my amendment and to the one on file from the Hon. Mr Irwin. They are obviously related, and I think it best to explain one by reference to the other.

The CHAIRMAN: My understanding is that Mr Irwin will not proceed with his amendment and has an amendment to your amendment.

The Hon. J.C. IRWIN: To save time, and to give some indication to the Minister, I want to say something about my amendment. I shall accept the Minister's amendment, but seek to amend it by adding 'the National Institute of Accountants'. I sought some advice on that and I understand that the simplest way is for me to be able to do it verbally rather than have Parliamentary Counsel draw it up and send it round. I hope that is acceptable. That is my aim.

The Hon. ANNE LEVY: The insertion of this clause into the Local Government Act arises, in the first place, from the abolition of the Local Government Qualifications Committee. Until now there has been a Local Government Qualifications Committee, run by the Government, which had to check the qualifications of individuals whom local councils wished to appoint to various positions.

It is felt that it is quite anomalous for the Government to have this control on local councils and that, provided they appoint people with suitable qualifications, they should have control as to whom they appoint—whom they consider suitable or what qualifications they consider desirable for a particular position. However, when it comes to the question of an auditor, there is of course public interest in making sure that an auditor is appropriately qualified and it would not be responsible to allow anyone to be appointed as an auditor who may or may not have the appropriate qualifications.

In putting forward the clause in the Bill, there has been no attempt whatsoever to change the current situation. In relation to the Local Government Qualifications Committee, approval was only given for someone who had particular qualifications which are spelt out in the Bill before us. The Bill, as presented, suggested that to be appointed as an auditor, the person had to hold 'a practising certificate issued by the Australian Society of Certified Practising Accountants or The Institute of Chartered Accountants in Australia' and that is the current situation. The amendment that I am moving adds 'the Auditor-General' and it is hardly necessary for me to explain why that option should be open.

I doubt whether anyone would in any way query that as an addition.

The further addition, which can be called a grandfather clause, is to ensure that anyone who is currently an auditor to a local government body can continue to be so. There is no intention to disturb any existing arrangements at all because, as I say, the purpose is not to change the existing qualifications system.

That leaves the question of the National Institute of Accountants as the sole point of dispute between the Hon. Mr Irwin and myself. While it is true that there has been concern in some places that membership of the National Institute of Accountants has not been included as a suitable qualification for the office *per se*, the reason for this is that, to become a member of the national institute does not necessarily require qualifications equivalent to those which are currently deemed appropriate. There may well be members of the national institute who would be eligible for membership of the Australian Society of Certified Practising Accountants and/or The Institute of Chartered Accountants.

However, there are other members who would not be so eligible. It is possible to be a member of the National Institute of Accountants without having a full tertiary qualification. It is felt that to permit membership of this body as a qualification for being an auditor in local government would be to permit people without a tertiary qualification to become auditors.

Those may well be desirable; I do not want to argue that point particularly. However, it would be a change to the present situation. Currently, people without full tertiary qualifications have not been accepted by the Local Government Qualifications Committee. I do not feel that we should now be changing the qualifications of auditors. There has not been wide consultation on this matter whether the qualifications for auditors should be changed, and I think it would be undesirable for us to do so without adequate consultations having occurred.

I would be most reluctant in any way to imply that we were lowering the standards for auditors of local government, which inserting 'the National Institute of Accountants' could mean. It may well be that the institute could alter its membership classification and have two classes of members: those with tertiary qualifications and those without. In that situation it would be quite appropriate to have an amendment to allow the classification of membership for which tertiary qualifications were necessary to be automatically eligible as auditors for local government, whereas those without could not be.

At the moment, however, the National Institute of Accountants does not have this differentiation between those with tertiary qualifications and those without. I may say that those without have undertaken a TAFE course, which is of much less duration and much reduced curriculum compared to the study undertaken by accountants with a full tertiary qualification. I have assured the institute that, if it had a category of membership that implied full tertiary qualifications, I would be happy to indicate that category of membership as automatic qualification to be a local government auditor under the Local Government Act. Until it does so, I think it would be inappropriate to include them.

The Hon. J.C. IRWIN: I think the Minister started by saying that by her amendment or the original Bill she had no intention of changing anything. However, the original Bill did change something, because those now practising as auditors would have been left out. That is why I understand the Minister is putting in the grandfather clause: to pick up those other people.

Again, the process of time-consuming consultation and thought by the Government, the Opposition and those who are lobbying tightens and straightens up some of the matters that were in the original Bill. The Auditor-General was not included in the original Bill, and I believe that he should be. He is now in the amendment, and I accept that the grandfather clause picks up some of those people who would otherwise have been left out.

Although I am not a full book on this, I understand from the sheet in front of me from the professional schedule of the ASCPA, concerning the public practising certificate, there is no mention of a tertiary degree. I will not try to read them out, but there are various certificates—ASA, FCPA and specialisation—and there is mention of tertiary qualifications, but not in the practising certificate.

The proposed amendment names the Australian Society of Certified Practising Accountants and the Institute of Chartered Accountants in Australia. My final amendment, which I hope to move to the Minister's amendment, seeks to include the National Institute of Accountants, which represents more than 1 600 members in Australia. The institute issues a practising certificate to its members, and part of its bylaws—(this is a pronouncement of the National Council of Accounting Standards)—states:

> Members of the National Institute of Accountants are bound by Australian accounting standards and approved accounting standards as promulgated by the Australian Standards Review Board and the Australian Accounting Research Foundation, now merged, and are also committed to its promotion of the International Accounting Standards.

In addition, the institute requires its members to comply with the Australian accounting and auditing standards, and its members must hold professional indemnity insurance cover. Under its former name, the Institute of Affiliate Accountants is referred to in the Municipal Officers Award in the definition of 'Accountant' for local government.

The NIA was not in existence when the old section 162 came into being in the Act, which is now going out. It is not as though this national institute is a newcomer to the field of accounting or auditing—certainly not local government auditing. If the argument comes down to degree qualifications, then many registered members of the two named accounting bodies may not or will not qualify to gain the practising certificate.

If they are already members and have a certificate, I guess they are covered by this clause. I do not believe that all their members who have practising certificates have tertiary qualifications. Later I will ask the Minister to tell me, if she can, whether the degree qualification is necessary to gain a practising certificate for the purpose of local government auditing, but I should not think it would be—at least at this time.

Auditing is a very specialised business, and not all accountants move easily into the auditing area. Indeed, it has been put to me that an accountant should have at least five years experience in local government accounting before being qualified by experience as well as a practising certificate to take on the increasingly important role of local government auditing.

Hence, the other parts of my amendment that I intended to move indicated that one should have at least five years experience in local government accounting before gaining the certificate to audit local government, and not all accounting degree curricula contain auditing as a subject. The associate diploma in accounting includes a semester devoted to auditing. It has been put to me that, if priority were applied to the best qualified people for local government auditing, it would be those licensed auditors under the Companies Code who ought to have, and do have,

considerable practical experience. That may cut the field back far too much at this stage, because there may not be a huge number of people with that qualification, and they would be expensive to employ in local government.

