LEGISLATIVE COUNCIL

Thursday 12 September 1991

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

PAPER TABLED

The following paper was laid on the table:

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

Casino Supervisory Authority—Annual Report, 1990-91.

MINISTERIAL STATEMENT: EGG INDUSTRY

The Hon. BARBARA WIESE (Minister of Consumer Affairs): I seek leave to make a statement on behalf of my colleague the Minister of Agriculture in relation to the egg industry.

Leave granted.

The Hon. BARBARA WIESE: The egg industry in Australia has been highly regulated since 1941 and South Australia, in common with other States, has legislation controlling egg production and marketing administered by a statutory egg marketing authority which, in our case, is the South Austrailan Egg Board. The egg industry in South Australia has been preparing for change since the legislation was last amended in 1987 and the Government has supported a gradual move toward deregulation.

In 1989 the New South Wales Government removed all controls on egg marketing and production and sold the New South Wales Egg Corporation; at the same time paid $15 per hen quota in compensation to producers, giving a total bill to the taxpayer of about $61 million. South Australian producers realised at the time that the deregulation of the New South Wales egg industry had serious implications for the industry in this State. It was also predicted that New South Wales producers would increase egg production and seek markets in other States. This is in fact what happened and considerable quantities of New South Wales eggs have been sold in Queensland and Victoria for some time, and more recently, significant quantities of eggs have been offered for sale in South Australia.

Following the deregulation in New South Wales, the UF&S and the South Australian Egg Board sought advice from the Minister of Agriculture on this Government's views with respect to moves taken in New South Wales and our attitude to deregulation. He advised that a phased program of deregulation was the preferred course in our opinion and also that we would not be considering compensation payments to producers. Both the UF&S and the Egg Board considered the Government's view reasonable in the circumstances. Our discussions led to the UF&S and the Egg Board asking him to consider appointing a working party to consider future strategies for the egg industry. These strategies were aimed at putting the South Australian industry on a competitive footing with interstate producers.

The Egg Industry Working Party was formed and recommended that a central grading floor be established to grade, pack and distribute shell eggs and to manufacture and distribute egg products in South Australia. The Government supported this strategy on the grounds that it would provide the industry with an egg handling facility large enough to capture economies of scale in egg handling and enable South Australian producers to compete with producers in other States. This approval aimed to ensure that all regions of the State were assured of a steady supply of good quality eggs.

In July 1990 the board acquired the grading, packing and distribution assets of the two metropolitan grading agents. The board decided to consolidate these as a central egg handling facility at Keswick. This was done to create a central grading floor with sufficient capacity to achieve a scale of economies that would allow our producers to compete with subsidised New South Wales egg producers. The consolidation of these activities with existing pulping capacity at Keswick is proceeding and is expected to be completed by the end of November.

It needs to be stressed that at the time the board was moving with some haste to complete the acquisition of the two metropolitan grading agents. He became concerned about some aspects of the process the Egg Board was following. At a subsequent meeting with the full Egg Board he expressed his concerns to the board. He told the board that while it may have been following the principle of the recommendations of the working party, some elements of the pursuit of those recommendations seemed to indicate a want of sound business practice.

The board was told that it should have sought his agreement prior to entering into contracts for the purchase, especially with respect to the terms and conditions, even though under the Act they were not obliged.

The board was also requested immediately to appoint an 'official manager'. Upon consideration of this request, the board sought his concurrence to the appointment of a financial consultant. In December he approved the appointment of Mr David Olifent to this position. Mr Olifent was requested to oversight the preparation, implementation and monitoring of a business plan for the board.

Under the existing legislation a formal review of the board is required every three years. This review has been completed recently and on Tuesday the Minister of Agriculture tabled a copy for the information of members. This brings us to the critical point that the egg industry has reached in recent weeks.

In July of this year, New South Wales producers started selling eggs in South Australia and this led to a sharp fall in retail prices and the South Australian egg marketing legislation was challenged in the Federal Court by Bi-Lo. In order to meet the interstate competition, the board reduced wholesale egg prices. This resulted in a drop in the farmgate price. The board and Bi-Lo subsequently agreed on conditions for the regrading of interstate eggs to be sold by Bi-Lo and the matter has been held over for review by the Federal Court in November this year.

At this time interstate trade in eggs has resulted in a substantial reduction in retail prices in the metropolitan area. Interstate egg producers have been faced with low returns from eggs for at least 12 months and some producers have been forced out of the industry. Rationalisation will occur in the egg industry at a national level over the next few years. On the other hand, it is likely that some of the most efficient farmers will have opportunities to expand their producion.

In July this year a formal agreement was signed at the Special Premiers Conference committing the States and Territories to adoption of uniform national food standards. When these national standards are applied it will mean that eggs from other States will not have to be regraded before being offered for sale in South Australia and thus will remove a barrier to interstate trading in eggs.