The accountability now demanded quite correctly of councils and Governments which use other people's money—public money—is such that the whole area of local government auditing should be given a much higher priority. Spot auditing of local government may not be good enough, but a full audit would, I am advised, be an expensive requirement. However, sooner or later ratepayers and electors must decide if the price to pay for a full accounting of how their money is spent is cheap compared to what may happen or be hidden by the expenditure in high risk areas of such things as entrepreneurial activity.

I should not just dwell on entrepreneurial activity but add that even the traditional areas of local government financial activity need to be audited in such a way as to ensure that the spending of public money shows complete accountability. My rounds of some councils, and contacts that I have had from people who are worried about councils around South Australia, have often pointed to the fact not only that some of the councillors do not know what is going on with the bookkeeping work that comes through to them but also that the auditors' reports are not disclosed to the councillors: they are kept by the mayor or the chief executive officer, and the councillors do not know what the auditor is saying about how their books are being kept. They are custodians of the public money for the people of that area, and they should at least know what is going on in the audit area. I take note of the Minister's second reading reply, when she said yesterday, or the day before:

> We are seeking to provide the local government sector with a mechanism by which standards can be maintained by reference to the relevant professional bodies without State intervention.

I certainly agree with that. The Minister goes on:

> We trust the professional bodies to maintain professional standards amongst their membership ... Advice I have received indicates that membership of the National Institute of Accountants does not necessarily require qualifications equivalent to those regarded currently as necessary.

In my words, audit training and experience as offered by the NIA is not always achievable by all members of the other two bodies. So the NIA has something to offer local government.

Three reputable accounting/auditing bodies operate in South Australia at this moment, and they have been spelt out. It is surely up to a local council itself to determine whom it wants to employ as its auditor: it is its choice, and it should have the ability to choose from anyone who has a practising certificate from any one of the three bodies. It is up to the councils to decide when they employ an auditor whether they will accept the practising certificate of the National Institute of Accountants or of the other two.

I have already argued that the same NIA members would hold more credentials and experience in local government auditing than members of the other two bodies, and I take nothing away from the other two bodies. Rather, I argue that the NIA should not be ignored.

The three bodies all issue practising certificates. If the Minister is prepared to think about it, I have already indicated that I want to add to the middle part of her amendment after 'a person who holds a practising certificate issued by the Australian Society of Certified Practising Accountants or the Institute of Chartered Accountants in Australia,' the words 'or the National Institute of Accountants who is a member or fellow of that institute'. I am happy to omit 'or who is a member or fellow of that institute', which could come under regulations elsewhere. However, that body tells me that membership of the NIA is achieved by demonstrating five years experience in applied accountancy work, and that a further seven years as a member must be served before becoming a fellow. This is a higher qualification than an accountant straight out of school, so to speak.

The National Institute's membership requirements insist on auditing as a subject. In at least one admission criterion for membership of the ASCPA auditing does not need to be in the curriculum. In that case, a person who qualifies as an associate for ASCPA would probably not be admitted as an associate to the NIA. I refer to a person who takes the graduate diploma course at Flinders University to add to a degree already held. Therefore, it is submitted that the NIA can assure the public that all its members have studied all the elements of accounting, including auditing.

I refer to the ASCPA professional schedule, which I quoted a minute or two ago. Under item 5, headed 'Public practising certificate', the NIA can match and even exceed those requirements, as follows: to be issued with a public practising certificate, an NIA member must be admitted to member or fellow status. This requires a minimum of five years experience in a responsible accountancy position for a member, and 12 years for a fellow. The person must undertake a public practising orientation course and attend update courses each year. A person must have professional indemnity insurance and must do 20 structured hours and 20 unstructured hours of continuing professional education per annum. The NIA member who holds a public practising certificate meets all the requirements of the Minister. It seems ludicrous to me and other people that the amendment that I propose should not be accepted now rather than some day in the future, because it is inevitable.

Individual councils will make their decisions as to whom they will employ. We are talking about auditing, not just those people whose experience and training is only in accounting. I have already said that in the Minister's new amendment I can accept the Auditor-General.

I mentioned at the beginning some local government auditors who are practising now but who may not be members of the two groups mentioned in the Bill and the amendments; they are now picked up by the grandfather clause. I urge members to consider support for this compromise that I have offered, which includes the National Institute of Accountants. I move:

> To amend the Hon. Anne Levy's amendment by adding after 'Australia' the words 'or the National Institute of Accountants'.

The Hon. ANNE LEVY: I must formally oppose the amendment moved by the Hon. Mr Irwin to my amendment. I do so because this matter has not been discussed or thoroughly examined. There is obviously a great deal of validity in what the honourable member has said, but we should not change the existing situation on the run. The position of auditor is a very responsible one, and increasingly so in this day and age, and any change to the qualifications required for a local government auditor must be thoroughly discussed and assessed, and that has not occurred.

We have certainly made inquiries. We have tried to put into legislation the existing situation—no more and no less. We understand that the certificate of the Australian Society of Certified Practising Accountants is regarded as a tertiary qualification.

The national institute certainly does not have the same requirements for membership as do the other two bodies which have been mentioned. It may well be that a complete consideration should be made of the qualifications for local government auditors, but I would suggest that that should properly be done within the framework of any new legislation which can arise as a result of negotiation. It is a

matter that would need to be thoroughly examined. There would have to be discussions with the Local Government Association. There would have to be consultation with people experienced in auditing and familiar with the requirements of auditing in the local government sector. I imagine that the opinion of the Auditor-General, or people from the Auditor-General's office, should be sought and, equally, an examination should be made of the requirements interstate.

A very extensive report on auditing in local government has been prepared by the New South Wales Public Accounts Committee. Whilst that report discussed a great many of the issues which the Hon. Mr Irwin has been raising, its final recommendation was that accreditation of council auditors should be the responsibility of the local government sector through membership of relevant professional bodies—as we are doing—and it listed only the Australian Society of Certified Practising Accountants and the Institute of Chartered Accountants as the appropriate bodies. It did not list the National Institute of Accountants.

As I say, I would be very happy for this matter to be examined thoroughly—and it should be—but it must be examined initially not by this Chamber, as I doubt that any member taking part in this debate has any auditing experience at all, but by people who are knowledgeable in this area and who can take advice from professionals such as the Auditor-General as to what is appropriate. As a result of such discussions, if it is felt that the criteria should be altered, I would be very happy to alter it, but my amendment merely maintains the *status quo*. It is a different way of achieving what is happening now. Instead of the Local Government Qualifications Committee, a government body having to approve auditors for the local government sector, the professional maintenance of standards will be achieved through membership of professional associations, and these are the only two which can ensure that the current situation is maintained. By all means let us undertake an examination to see whether the current situation should change, but that has not been done and my amendment merely maintains the *status quo* with regard to qualifications.

The Hon. J.C. IRWIN: I certainly agree with the move to allow the professional bodies with their standards to issue the practising certificate for councils to choose from either of those two bodies whom they desire to be their auditor. I am just arguing—and I thought quite forcibly—that the other group that is qualified (in my humble opinion) to be part of that group has been left off—the national institute—and hopefully, if the Minister is giving an assurance, as I understand, that there be an undertaking to look at the matter—

The Hon. Anne Levy: If the Local Government Association would like it. I do not want to force it upon them.