The entry of interstate eggs will mean that egg production controls, which are the cornerstone of the current egg legislation in this State, will be much less effective. Producers

will be faced with lower prices for their eggs and, as it stands, the legislation which restricts the number of poultry they can keep limits their flexibility and their ability to respond to market demands.

These recent events indicate there is a need for change and for fairly rapid change so that the industry becomes competitive and egg marketing arrangements reflect a national rather than a State perspective. South Australia produces 8 per cent of the nation's eggs with a gross value of production of about $23 million. The Minister of Agriculture considers that it is important that the egg industry is maintained in South Australia. It is likely that, in the future, South Australian producers will have to share part of their local market with interstate producers, but he would like to see South Australians retain the major share of the market and also develop markets in other States if possible.

In order to improve the efficiency and reduce costs of the post-farm phase of egg marketing, the Minister of Agriculture is looking at options for the industry to take over the egg handling facility from the board. When the transfer has occurred and the facility is operating under new ownership is is the intention of the Government that the egg industry be deregulated. This approach is accepted by industry. Accordingly, he has instructed that negotiations start with the UF&S and the board regarding the transfer of the egg grading and pulping facility to the industry.

Following deregulation consumers would have a freer choice of eggs produced either here or interstate, while it is expected that producers would continue to produce and sell high quality eggs. It would be anticipated that a dynamic and competitive local producing sector will be able to retain the purchasing loyalty of South Australian retailers and consumers. Consumers would also benefit from lower prices resulting from increased competition and from more efficient marketing. The following table, which I seek leave to have inserted in *Hansard* without my reading it, as it is purely statistical, reveals comparative egg price trends in the various States of Australia in recent years.

Leave granted.

EGG PRICE TRENDS

1. The Australian Bureau of Statistics (ABS) regularly publishes quarterly retail prices for 55g eggs in all capital cities. 55g eggs are one of the most popular grades of eggs but grade weight differences among States means that the ABS has to choose the grade nearest to 55g for price comparisons.

2. Retail prices (cents/dozen) for the main capital cities since September 1986 are as follows:

	Quarter	Syd.	Mel.	Bris.	Adel.	Perth
1986						
	September	151	178	182	202	171
	December	154	169	183	204	168
1987						
	March	154	162	183	204	171
	June	158	161	181	204	170
	September	168	169	181	190	170
	December	159	167	181	188	168
1988						
	March	165	163	190	183	168
	June	186	174	188	183	171
	September	206	187	190	200	180
	December	205	186	196	203	181
1989						
	March	200	183	203	209	180
	June	209	192	203	221	191
	September	181	193	203	226	190
	December	177	192	204	225	193
1990						
	March	172	177	205	225	191
	June	171	178	204	226	193
	September	173	188	205	226	194
	December	170	186	203	223	194

3. ABS data is determined from a random sample of eggs from a range of retail outlets in the various capital cities. The data is often criticised by egg producers who maintain that the data does not reflect the true situation in that it does not give any indication about price variation.

The Hon. BARBARA WIESE: Egg quality standards in this State are applied by producers and are also regulated by the board and the South Australian Health Commission. Measures are in place at packing floors to ensure that cracked, misshapen and soiled eggs are removed. Eggs are graded for weight on farms or when they are packed for sale. Deregulation of the industry would still give consumers protection by regulations administered by the South Australian Health Commission. These regulations contain provisions prohibiting the sale of dirty, contaminated or cracked eggs. Egg quality will remain an important matter for producers, who will be competing for markets with producers in other States and, in order to be successful, they will have to ensure that their eggs are of the highest quality and that the interval between the farm and retailer is as short as possible. For these reasons the Minister of Agriculture is confident that the current standards of egg qualtiy would be maintained.

I would like to emphasise the need for rapid change in the current marketing arrangement for eggs in this State; otherwise the initiative will be lost to interstate interests. I would expect that the negotiations which have been initiated with industry will result in the successful transfer of the egg grading and pulping facility to producers, and that the transition will result in the formation of an efficient business which is capable of matching interstate competition. The Minister would like to see the negotiations completed by 1 December 1991 and the transfer effected by 1 January 1992. If the negotiations are not successful he will seek public tenders for the purchase of the egg handling facility, and, if no acceptable offers are received by the Government, he will examine other options for disposal of board assets.

It is proposed that current legislation will remain in place until the transfer of the trading floor is completed, but I am aware that the regulations, particularly the ceiling on quota, could hinder industry development, and this view has also been accepted by the industry. Therefore, the operations of the current Egg Board will be reviewed and reassessed and every opportunity will be taken to reduce the costs of board operation and to pass on the savings in the form of reduced levies on producers. To this end the board has already taken the decision to completely phase out equilisation levies from the beginning of next month. The Minister of Agriculture fully supports that decision. He realises that deregulation would also affect consumers and employees at the board. Accordingly, in line with Government practice, he has released a green paper on egg marketing legislation which outlines the background to the legislation and possible options for future regulation of the egg industry for public comment. I now table a copy of that paper.

The course of action I have outlined regarding the transfer of the egg handling facility prior to the deregulation of the industry is in line with the recommendations in this report and the wishes of producers and, in my view, is in the best

interests of South Australia. The Marketing of Eggs Act was enacted as a wartime measure in 1941, and the industry has been highly regulated for 50 years. Since the enactment of quota legislation in 1973 there have been few new entrants into the industry. After deregulation there would be no restrictions on the numbers of hens kept on farms, and producers would be able to develop their farms to take advantage of market opportunties. There would also be opportunities for new entrants to develop special markets, for example, for free range eggs or to meet the need for eggs within their local areas.

I also wish to advise the Council that the Chair of the South Australian Egg Board, John Feagan, has resigned for personal and family reasons. I wish to take this opportunity to thank John for his service to the South Australian egg industry during the time he chaired the board. Notwithstanding the critical challenges facing the industry at this time, it is clear that John Feagan devoted himself to tackling them. I can now announce that the new Chair of the South Australian Egg Board will be Trevor Kessell, a former senior executive with the Westpac Banking Corporation and Natwest. Mr Kessell will bring considerable financial expertise to the board. Finally, I also advise that in recent months there have also been some changes in the membership of the board. I believe these changes will ensure that it is best able to assist industry face the changed conditions of today and the future with confidence.

QUESTIONS

CRIMINAL INJURIES COMPENSATION

The Hon. K.T. GRIFFIN: I seek leave to make an explanation before asking the Attorney-General a question on the subject of criminal injuries compensation.

Leave granted.

The Hon. K.T. GRIFFIN: Levies of $5 on expiation fees, $20 on convictions in magistrates courts and $30 on convictions in higher courts are made under the Criminal Injuries Compensation Act and paid into the Criminal Injuries Compensation Fund. Those expiation fees upon which the levy is made are predominantly the traffic infringement notices, but other expiation notices are equally affected, although breaches of university regulations and parking regulations are generally exempted. When this scheme for a levy on expiation fees and convictions was debated in 1987 the Attorney-General indicated that the intention was to require prisoners to pay off the levy from their earnings in prison, that those on community work orders would be required to pay it and that it was not the intention to allow the levy to be written off by serving time in prison in default of payment.

In 1988-89 the levies collected amounted to $1.553 million; in 1989-90 the amount was $1.894 million; and in 1990-91 the amount was $2.179 million. These amounts all go into the Criminal Injuries Compensation Fund to meet compensation awards to persons who suffer injuries as a result of criminal acts and to make payments to the Victims of Crime Service to enable it to provide certain services to victims. Last year over $4 million was paid out to meet compensation awards.

A disturbing aspect revealed in the Auditor-General's Report is that at 30 June 1991 outstanding debts amounted to $9.2 million, an increase of $1.7 million over the previous year. In addition, debtor write-offs amounted to $2.2 million compared with $270 000 in the previous year. By way of background I should say that last year 203 000 traffic infringement notices were issued compared with 151 000 in the previous year. Total levies, that is, levies collected plus outstanding debtors, plus write-offs, since the scheme came into operation, amount to $17.296 million, so that the levies actually collected during that time amount to only about 32 per cent, with write-offs so far amounting to 14 per cent, with the potential for much more. My questions are:

1. What action is the Government taking to endeavour to collect the outstanding debts?

2. Is it diligently pursuing those who owe these levies or is it merely turning a blind eye to the enormous amount of levies outstanding?

3. What is the reason for the large proportion of outstanding debtors and write-offs?

The Hon. C.J. SUMNER: I am not sure whether the honourable member is referring to the amounts of money that have not been recompensed to the fund by offenders who have not paid the criminal injuries compensation orders made against them, or whether the honourable member is referring to levies that have not been paid.

The Hon. K.T. Griffin: I understood that the very substantial amount still outstanding related to levies.

The Hon. C.J. SUMNER: Presumably they are outstanding because they are attached to fines that also have not been paid. That, I assume, to be the problem. Not all fines, regrettably, are paid and, if a levy is attached to a fine, I imagine that that levy, along with the fine, is also not paid. I will have to take the question on notice and bring back a reply.

FREE STUDENT TRAVEL

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Minister for the Arts and Cultural Heritage, representing the Minister of Transport, a question about free student travel.

Leave granted.

The Hon. DIANA LAIDLAW: According to the Auditor-General's Report tabled earlier this week 'the South Australian Government reimbursement to cover the cost of free travel for students increased by $8.3 million to $21.6 million, and represents the full year effect of free travel introduced from 30 January 1990'. Subsequently, I have clarified with officers in the Auditor-General's Department that the figure of $21.6 million includes some $4.5 million of concessions for tertiary students and $1.5 million of concessions for children. However, that left $15.5 million as the actual cost of free travel for primary and secondary students last financial year.