The Hon. J.C. IRWIN: I received a letter today out of the blue from an accountant who is a Bachelor of Economics, but he is a member of the National Institute of Accountants. I do not see why he has to move to another institute just to obtain the practising certificate, when he is well qualified to have it from the national institute. I cannot understand that at all. The Minister says that this was done on the run. My amendment has been on file since 19 February—almost a month ago. The Minister has included other amendments since then. We received a whole heap of amendments yesterday and the day before—

The Hon. Anne Levy interjecting:

The Hon. J.C. IRWIN: It should not take a month or more to look at whether my amendment had anything in it at all. It mentions the national institute, so we do not need to take more than a month to look at it and decide whether we do need a tertiary qualification. That seems to be the dispute. I am told that the other two bodies do not issue practising certificates to all tertiary qualified accountants. Even if they are tertiary qualified accountants, they have not had any basic work in auditing. We are talking about auditing, not accounting. I hope that the Hon. Mr Gilfillan has thought about my amendment. I am certainly sticking to my guns to have the National Institute of Accountants included in this legislation.

The Hon. I. GILFILLAN: I feel that the Minister may very well solve this amicably if she would give an undertaking that there will be consultation with the LGA on the advisability or otherwise of including the National Institute of Accountants, which has also written to me, and to determine whether there is any reason why it should have been excluded. If she is pursuaded that there is good reason to include it, we will handle legislation to do so. If we are going to be cooperative and facilitate sensible amendments to this legislation, I see no reason why we could not handle a short Bill if it were only for that one purpose.

Frankly, I do not know enough about the industry. I have not had an opportunity to discuss this matter at length with the LGA, and the LGA has not raised this matter specifically with me. For those reasons, I have no evidence before me to be strongly for or against Mr Irwin's amendment. If the Minister is prepared to give that undertaking which I have asked of her, I would oppose the Hon. Mr Irwin's amendment. On the other hand, if she does not, I would support his amendment on the basis that the councils do have the right to choose people that they think appropriate, and that seems to be safeguard enough.

The Hon. ANNE LEVY: I do not like blackmail, but without the implied threat from the Hon. Mr Gilfillan, I am very happy to open discussions with the Local Government Association regarding the question of appropriate qualifications for being an auditor of local government. I do not want to force such an examination on to the LGA if it does not wish to make such examination.

If it is happy with the *status quo*, I would certainly not insist that it enter into negotiatons, but I would be very happy to suggest that, cooperatively, a full examination be made of the proper requirements for auditing in local government. I would suggest that this examination include not just members of the LGA but people qualified in auditing. I would like the opinion of the Auditor-General. I assure the Hon. Mr Gilfillan that, if there is advice that the membership of other societies should be added, if that is a consensus view, I would be more than happy to amend the legislation accordingly. I do think it requires a thorough examination and consultation before such changes are made.

The Hon. J.C. Irwin's amendment to the amendment negatived; the Hon. Anne Levy's amendment carried; clause as amended passed.

Title passed.

Bill recommitted.

Clause 8—'Substitution of s.67 and Division II of Part VI'—reconsidered.

The Hon. I. GILFILLAN: The reason for the recommital is that we did have some grounds for concern about new section 69b and there was some contention about it. I felt optimistic that with time for discussion we would reach a relatively amiable compromise, and I believe that has occurred. There is a mild confusion in relation to the two drafts of amendments on file from the Minister and myself. However, I really do not believe that that will cause us more than a hiccup. There was a flurry of excitement, perhaps in the gallery, at the thought that *(f)* was actually disappearing. I express gratitude to the parties with whom I had discussion; they all showed a broad preparedness to

compromise on behalf of the greater whole and their own particular vested interest, and that includes the President of the LGA, Mr Plumridge, and the Secretary of the Municipal Officers Association, Mr Theo Marks. I believe the Minister deserves, and gets from me, an accolade for her reaction to the situation as it emerged. I pay tribute to the Minister in that respect.

There has been some confusion as to whether paragraph *(f)* should remain in the Bill because it was one sticking point for the LGA. My amendment originally intended to leave *(f)* in, but at the time I was going to move it the LGA was going to accept that, feeling uncomfortable about it, but realising there were bigger issues at stake. It was not going to carp on it but accept that that was part of the give and take of the political process. In the ensuing hours, the amendment was drafted for the Minister (and she can correct me if I am wrong) and *(f)* was inadvertently deleted. So, for a short period, she was being carried shoulder high around here as a Minister of extraordinary sensitivity to the LGA's requirements. She has lost that elevation, but she still remains pretty high in my respect.

The issue is pretty much what we expected to happen a few hours ago when we had discussions. I have no objection to the Minister moving her amendment in an amended form if she so wishes, and we can show what harmony can prevail when goodwill has its head.

The Hon. ANNE LEVY: I move:

Page 4, lines 40 to 43—Leave out paragraphs *(b)* and *(c)*.

I thank the Hon. Mr Gilfillan for his comments. I apologise for the typing error in my amendment which I was unable to check before it was circulated. The honourable member and I are on exactly the same wave length with regard to this matter. This collection of amendments is all interrelated and forms part of the package. They certainly come from the disquiet felt by the LGA over the wording over the clause in the Bill as originally drafted. Yesterday, I moved amendments to this new section, which I had proposed to the Local Government Association, and its reaction was that it felt the proposed amendments considerably improved the section without completely saying it and those amendments were accepted by the Committee.

The LGA obviously was still perturbed with the form of this provision, but it did not offer any wording that could be considered as an alternative; it merely opposed the provision. I would like to pay tribute to the Secretary of the Municipal Officers Association, who has suggested the form of wording which has found acceptance by many of the parties in this game, and I hope by a majority of this Committee.

The wording on which Parliamentary Counsel worked came from a document which had been presented to the Local Government Ministers Conference by a working party which included representatives from the Australian Local Government Association, and the wording in that document had the approval of the ALGA. The difference—though this is not relevant to lines 40 to 43, but I should discuss them all simultaneously—from what the ALGA had approved and the wording before us results from one being legal language and the other not. It is also to fit in with the other points in this section so that the wording is compatible with it and flows. However, its sentiments are exactly those from the national local government labour market survey, to which the ALGA was a party.

The first part of this amendment is to leave out paragraphs *(b)* and *(c)* and to pick up at a later stage a phrase which we feel encompasses the important elements of this without using the words which apparently the LGA did not like, but it expresses the important sentiments as a principle for the legislation.

The Hon. J.C. IRWIN: I will not delay the Committee for too long. I shall address my remarks to the whole of section 69 *(b)* bearing in mind that we are going to amend certain bits. I will go over the section briefly. I am not always happy with compromises, and I guess that many people are not. One might ask the Minister whether she would compromise on the word 'merit', and I am sure that she would not. There are stances in the area of this legislation on which the Local Government Association and I are not happy to compromise. There has been a spirit of compromise pretty well throughout the Bill, so I suppose we could say that there should be on this section.