This figure of $15.5 million represents a massive blow-out in the cost of free travel for school students. It means that the scheme cost over double the $7.2 million that the Government estimated the 'free for all' travel scheme would cost last financial year. Of course, the blow-out confirms the validity of the Liberal Party's criticism that the Government had never accurately or honestly calculated the cost of its 1989 free travel election promise. I ask the Minister:

1. Why did he avoid identifying the cost blow-out of the free student transport scheme when slashing the scheme in the budget the previous week?

2. Recognising that students previously eligible for free transport were not provided with and did not have to validate a ticket, what system did the STA use to calculate and confirm the amount of fare reimbursement last year to cover the cost of free travel for students?

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

OFFICE VACANCIES

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Minister of Small Business, representing the Minister of Housing and Construction, a question about office vacancies.

Leave granted.

The Hon. L.H. DAVIS: During lunchtime, I walked down King William Street and along Grenfell Street. Judging from the forest of signs on buildings, it would appear that Adelaide is literally for sale or for lease. It almost seems that the only winners at the moment are the signwriters. In King William Street, between Pirie Street and North Terrace, there are 14 buildings for sale or with space to let. In fact, almost half of the buildings in that short strip surrounding the State Bank building are for sale or have office space available.

In Grenfell Street the situation is even worse. On the southern side of the street, between Hindmarsh Square and King William Street, 12 of the 15 buildings have space to let or are for sale. In Grenfell Street, between East Terrace and King William Street, there are 22 for lease or for sale signs, plus the deteriorating ugliness on the East Terrace-Grenfell Street corner where a Government agency (namely, Beneficial Finance) has knocked down a facade to leave a gaping, unattractive hole.

I have discussed with several experts in the office accommodation market this alarming evidence of the desperate economic plight in the heart of Adelaide. It should come as no surprise, even to the Minister of Small Business, that we now have an all-time high vacancy rate for office accommodation in the Adelaide core district. It is close to 16 per cent; in other words, one square metre in every six square metres of office space in the heart of Adelaide is vacant; one floor in every six is vacant.

The net take-up rate over the past six months has apparently been at a historic low. Some existing firms continue to contract their employment, and some additional space, such as the Remm office buildings on North Terrace, will continue to come on stream. Certainly, the anecdotal evidence coming from people in the field is that the problems of the State Bank and SGIC have added to the gloom and will undoubtedly impact on the recovery in this important sector of our economy.

There is also a continuing deterioration in retailing in metropolitan Adelaide. In February 1990, I reported that I had driven the 2.7 kilometres along Unley Road between Greenhill and Cross Roads, one of the premier retail areas in metropolitan Adelaide. At that time there were 34 for sale or lease signs in vacant shops and offices. Earlier this week, I again drove along that 2.7 kilometre strip. There are now 45 for sale or lease signs in vacant shops and offices—a 32 per cent increase in the figure of just over 18 months ago.

My question to the Minister is: given her extraordinary answer to a serious question yesterday, at which the small business sector will be aghast when it receives it, as it will do in due course, does the Minister agree that such stark statistics add further confirmation to the continuing deterioration of the economy in Adelaide?

The Hon. BARBARA WIESE: As I understand it, this question is directed to my colleague the Minister of Housing and Construction, and I will be happy to refer it to him. But I should like to remind the honourable member that the oversupply of office accommodation in Adelaide at this time has much more to do with the forces of a market economy, where people have chosen in the past few years to build office accommodation without having—

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Davis asked the question; it would do him good to listen to the answer.

The Hon. BARBARA WIESE: Speculative building has been going on in Adelaide whereby companies have invested in office buildings without having leasing arrangements tied up as in previous years might have been the case for people in this industry. That has led to something of an over supply situation. It is not the first time it has happened in Adelaide and it will not be the last time. It is happening in other parts of Australia as well. There is nothing particularly peculiar about these circumstances as far as South Australia is concerned because the same sorts of things are happening nationwide. I should be happy to refer the honourable member's question to my colleague in another place and I am quite sure that a complete answer will be provided.

RETIREMENT VILLAGES

The Hon. I. GILFILLAN: I seek leave to make an explanation before asking the Minister of Consumer Affairs a question relating to retirement villages.

Leave granted.

The Hon. I. GILFILLAN: I hope the Minister is not too surprised at having this question directed at her, because I believe she does have an unusual degree of empathy with people's needs and concerns, and it may well slide partly into her portfolio. The Retirement Villages Act makes it incumbent on the owners/managers of retirement villages to convene a meeting of the residents annually at which the administering authority must present accounts showing the gross income derived from recurrent charges and estimates of income from recurrent charges. That section of the Act also provides that the administering authority shall ensure that the residents have a reasonable opportunity to put questions to the authority or its representative at any meeting convened by the authority and ensure as far as practicable that the questions are properly answered.

I raise the question in relation to Cooperative Retirement Services Pty Ltd on behalf of the residents of one of its villages, the Braes Retirement Village, which is just one of 10 retirement villages run by Cooperative Retirement Services, with over 1 000 households involved. At the annual meeting in 1989, these residents took objection to an increase of $6 per week in the service charge levied against them. They believed that it was not justified and they had not received the evidence to support it. Questioning did not give them satisfactory answers. So, they continued to push the matter and eventually decided, through a residents' committee, that they would pay the old levy but, until the matter was resolved, withhold the extra amount. As a result, a letter on CRS letterhead, signed by the company's in-house solicitor, A.J. Kamm, was sent to each resident in the Braes Estate. The letter was couched in severe terms and informed the recipients that should they persist in refusing or withholding payment of the levy at the new level, they would be held to be in breach of their licence agreement and an order to this effect would be sought from the Residential Tenancies Tribunal. In other words, a threat of eviction was made.

As many of the people in these homes are elderly widows, unaccustomed to dealing with business matters, the ploy was effective and many of them paid the extra levy, fright-

ened of the consequences in the threatening letter. That was as a result of the 1989 annual meeting. At the annual meeting in 1990, the chairman for the owners, Mr Paley (the Deputy Chairman of the Cooperative Group), announced that no resolutions from the floor would be accepted. In other words, there was to be no democratic process from the members who were present, the residents, to raise matters for discussion. Bear in mind that it is a statutory requirement under the Act that this meeting be held.

Next week is the date for the 1991 meeting for this same Braes Retirement Village. The reason I ask the question is that the residents have come to me concerned that the same gag will be applied to them next week, denying them the only legal chance they have to raise matters to express their opinion in a proper and formal way. As a matter of interest for the Minister, I note in a comprehensive brochure issued by the Cooperative Group of Companies, of which Cooperative Retirement Services is a member, they emphasise their new spirit arising, a new spirit of cooperation in retirement. They imply a promise of making life easier and more rewarding, being totally committed to providing shelter, security and health care, and claiming probably the highest standard of retirement services and care available in the world.

I do not raise that to take issue with it, but I take the point that the reason for the question is that the residents in this particular village, and in others, I understand, feel that they are oppressed by the circumstances imposed on them by Cooperative Retirement Services. Because it is set up by an Act of Parliament, this Government and this Parliament must treat with concern the requirements for a fair go for these residents. My questions are:

1. Does the Minister agree that the refusal to allow resolutions from the floor at an annual meeting of residents is a denial of the democratic rights of residents?

2. Does she agree that the letter sent to the residents was intimidatory and threatening?

3. Will she move, or advise the Government to move, to amend the Act to ensure that residents can move resolutions from the floor at annual meetings?

4. Will she move to amend the Act to protect residents from threats of eviction in the course of disputes over levies?

The Hon. BARBARA WIESE: Without having the full facts of the situation concerning these particular retirement homes and the agreements by which residents and the company are operating, it is very difficult for me to make any specific comments about the circumstances that the honourable member has outlined. Certainly, if what he says is correct, at the very least it is a matter of considerable concern if residents in a retirement village feel that their right to raise matters is denied and that they feel threatened by the company that owns the village in which they reside. That is certainly a very serious matter and one that I am sure would be of real concern to all members in this place.

The honourable member may be aware that the Retirement Villages Act, which was passed in the first place to begin the process of providing appropriate protections for people in retirement villages, has now also been amended to enable the full protections of the Fair Trading Act to be provided to residents of retirement villages and also to provide access to the Residential Tenancies Tribunal. So, some measures are available already that it may be appropriate, in the circumstances which the honourable member refers, for residents in these retirement villages to pursue.

Work is currently under way for further protections to be enacted to extend the Act to cover other circumstances raised by people in retirement villages. Largely, these additional matters relate to some of the financial arrangements that apply to people signing agreements and becoming residents in a retirement village. So, considerable work has been done already that provides a range of protections.

Further work is under way, in consultation with people in the retirement villages area, to extend those protections. But, as to the particular issues that the honourable member has raised, if he or the people on whose behalf he is raising these matters would care to contact the Commissioner for Consumer Affairs or the Office of Fair Trading or, indeed, if that information could be provided to me, I will make sure that appropriate investigations are undertaken. If anything can be done to assist these residents under the provisions of the current law, we will ensure that such measures are taken.

ROYAL SOCIETY FOR THE BLIND

The Hon. BERNICE PFITZNER: I seek leave to make a brief explanation before asking the Minister of Tourism, representing the Minister of Health, a question on the subject of the Royal Society for the Blind.

Leave granted.