The LGA is not happy with paragraph *(f)*. However, it is aware of political reality, as I am. It has heard the discussion, and the reality is that *(f)* will stay in. I believe that that can be dealt with in industrial relations forums. I know that this is not saying how things should be dealt with; it is saying that officers and employees should be afforded reasonable avenues. I do not know of any occasions on which councils were not forced to give reasonable avenues of redress either of their own volition or by being told by other bodies to be reasonable about something that they had done internally.

We have looked through this Bill over and over again and we have looked at the compromises and the conservation and changing of words and compressing of principles, bearing in mind that most of the things on which we had disagreement have been principles, but they are just words. I have pored over them. I cannot take them any other way than that most of them are singularly meaningless. They are fantastic principles which are put out in words. The word 'merit' is fantastic, the word 'achievement' is fantastic, the words 'highest common denominator' are fantastic, but what do they mean? If there are 10 applicants in a line, they all have merit. Then what does one do? Employ the whole 10? Of course not. Somebody has to make a decision that one is better than the others, whether male or female, young or old, married or unmarried. I point out that all these words on which we are hung up are pointless and meaningless on their own.

The Hon. L.H. Davis interjecting:

The Hon. J.C. IRWIN: That is all it is. There are a hell of a lot of words which need not be here. Some people outside this place have already asked me why we are leaving them in and why we do not knock them all out. They ask: 'What are you going to gain by having it in there, except that it is part of something else or it is mentioned in the Government Management Act or whatever.' Because it is in one, I do not see why it has to be in another. I hope I made the point with the word 'merit'.

The Hon. L.H. Davis interjecting:

The Hon. J.C. IRWIN: That is right. I am prepared to support the amendment which has been moved and the others that are coming up. I bear in mind that further down the track—maybe after 30 June 1992 when the Local Government Bureau disappears—there will be an opportunity to look at the legislative framework that is needed for the local government sector to be as independent as possible. That might be the time to consider whether these things are needed and whether local government wants them. The LGA has indicated to me and to the Minister that in many cases it does not want all these things spelt out in prescriptive terms, because they do not mean anything. In legislative terms, where there is a penalty at the end of it or if it is prescriptive in the sense that the Bill sets out something to be done by a person or a council, I can see a meaning in

it, but for much of this I cannot. Reluctantly, I will support the Minister's amendments.

Amendment carried.

The CHAIRMAN: The next amendment (page 5, line 8) is already in so we do not need it; that was done yesterday,so that amendment lapses.

The Hon. ANNE LEVY: I move:

Page 5, lines 11 to 17—To insert:

and

(g) fair and equitable practices must be followed with regard to recruitment and all other aspects of personnel management.

I have explained it, so I will not go through it again. There is one question I would ask of you, Mr Chairman. Paragraphs *(b)* and *(c)* having been left out and paragraphs *(g)* to *(i)* having been eliminated, can the provisions be now assigned the appropriate letters?

The CHAIRMAN: I am assured that this will be done automatically.

The Hon. ANNE LEVY: All right. Whether this becomes *(f)* or *(g)* is irrelevant, because it will be the last one, whatever it comes to alphabetically.

Amendment carried; clause as amended passed.

Bill read a third time and passed.

ROAD TRAFFIC ACT AMENDMENT BILL (No. 4)

Adjourned debate on second reading.

(Continued from 12 March. Page 3452.)

The Hon. I. GILFILLAN: The Democrats support this Bill. Historically, it has been very clearly spelt out that from my earliest days in this place I have crusaded for road safety and have argued for .05 to be the maximum blood alcohol level that should be tolerated in drivers on our roads. I believe that that is one of the main amendments, if not the main one, to be effected by this Bill, although there are other matters to which I will refer briefly. Specifically, in relation to .05, it has been argued that there is little statistical evidence to indicate that there is a dramatic increase in road accidents amongst drivers who are within the .05 to .08 blood alcohol category. I hold the view that everybody who drives a vehicle on the road needs to have their faculties at their best; that is, they need to be prepared to drive defensively as well as normally. We are morally obliged not only to drive safely and within the rules of the road but also to be prepared to take evasive action both from a self-protective point of view and also to avoid injury to other people in vehicles or to pedestrians. Therefore, from that point of view, I do not believe it is necessary to argue that we must have dramatic statistics in order to establish the argument that .05 should be the tolerable blood alcohol limit.

The other factor that I believe is significant is the deterrent factor. The psychological approach that we all need to have imbued—and I include myself in this—is that we ought not to feel confident in driving at any time, having imbibed alcohol, although obviously, there will be occasions when that will take place. I think there has been a very marked deterrent from the .08 factor. Apart from one's sense of duty and conscience, there has been the fear of being apprehended. The fact that there have been very few breath analysis stations for part of the years during which the .08 limit has been in effect has tended to allow a sense of complacency to grow in the minds of drivers.

I think that there are two quite clearly separate but effective ways of increasing the persuasive powers for South Australian drivers to be more conscious of their blood alcohol level before driving on the roads. The first is a much more visual presence of breath testing facilities and the fact that one is more likely to be tested more frequently; the other is that the level at which a person will commit an offence should be sufficiently low so that it has an influence on how much they drink before taking a vehicle onto the roads.

Although it is not dealt with in this Bill, I think it is appropriate to state that I believe that eventually all premises that sell alcohol for public consumption should provide breath analysing equipment.

The Hon. Diana Laidlaw: You did not even speak on my private member's Bill.

The Hon. I. GILFILLAN: I had spoken years before you thought of it, and I actually moved motions in this place about 3½ years ago to that effect that they should be obligatory in hotels. The new generation of breathalyser equipment which will be available before the end of this year requires servicing only once every three months and will probably be available at a price between $1 500 and $2 000. This means that, as the public pay for the use of the units, those premises will, in many cases, actually make money by having them installed. I think that it is a—

The Hon. Peter Dunn: How do you come to that conclusion?

The Hon. I. GILFILLAN: Because I have been interested in it. The fact is that there has been breath analysis equipment in several hotels in South Australia for some years. I have visited some of those hotels, and the proprietors were quite satisfied that they were making a small profit and at least covering the cost involved. One of the hotels that I visited was at Port Lincoln and another was in Adelaide, and both proprietors held the same view—

The Hon. Peter Dunn: Were they charging more?

The Hon. I. GILFILLAN: It was a flat rate. I cannot remember if it was actually 20c or 40c, but the argument should not be so much about what it costs. I am assuring honourable members that, to the best of my advice, it will be a minimal net cost to the proprietors of premises to install such equipment. We all need to have a clear and accurate guide of what our blood alcohol levels are in relation to a certain consumption of alcohol. It varies not only between sexes; but also between individuals of one sex who are of different weights, and I believe that it probably varies between individuals of the same weight and of the same sex. That ought to be part of the available information so that people can drink and enjoy the hospitality of the premises in which they choose to be entertained. Yet they should be assured and feel confident that, in doing so responsibly, they are not likely to be breaking the law. Unless that equipment is readily available, it is very much a hit and miss event.

So, the Democrats welcome the move to introduce the .05 blood alcohol level. The penalties that are proposed in this Bill are in different categories and, although we recognise that it is reasonable to have a lower penalty for the .05 to .08 category, we believe that, where there is a repetition of an offence between the .05 to .08 category, the penalties after the third offence in five years should be a mandatory court action with a maximum fine of $700. That is the current penalty in the Bill for offenders who choose not to pay the expiation fee. This seems to us to be a sensible recognition that between .05 and .08 is a dangerous blood alcohol level at which to drive and that people who repeatedly drive and are apprehended at that level should not be able just to buy their way out on a $100 expiation fee.

The other matters were so widely publicised as they came up as a package deal for the State Government to collect

its $12 million for road expenditure that I do not need to go through them in an itemised manner. I indicate that I support all the measures. I also support the recognition that there are large areas of South Australia where 110 km/h is still reasonable and safe, depending on how that is applied. The second reading speech is pretty wishy-washy in the way that this is identified, and we will need to see how it is implemented on South Australian roads.

Speed limiters have been sought by people concerned with road safety in respect of heavy vehicles. This move is to be welcomed. I do not intend to spend much time in the second reading debate dealing with other matters in the Bill, except in respect of helmets for bicyclists. Members will again remember that this is an initiatve that the Democrats have been proposing for some years. I have an article, part of which I would like to read to the Council, from the *Medical Journal of Australia* (volume 154, 4 February 1991). Entitled 'Helmets for bicyclists—another first for Victoria', the article states:

On 1 July 1990, safety helmet wearing by bicyclists became mandatory in Victoria. This is a world first—as was legislation in 1970 for mandatory seat belt wearing. In 1989, 96 bicyclists were killed in Australia, representing 3 per cent of all road fatalities. Most deaths follow collisions with motor vehicles. Two-thirds of the victims are less than 18 years of age. One-third of reported bicyclist casualties sustain head injuries which are the cause of death in more than two-thirds of the fatalities.

A further paragraph from this same article—this shows clearly the credentials of the move to make the wearing of helmets mandatory—states:

In 1984 the Road Traffic Authority established a Bicycle Helmet Promotion Task Force. Also in that year market research was undertaken and publication of television, press and radio commercials was begun.

Mandatory helmet wearing was recommended by the Road Trauma Committee of the Royal Australasian College of Surgeons and has subsequently been supported by the Australian Medical Association, the Neurosurgical Society of Australasia, the Australian Brain Foundation, the Child Accident Prevention Foundation of Australia, the Social Development Committee of the Parliament of Victoria and the House of Representatives Standing Committee on Transport Safety. Victoria Police has supported mandatory helmet wearing and believes that it will be able to enforce the law. The law has had strong community support. A recent survey found that 84 per cent of Victorian teenage and adult cyclists and parents of young children riding bicycles agreed with the legislation.

I remind the Council that this article relates specifically to Victoria, but that support for the mandatory wearing of helmets is made on an Australia-wide basis by those eminent medical committees, societies and colleges to which I referred earlier. I refer to some statistics in the article relating to helmet wearing, as follows:

In 1983 the Road Safety and Traffic Authority commenced surveys of helmet wearing rates. Between 1983 and 1990, the metropolitan helmet wearing rates for primary school children increased from 4.6 per cent to 74.8 per cent; for secondary school students the rates rose form 1.6 percent to 24.7 per cent; and for adults commuting on arterial roads they rose from 26.1 per cent to 43.5 per cent. Country wearing rates have been lower, increasing for primary school children from 30.5 per cent in 1985 to 64.4 per cent in 1990, for secondary school children from 5.4 per cent to 25.7 per cent and for adults from 9.4 per cent to 14.5 per cent. These rates are markedly greater than those reported for other Australian States and overseas.

This is the result: those increases are the result of the campaign in Victoria. The article continues:

The period of helmet promotion has seen a significant decrease in Victorian hospital admissions for bicyclists with head injury. Information was obtained from the Motor Accidents Board between July 1981 and December 1985 on the number of Victorian bicyclist claimants killed or injured and on the frequency of head and other injuries. Comparison was made between July 1981-June 1983 and January-December 1985. Helmet wearing rates were two to three times higher in the later period. The number of bicyclists killed or requiring hospitalisation for head injury was 25.1 per cent less in the later period; this finding was associated with a 9.6 per cent increase in admissions for injuries other than head injury.

I emphasise that, in the period in which helmet wearing had increased due to the campaign, there was an increase in overall admissions for injuries, other than head injuries; in other words, there was a quite marked increase of nearly 10 per cent in the number of accidents. At the same time, there was a 25.1 per cent reduction in head injury rate in the same time. The report continues:

In the Melbourne metropolitan area the percentage reduction in head injury admissions was 34.7 per cent, and the increase in non-head injury admissions 11.9 per cent.

Again, that same factor comes out. Although there was an increase in non-head injuries of nearly 12 per cent, there was a substantial drop in head injury admissions of 34.7 per cent. The report continues:

Inclusion of accident data for 1986 has shown a 30 per cent reduction in cyclists admitted to hospital with serious head injuries.

I will not draw any more quotes into my comments, because the point is made clearly there. The argument that I find repeated most vociferously is that it is a free country and that cyclists should have the freedom to choose whether or not they wear helmets. The same arguments applied to seat belts.

I reject both arguments on the grounds that it is an enormous community cost for brain injury, and it is not just the victim who pays that cost. True, I am very sorry for the victims, so I feel fully justified in this legislation being introduced and its becoming compulsory for bicyclists to wear helmets. The question that I will be raising and emphasising is that the timing of the introduction of this must be measured against the availability of helmets. It would obviously be a great distress and counterproductive for the measure to be brought in before cyclists have had an opportunity to buy helmets from outlets in which supplies are available.

Finally, I was concerned about the penalty for parents of children under 16 who were caught not wearing a helmet. With that in mind, I intended to move an amendment so that the parent would commit an offence only if he, she or they had not provided a helmet and had not encouraged the child to wear the helmet. The relevant provision in this respect is as follows:

A parent or other person having the custody or care of a child under the age of 16 years must not cause or permit the child to ride or be carried on a cycle unless the child is wearing a safety helmet that complies with the regulations and is properly adjusted and securely fastened.

My understanding of the words 'cause or permit' is that the parent would have to be pro-active in the child's not wearing a helmet, that is, either causing by not providing a helmet or not insisting that the child within that parent's custody is not wearing a helmet. New subsection (2c) provides a defence if there are mitigating circumstances. However, my reading of the Bill suggests that there is enough protection and that no penalty will apply to a parent or other person having custody if a child who is out of sight of that parent or other person is caught not wearing a helmet. Under those circumstances, I do not intend to move an amendment to that part of the Bill.

Finally, although I welcome the road safety initiatives, I regret that they were not taken on the voluntary instigation of a Government that was really concerned about road safety and had recognised the value of these measures, but had to be virtually bullied and browbeaten.

The Hon. Peter Dunn: Blackmailed.

The Hon. I. GILFILLAN: Blackmail usually means that the object of the blackmail has to do something that he does not want to do.

The Hon. Peter Dunn: That is exactly right.

The Hon. I. GILFILLAN: I am not as savage as the Hon. Peter Dunn on the Government's attitude to this. I do not see that the Government is showing reluctance now to introduce these measures.