The Hon. BERNICE PFITZNER: The Royal Society for the Blind was established in 1884, over 100 years ago, and has provided excellent service to people of low vision. However, serious concerns have been raised by a senior member of the board, an ex-member of the board and staff, regarding the administration of the society, in particular, the authoritarian attitude of the CEO. Examples of some instances that have caused the disquiet are: the resignation of the Treasurer in April of this year; the peremptory dismissal of the Manager of Finance and Administration, without the consultation with the board (I understand that legal proceedings are being initiated by the manager); the change of the position of Manager of Finance and Administration to a new position of perhaps lower status without the consultation of the board; and the new position being filled recently, and some of the members of the board uncertain of the functions of this new position.

Expenditures of more than $2 000 must be endorsed by the board, but it has been reported that amounts of $12 000 on curtains and over $2 000 on spectacles have been spent without the board's endorsement. Consultation regarding the closure of Melrose House in North Adelaide was initially inadequate and caused gross anxiety to the occupants both in the nursing and the hostel sections. Other causes of disquiet are the possibility that the sheltered workshop at Gilles Plains will be downgraded and the funds allocated to the Adelaide Low Vision Centre, the fact that research grants were awarded to the University of Adelaide Community Health Department without proper award criteria and that a member of the board has links with that department.

We all know and acknowledge that the society has an excellent track record, as evidenced by millions of dollars donated and bequeathed to it by the community. Let us not allow poor management and administration to mar the society's record, as reported by a senior member of the board, who feels powerless to initiate any change. The Federal Government gives grants amounting to $760 000, which excludes funding for Melrose House. State Government grants amount to $1.6 million, which excludes the Adelaide Low Vision Centre. My questions to the Minister are:

1. Will the Government investigate the concerns as detailed in my explanation?

2. Will the Minister ensure that the role of the CEO is clarified and amended if necessary so as to result in a better communication with the board? At present, the constitution and rules with regard to the CEO are wide-ranging and vague.

3. Will the Minister suggest and encourage a review of the administrative structure to ensure that the processes and procedures of administration are in keeping with the role of the board and the principles of the society's principal Act of 1934 and the amending Act of 1974?

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

MULTICULTURAL AND ETHNIC AFFAIRS COMMISSION

The Hon. R.R. ROBERTS: I seek leave to make an explanation before asking the Attorney-General, representing the Minister of Ethnic Affairs, a question on the use of the word 'ethnic' in the name of the Multicultural and Ethnic Affairs Commission.

Leave granted.

The Hon. R.R. ROBERTS: Last weekend I had the pleasure of attending a festival in Port Pirie and representing the Minister of Ethnic Affairs, the Hon. Lynn Arnold, at Our Lady of the Martyr's festival activities, which are better known as the Blessing of the Fleet. I was pleased to announce the appointment of Dr Dino Gatoletta from Port Pirie to the Ethnic Affairs Commission and, following a short ceremony, I engaged in some discussions with prominent members of the Italian community, especially Molfettese, who come from Molfetta, where the blessing of the fleet tradition originated.

I was asked a number of questions about the role and function of the Multicultural and Ethnic Affairs Commission, which led to discussions with prominent members of the Italian community, both in Port Pirie and in Adelaide, with respect to the word 'ethnic'. I was disturbed to find that for one reason or another there is great concern in these communities with respect to the word 'ethnic' and I was fortunate to have on hand that night Mr Paolo Nocella, who is the recently elected Chairman of the Multicultural and Ethnic Affairs Commission, and we engaged in quite lengthy discussions both at the festivities and at a committee meeting the next night.

It is very apparent that the contemporary use of the word 'ethnic' is causing concern to those people in particular and, I am assured, to other communities. I have done some research into this matter and I find that in November of 1983, my colleague, the Hon. Mario Feleppa, asked the then Minister of Ethnic Affairs and current Attorney-General, the Hon. Chris Sumner, a question in relation to the use or mis-use of the word 'ethnic'. From the *Hansard* of that time I understand that the Attorney-General agreed with my colleague that the word 'ethnic' had become a little old fashioned and that there was need to find an alternative.

I believe that the Attorney-General requested the then Chairman of the Ethnic Affairs Commission, Mr Bruno Krumins, to give some consideration to this matter, and he subsequently came back with a recommendation. At that time, there was considerable debate within the multicultural communities in relation to this matter, with well-known Professor George Smolicz defending the use of the word 'ethnic'. However, since that time the word 'ethnic' has been used in a more derogatory manner. In fact, many young people born in this country of parents from overseas now find the term offensive.

It is fairly clear to me and to others that the word 'ethnic' in itself carries no offence but that, in contemporary language, words of one meaning often change. I can remember many years ago that a person described as a 'square' person was an example to us all, and that changed with contemporary usage and became a derogatory term. I have had recent experience with the word 'wicked'. I sent my daughter out to a show one night and when I asked her how it went she said it was wicked. I asked whether she got her money back. Unfortunately, I am told that 'wicked' now means that it is very good.

The Hon. M.J. Elliott: You're not wicked!

The Hon. R.R. ROBERTS: Not in contemporary terms, but I can assure the honourable member he is in the old ones! In more unenlightened times people of these particular backgrounds were subjected to some fairly derogatory terms and they now see a transposition, with those derogatory terms now being embraced by the word 'ethnic'. In fact, when talking to some of the younger generation of Italian people, I am told that their children are no longer subject to the old derogatory terms, but that they are all embraced in the word 'ethnic', and I am told that it is causing a great deal of anxiety. In the light of this, I ask the Attorney-General whether the Government, in consultation with the Multicultural and Ethnic Affairs Commission, will look at altering the name of the commission more to reflect the current usage of the word 'ethnic', in view of its contemporary meaning and the anxiety it is causing to members of the multicultural society.

The Hon. C.J. SUMNER: I am happy to take that up with my colleague, the Minister of Ethnic Affairs. I think that there may be something in what the honourable member says, although it is really a matter of the usage of the particular word and whether the word has taken on connotations which it was not intended to have when first coined as a description of people of minority cultural background in Australian society.

I think that it is fair to say that the first words applied to migrants to Australia were 'new Australians' or 'migrants' and, as more and more of those migrants came from non-English speaking backgrounds, it was felt that there was a need for a word which described not just the process of migration to Australia but also the reality of Australian society where people, whether first or second generation migrants, might have special needs as minority groups within the dominant Anglo-Celtic society of Australia.

Therefore, the word 'ethnic' was coined, probably some time in the early to mid-1970s to describe people who were part of minority groups, and not part of mainstream Australian society. Of course, it was originally coined as an advance on the words 'migrant' or 'new Australian', which were not considered to be appropriate any more to describe people of minority ethnic origin in the dominant Australian society, given that not all of those people were migrants, but some were second or possibly third generation Australians.

The Hon. R.J. Ritson interjecting:

The Hon. C.J. SUMNER: The Hon. Dr Ritson interjects and says that he and I belong to an ethnic group, and that in fact is true: we are all of some ethnic origin, no matter where we come from. Often, the term was used loosely. If you used the term correctly, as I attempted to do on most occasions, you were referring to people of ethnic minority origin or ethnic minority groups, because even the majority group are of a particular ethnic origin but, of course, are of a majority ethnic origin in Australia. Therefore, the correct use of the term was 'ethnic minority group', but it came to be referred to as just 'ethnic', which came to refer to people

of non-English speaking backgrounds, whether of first or second generation.

I think it is a word that accurately describes the situation within Australian society but, like a number of other words, as the Hon. Mr Roberts has rightly pointed out, it can change, if not in meaning but in relation to whether or not it is used in a derogatory fashion. I think that it is probably true to say that in some areas the word 'ethnic' is seen as derogatory. I think that is unfortunate because I think that 'ethnic minority' was a reasonable description for Australians of non-English speaking backgrounds.

Of course, now we do not talk so much of ethnic affairs but more about multiculturism for the whole of Australia so that policies are not developed for ethnic minority groups, but are developed recognising the multicultural nature of the whole of Australian society. The concerns expressed by the honourable member are worthy of consideration, and I will take them up with the Minister for his consideration.

WORKCOVER

The Hon. PETER DUNN: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister of Labour, a question about WorkCover.

Leave granted.

The Hon. PETER DUNN: I have been contacted separately by two farmers who claim there are inequities in WorkCover. Both farmers employed shearers for short periods as long ago as August 1988 and 1989. In each case the shearers stopped work because of loss of strength in their hands caused by a chronic wrist complaint called 'carpel tunnel'. This is a repetitious strain injury which takes time to develop and is not as a result of a sudden injury or action.

In the case of the farmer from Kielpa, Mr C.M. Greenfield, his shearer had only been employed for five days from 18 to 23 August 1988, when he went to a doctor and claimed WorkCover of $600 per day, which amounted to $6 733.60 by 31 December 1989. By October 1990 the payment had blown out to $12 696.60, but in June 1990 Mr Greenfield paid a WorkCover levy of 7.48 per cent. Because of this high payment his WorkCover levy for 1991 has had a 50 per cent penalty applied, and with all the other WorkCover increases, this now takes his levy to 13.021 per cent on all employees who work on his farm, even though the particular shearer in question had only worked for him for four or five days and his injury would have developed over some period of time whilst working in other shearing sheds. On a $20 000 salary for his property, that means an increase in his WorkCover premium from $1 500 to $2 700.

The second instance is of a farmer at Echunga whose property is on Kangaroo Island. The shearer spent two days shearing and was unable to continue due to 'carpel tunnel'. The shearer subsequently underwent an operation and had a claim from WorkCover of $5 208.80. A 50 per cent penalty was again incurred for all the workers on that property, but the majority of salaries and wages are incurred by the manager, not the shearers. I shall read the response that the gentleman from Echunga got from WorkCover:

> Unfortunately, WorkCover is unable to alter your levy rate this financial year, however, if you continue to provide a safe working environment, you may be eligible for a bonus next financial year.