The Hon. Peter Dunn: Why didn't they give us the money without the riders?

The Hon. I. GILFILLAN: That interjection needs some comment because I believe the riders are more important than the money. The factors involved in this Bill will save many more lives and reduce more injuries than will the paltry $12 million. It is a cheap price for the reduction in accidents and injuries that will result from these measures. However, I deplore the method of negotiation between the Federal Government and the State Government on this matter. Having said that, I do not want to belittle the significance of the Bill, and I indicate that the Democrats welcome it, even if it is late on the scene. The sooner it takes effect, the better. We support the second reading.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—'Commencement.'

The Hon. DIANA LAIDLAW: The legislation will come into operation on a day to be fixed by proclamation. Will the Minister advise what time frame is envisaged? I ask the question for a number of reasons. I have on file an amendment to clause 15, which recommends a delay in the introduction of helmets for persons under 16 years of age. In addition, I strongly believe, as has been the case in Victoria and New South Wales, that the measures for a reduction in the blood alcohol concentration limit and for the introduction of helmets must be accompanied by a constructive, positive publicity campaign. As the Hon. Mr Gilfillan suggested, there must also be time for the purchase of those helmets.

The Hon. ANNE LEVY: I am advised that it is expected that many parts of the legislation will be brought into effect as soon as possible.

The Hon. Diana Laidlaw interjecting:

The Hon. ANNE LEVY: Most of the Bill will be brought in as soon as possible. The Commonwealth requirement is that the helmet provisions be implemented by 1 January 1992 and, while I do not know exactly when it will come into operation, there will be a phase-in period for that part of the legislation. With regard to speed limits, and so on, there will need to be time for evaluation and resigning of a number of roads, so the introduction of those parts of the Bill may also be delayed. However, it will only be the delay that is necessary to review and implement the signage.

The Hon. I. GILFILLAN: In my second reading speech, I asked whether the Minister could assure me that the Government would ascertain the number of helmets of suitable type that would be available and make sure that adequate numbers would be available for the public before the implementation of the provision regarding the compulsory wearing of helmets.

The Hon. ANNE LEVY: I am advised that a number of helmets of suitable type are available, and that enough helmets are available.

The Hon. I. Gilfillan: Does that reflect an actual survey?

The Hon. ANNE LEVY: It is not as a result of an actual survey, but it comes from the work that has been done on the helmet rebate scheme and from the knowledge that has been gained therefrom. I assure members that factors like this will be taken into account.

Clause passed.

Clause 3 passed.

Clause 4—'Interpretation.'

The Hon. ANNE LEVY: I move:

Page 2, line 4—Leave out 'who does not hold a driver's licence' and insert 'who is not authorised under the Motor Vehicles Act 1959 to drive the vehicle'.

I have moved this amendment because the original amendment moved in the other place was perhaps drafted in haste and was open to the interpretation that it referred only to any person who does not hold a driver's licence. This terminology does not satisfactorily cover the situation of a person who holds a licence but is under suspension or is disqualified from driving. Parliamentary Counsel suggested the wording of my amendment so that it would cover the following categories: persons who have never held a licence; persons who hold a licence but have been suspended or disqualified from driving; and persons who are driving a vehicle for which the licence they hold is not appropriately endorsed. These categories are all set out in the Motor Vehicles Act. The most appropriate form of words ensures that all these people are covered, not just those who do not hold a licence. It should be just as much an offence if the person holds a car licence but is driving a truck or if the person holds a licence but has been disqualified or suspended from using it.

The Hon. DIANA LAIDLAW: The Liberal Party supports this amendment. In fact, we thank the Minister for moving it. It not only clarifies but strengthens the intention of the mover in the other place (the member for Hayward) who was very keen to see this anomaly addressed, where a person who had a probationary or learner's licence and was caught with a blood alcohol reading could be heavily fined but a person with the same reading who did not hold a licence could get away scot-free. The Minister has clarified the situation, for which we thank her.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 2, lines 6 and 7—Leave out paragraph *(b)* of the definition of 'prescribed concentration of alcohol' and substitute the following paragraph:

(b) in relation to any other person—

(i) if the person has not attained 25 years of age—a concentration of .05 grams or more of alcohol in 100 millilitres of blood;

(ii) if the person has attained 25 years of age—a concentration of .08 grams or more of alcohol in 100 millilitres of blood.

This amendment seeks to introduce a two-tier system for blood alcohol readings of fully licensed drivers. The Liberal Party has no quarrel with the present system of zero level for learner and probationary drivers, but it wishes to see a two-tier system where persons 24 years and under could not have a blood alcohol reading when driving of higher than .05, and other fully licensed drivers above that age limit could have a maximum blood alcohol reading of .08.

In respect to earlier comments made by the Hon. Mr Gilfillan in his second reading contribution, I point out that the Government is moving this amendment of a blanket .05 level for fully licensed drivers without conviction or enthusiasm. This is quite clear from the Minister's second reading speech in the other place when he said that left to his own devices, he would not have moved in that direction, that is, towards .05. The Liberal Party believes that the worst problems on our road in respect to drink drivers are those who have a blood alcohol level of .1 or .15 and above, but this Bill does nothing to address that most pressing problem.

We also recognise the tragic fact that, whilst 24 per cent of licence holders are under 25 years of age, they account for some 40 per cent of accidents and fatalities on our roads. We believe that, if we are to introduce a positive intiative in this area of blood alcohol readings, we should focus efforts towards the problems on our road. The Liberal Party, with clear conscience and conviction, believes that this amendment addresses road safety issues in terms of drink driving. How has the Government come to the conclusion that a blanket decrease in the maximum blood alcohol reading for drink drivers from .08 to .05 will save three lives a year?

The Hon. PETER DUNN: I think the amendment is sensible and I support it. The arguments that the Government has put forward for the lowering of the blood alcohol level from .08 to .05 have not been accompanied by enthusiasm, and I can understand that. The Government will wear some flak because of it. In fact, the Government has been blackmailed by the Federal Government. Either we apply a zero concentration of alcohol, as is the case if one flies an aircraft—and I abide by that religiously—or if it is legal to drink alcohol and if it is legal to drive with some concentration of alcohol in the blood we apply a .08 limit, which is the most sensible limit. I support this amendment on that basis.

The Hon. ANNE LEVY: I oppose the amendment firstly and primarily because it does not meet the requirements of the Prime Minister's road safety package. In consequence, the advice from the Federal Minister for Transport and Communications is that, if this amendment were supported, South Australia would not be eligible for its share of the black spot funding. However, in terms of the question asked by the Hon. Ms Laidlaw, the figure of three fewer deaths if the limit is changed from .08 to .05 is extrapolated from Homel's research on the changes in New South Wales and Queensland. He clearly showed that a reduction of the legal limit from .08 to .05 had a small but statistically significant effect on alcohol related fatalities on Saturdays which could be expected to apply in South Australia. It is from that data that the estimate of three has been obtained. I should point out, and I think it is important in discussing the individual clauses of this legislation, that the legislation is a package as a whole and that, while the reduction from .08 to .05 can be expected to have a small but significant effect on the road toll, the much greater effect in reducing the road toll will come from expending the $12 million on the black spots.

It has been estimated that when that money has been spent the reduction in the road toll will be about 26 per year. I agree that it is impossible to put a value on a human life, but I am sure that all members would agree that a reduction of 26 in the road toll is something that we would welcome enthusiastically, and that it must be viewed as a package with the overall effect that, if implemented and if $12 million is spent on the black spots, there will be a considerable reduction in the road toll.

The Hon. DIANA LAIDLAW: With respect to Dr Ross Homel's research, I note that he stated in the conclusion of his report on counter measures to drink driving that, with respect to Saturday nights:

> The .05 law may have had an impact, although clearly random breath testing is still the major factor.

The Liberal Party supports that finding. Further to the Minister's answer about the proclamation of the various measures in this Bill, does the Government intend to introduce this .05 across-the-board BAC limit as a separate measure from increased random breath testing initiatives in this State? I ask that question because such a distinct and separate operation was undertaken some years ago in New South Wales.

On the basis of different dates for the introduction of .05 and random breath testing in New South Wales so many statistics have been extrapolated in recent times, indicating quite positively from a road safety point of view that the random breath test initiative in New South Wales has had the most significant, indeed dramatic impact on lowering the number of daily fatal crashes in that State. It would be most interesting to see whether similar work could be undertaken in South Australia, because at the moment in road safety terms it is only on that work in New South Wales that any observer or researcher of these matters can rely.

Finally, as the Minister has indicated that this was one of a package of measures insisted upon by the Federal Government, will she indicate whether the Minister representing the Minister of Transport intends to introduce a .02 BAC limit for drivers of taxi, trucks, buses and trains? I understand that the Minister made such a commitment on 2 October last year, that New South Wales is looking at such a move and that Queensland has already passed such legislation. I do not know if and when the Minister of this State proposes to do so, but I understand that that also is part of the package.

The Hon. ANNE LEVY: I understand that the .02 for certain categories of drivers is receiving very serious consideration. I cannot say more than that at the moment. I shall be happy to check with the Minister and provide something more up to date when possible.

South Australia currently has a BAC limit of .08, and we are testing one in three with the current frequency of testing. The requirement under the Prime Minister's package is a random breath testing frequency of one in four, so we are already doing better than that requirement in terms of frequency of random breath testing. In consequence, there is no need for us to alter the present random breath testing arrangements in order to qualify for the black spot funding.

The Hon. PETER DUNN: That surprises me. I have been breath-tested three times in my life, and that was in New South Wales, not in South Australia. I understand the reason is that each policeman, policewoman or policeperson has a breath tester and they spend about two hours a day testing. Recently, while in New South Wales, I was stopped twice in about a week in different locations. Two policemen were present. I was asked to breathe into the box, and all was well. That is just my experience, and I think it would be reasonable if that were the case in South Australia. I cannot see why we should not have .08 anyway.

What is the difference between the Hon. Ms Laidlaw's amendment and the suggestion in the second reading speech to expiate between .05 and .08? I see no difference. If one can expiate a fine from between .05 and .08 and after three years get back one's demerit points, it is as though nothing had happened. In effect, it is the same as the Hon. Ms Laidlaw's amendment, except that that states that one cannot have a limit above .05 until one reaches the age of 24. In my opinion, the effect is the same. I do not think you are fair dinkum about it, to be quite honest.

The Hon. ANNE LEVY: There is a considerable difference. A person over the age of 25 with a BAC of .07, under the Hon. Ms Laidlaw's amendment, would not be committing an offence. Under the legislation as proposed such a person would be committing an offence, but an offence which can be expiated. There is a considerable difference between not committing an offence and committing an offence which can be expiated.

The Hon. Peter Dunn: What is the difference?

The Hon. ANNE LEVY: One is an offence and the other is not. The expiation is merely the penalty which relates to that offence. The requirement from the Prime Minister is that anyone, of any age, over .05 is committing an offence. The question of penalties is different from the question of whether or not it is an offence, and it is for that reason that the Hon. Ms Laidlaw's amendment is not acceptable.

With regard to the Hon. Mr Dunn's experience of being random breath-tested three times in New South Wales, I can say that I have been random breath-tested three times in South Australia, in each case scoring exactly zero. It is merely an indication that one cannot generalise from samples of one. I would have thought that the Hon. Mr Dunn's scientific training would have taught him that. One could say that, if one in three is being tested and I have been tested three times, it means that there are eight other people who have not been tested at all, of perhaps whom the Hon. Mr Dunn is one, in South Australia. I say this with tongue in cheek, Mr Chairman, recognising the unreliability of statistical generalisations from grand samples of one.

The Hon. I. GILFILLAN: I strongly oppose the amendment. It is unfortunate that, in contemplating a zero blood alcohol content for L and P plate drivers and .02 for drivers recognised as being more responsible drivers, in taking this further we are not acknowledging the fact that any alcohol in the blood has an immediate effect on the motor skills of a driver. Knowing this, we are considering an amendment that would virtually mean that the effect between .05 and .08 is of so little consequence that we ought not to be bothered with it. I totally reject this. For whatever reason the Government has decided on this measure in the Bill—perhaps it is purely to get money—I say, shame on its motives and for not taking whatever steps it can, small though some of the factors are, to reduce death and injury on the roads.

The second reading explanation states that at least $8 million a year will be saved in South Australia as a result of the reduction to .05. If for no other reason, that factor should influence the Hon. Peter Dunn, for example. This is not taking into account the fact that more accidents would be avoided and that the skills of drivers with a blood alcohol level below .05 would be better. Also, as I pointed out in my second reading speech, a number of people will be influenced not to drink to excess. For those of us who are serious about reducing the number of road accidents and increasing the skill and effectiveness of all drivers on the road, it is essential that we accept .05 only, and that we do so willingly, to reduce road accidents. I oppose the amendment.

The Committee divided on the amendment:

Ayes (7)—The Hons L.H. Davis, Peter Dunn, K.T. Griffin, Diana Laidlaw (teller), R.I. Lucas, Bernice Pfitzner and R.J. Ritson.

Noes (8)—The Hons T. Crothers, M.J. Elliott, I. Gilfillan, Anne Levy (teller), Carolyn Pickles, R.R. Roberts, T.G. Roberts and G. Weatherill.

Pairs—Ayes—The Hons J.C. Burdett, J.C. Irwin and J.F. Stefani. Noes—The Hons M.S. Feleppa, C.J. Sumner and Barbara Wiese.

Majority of 1 for the Noes.

Amendment thus negatived; clause as amended passed.

Clause 5—'Driving whilst having prescribed concentration alcohol in blood.'

The Hon. I. GILFILLAN: I move:

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Line 40—Insert 'first or second' before 'category'.

After line 43—Insert subclauses as follows:

(6) A traffic infringement notice must not be given in respect of a third or subsequent category 1 offence.

(7) In determining for the purposes of subsections (5) or (6) whether a category 1 offence is a first, second or subsequent category 1 offence—

(a) any previous offence against subsection (1), or against section 47 (1), 47e (3) or 47i (14) for which the defendant has been convicted;

and

(b) any previous category 1 offence that has been expiated by the defendant,

will be taken into account, but only if the offence was committed or allegedly committed within the period of five years immediately preceding the commission or alleged commission of the offence under consideration.

As I foreshadowed in my second reading speech and earlier in explanation relating to the mix-up with amendments, my amendment is aimed at incurring a penalty on a repeat offender of category one, which is a .05 to .08 expiable offence. In relation to that, the Minister in the second reading explanation states:

- for first offenders, who are aberrant drinkers and whose BAC is passing through the .05 to .08 range, the penalty may not in itself be a major deterrent, but these people would become exposed to the threat of higher penalties for repeat offences in the higher ranges beyond .08.

The sanctions to be applied to drivers detected with a BAC level between .05 and .08, that is, a traffic infringement notice with an expiation fee of $100 along with three demerit points, have been structured with deterrence and not revenue collection as the prime objective.

My amendment, if passed, would allow a driver to have two expiable offences in the .05 to .08 category in a five year period, but on the third offence the matter would have to be heard before a court with a category one maximum penalty of $700.

I recommend it to the Committee because, as I have already argued, there is good argument to persuade people to avoid driving at above .05. Although it may sound a heavy penalty to some, $100 is not dramatically significant and would not act as a deterrent. If someone has so flouted the law and has been willing to commit three of those offences within five years, they must appear before a court and the court should determine what penalty it should impose up to the limit in the Bill of $700.

[*Midnight*]

The Hon. ANNE LEVY: The Government opposes the amendment as it believes the penalties as set out in the Bill are appropriate and are perfectly adequate, particularly when one takes into account the situation concerning demerit points. There will be an expiation fee which is a monetary penalty but there will also be automatic demerit points and, as we all know, if individuals reach 12 demerit points they lose their licence. I am advised that if we look at 20 year old males with drivers licences in South Australia, 66 per cent have already got demerit points primarily for speeding. Amongst 20 year old females with drivers licences, 23 per cent have demerit points for speeding.

The females are far more responsible than the males in the speed at which they travel. With 66 per cent of 20 year old males already having demerit points, the extra demerit points they will gain for repeated offences will, with a high probability, lose them their licence and it is felt that this is far more appropriate than clogging up the courts with cases taken to court without any chance of an expiation fee, and that the loss of licence from accumulated demerit points is the appropriate penalty for repeated offenders.

The Hon. DIANA LAIDLAW: The Liberal Party does not support the amendment.

Amendment negatived; clause passed.

Clauses 6 to 10 passed.

Clause 11—'General speed limit.'

The Hon. DIANA LAIDLAW: I indicate that the Liberal Party is strongly opposed to this move to lower the general

speed limit to 100 km/h from 110 km/h. We believe it is unnecessary, certainly, on any basis of research of which we are aware. We certainly believe that it is unwarranted in terms of the conditions of the roads in SA and the amount of traffic on our roads, and we believe that it is ludicrous in terms of the speed limiting legislation for heavy vehicles, which we will be discussing in a few moments, and the 100 km/h speed limit that was set some years ago for heavy vehicles.

At that time it was agreed that the speed limit between such vehicles should be distinguished by at least 10 km/h on the open road as part of the general speed limit. That was for road safety reasons and now, as part of this emotional claptrap that we see dressed up as a road safety package, we see the Federal Government insisting that the State Government pull back on those earlier initiatives in terms of speed limits on open roads, and it is now insisting that we adopt 100 km/h as a general speed limit. I find it ludicrous that we have this very strong, unqualified statement in the Bill that a person must not drive a vehicle at a greater speed than 100 km/h, but the Minister has repeatedly suggested that he will overlook that on an *ad hoc* basis—at whim.

We do not have any idea what basis or criterion will be used to declare that 110 km/h is the appropriate speed limit for this or that road. We have no idea what roads will be so declared, or when or why, nor who will be bearing the cost of any of these changes from a speed limit of 110 km/h to 100 km/h. I note that, in response to questions on clause 2 in relation to proclamation, the Minister indicated that time was necessary for the evaluation and resigning of roads. Will the Minister give an outline on what basis this evaluation is to be made, who is nominating such roads and, if a change in the speed limit is declared by the Minister, who will be bearing the cost of that change in signing?

The Hon. ANNE LEVY: The officers of the Department of Road Transport are currently reviewing the State's major rural arterial roads to determine which should be zoned at 110 km/h. In doing so, the Department will use the Australian Standard AS1742.4 to determine speed zones, and it will also take account of the accident rate of the roads in question. It is likely that superior roads in the rural area will be considered for zoning up to 110 km/h, and it is likely that most of them will be, which means that generally the roads used for long trips will have the higher speed limit.

The Hon. Diana Laidlaw: And the cost for changing the signage?

The Hon. ANNE LEVY: That will be met by the Department of Road Transport. There will be no cost for councils.

The Hon. PETER DUNN; Can the Minister inquire as to whether any dirt roads will be allowed to be driven on at 110 km/h, or will that automatically come under the 100 km/h restriction?

The Hon. ANNE LEVY: Each one will be considered on its merits but, in general, one would expect that dirt roads would not be zoned for 110 because conditions on those roads can change so dramatically according to weather conditions. Each one will be examined.

The Hon. PETER DUNN: Can the Minister give me the accident rate per head of population indicating the difference between New South Wales, Victoria and South Australia?

The Hon. ANNE LEVY: I do not have that information available but I will seek it and provide it when possible.

The Hon. PETER DUNN: I do not recall how recent were the figures that I saw about six months ago, but they indicated a higher accident rate in the eastern States than in South Australia per head of population. I am at a loss to understand why we are reducing the speed from 110 km/h to 100 km/h and causing a huge increase in cost to people, just in time alone in some cases. I really am surprised. Will local government have any input in determining what maximum speed will be permitted on their roads?

The Hon. ANNE LEVY: I understand that the department will be liaising with local government in this matter but the department, as the one bearing the cost, will have the final say.

The Hon. Peter Dunn: Do you mean that it will not have any say?

The Hon. ANNE LEVY: There will certainly be liaison with it and consultation. I appreciate that the Hon. Mr Dunn does not like the proposed reduction from 110 km/h to 100 km/h, but I cannot understand why he says that he does not know why this is being done. I am sure that he knows very well why it is being done. It is being done because it is part of the Prime Minister's package which must be followed if we are to obtain funding to eliminate black spot areas. He may not like the explanation; he may not like the result of it; but he surely knows why it is being done.

The Hon. PETER DUNN: I certainly do know why it is being done. I quite agree with the Minister—it is being done because the Prime Minister has blackmailed the Government. The Minister was so weak that he fell over in front of him, got on his hands and knees and took the money. The Minister should have said, 'We will have the money but we will not have any strings attached.' Talk about a weak mob! No wonder the State Bank and all the other institutions in the State have run into trouble, when you are that weak. I think it is outrageous that, because the Federal Government takes the money from us and gives it back, it can attach these strings. What next?

Progress reported; Committee to sit again.

ADJOURNMENT

At 12.17 a.m. the Council adjourned until Thursday 14 March at 2.15 p.m.