They are not even sure that he will be eligible. Neither farmer denies the claim made by the shearers and both have excellent records of safety. Mr Greenfield has employed labour for 15 years without a claim. The farmer from Echunga has employed labour for 30 years with only two minor claims. As these injuries are of the type which develop over a period of time and would have been sustained whilst working on various farming properties, will the Minister instruct WorkCover to drop the 50 per cent penalty in these two instances?

The Hon. C.J. SUMNER: I understand the point being made by the honourable member, but I would suggest to him that the problems that he has outlined would be no different now than what they would have been under a system of private insurance. It is probable that a private insurer would impose some penalty in these circumstances, although that would possibly be the subject of negotiation with the insurer just as this, no doubt, can be the subject of negotiation with WorkCover. I will refer the question to my colleague and bring back a reply.

SOMERSET HOTEL

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister for the Arts and Cultural Heritage, representing the Minister for Environment and Planning, a question about the proposed demolition of the Somerset Hotel.

Leave granted.

The Hon. M.J. ELLIOTT: My question relates to the current controversy over plans to demolish the Somerset Hotel on the corner of Pulteney and Flinders Streets to make way for an office building to be occupied by the Australian Taxation Office. The Adelaide City Council has asked that the building be placed on the Interim Heritage List but the State Heritage Branch of the Department of Environment and Planning did not recommend listing. In its report dated 12 October 1990 the branch stated:

> It [the Somerset Hotel] has never been nominated by a member of the public nor identified as significant in any survey.

However, a 1982 City of Adelaide survey prepared by Donovan, Marsden and Stark stated:

> It is a distinctive building due to its prominent corner site and substantial verandah/balcony, but also because of its departure from the more typical Italianate detailing so commonly found in contemporary hotel design. The environmental significance of this item is high because of its positive contribution to the streetscape, determined by its scale and its prominent corner location, situated opposite St Paul's Church.

I have received from the Aurora Heritage Action Group a letter which says that, at a meeting with the Minister in November last year, the Minister acknowledged that that report had not been properly considered in the assessment of the Somerset by the Heritage Branch. The retention of the Somerset does not automatically mean that the Taxation Office proposal cannot proceed. I understand that the proposal is actually below the allotted plot ratio for the site, opening the opportunity to locate the office complex more to the centre and back of the site, allowing the hotel to be retained as a feature on the corner.

Recently, a report about tourism in South Australia, particularly in Adelaide, noted the importance of the character of the city as an attraction for tourists. One would hope that the Minister will take that into account. Also, following the statement by the Hon. Mr Davis earlier today that there is a huge amount of unused space in Adelaide, one could ask how further building could be justified. The point has been made that there are vacant sites in other parts of the city that would be suitable for the Taxation Office. My questions are:

1. Has the branch now considered the report to which I have referred, and is there any change in its position towards the hotel?

2. Has the Minister corresponded with the development proponents about alternative uses for the site which would be compatible with retaining the Somerset Hotel or looked at other sites?

3. Does the Minister agree that the retention of the hotel, and its possible incorporation within a development, will soften the visual impact of a large office complex on the corner site and therefore be beneficial to the overall streetscape?

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

FIREARMS ACT

The Hon. J.C. BURDETT: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister of Emergency Services, a question about the Firearms Act.

Leave granted.

The Hon. J.C. BURDETT: During my recent Address in Reply speech, I had inserted in *Hansard* a list of 45 Acts that were passed a considerable time ago but had not been proclaimed in whole or in part. I said that this was a gross intrusion by Executive Government into the legislative process and categorised this practice as being equivalent to repeal by Executive act. Parliament solemnly passes a law, and the department in question decides that it does not like it so it is not proclaimed.

The Firearms Act Amendment Act 1988 was assented to on 1 December 1988 but has never been proclaimed. I checked this as recently as yesterday, and this has been verified by Parliamentary Counsel. This seems astonishing when one considers the outcry occasioned by the Strathfield massacre. The Liberal Premier of New South Wales, Mr Greiner, is talking about tough new gun laws, and this Government has not even proclaimed the ones we have.

The Act *inter alia* repeals and replaces Part III of the principal Act dealing with the possession of firearms and dealing in firearms and ammunition. The second reading explanation of the amending Bill commences at page 2498 of the 1987-88 *Hansard*. Dr Hopgood said that the Act remedied major deficiencies in the principal Act, yet it has never been proclaimed. He outlined an extensive process of consultation with gun clubs and others. The consultative procedure was most commendable, but what is the point in extensive consultation and debate in Parliament if the Act never comes into force? My questions are:

1. Why has the Act not been proclaimed for almost three years?

2. When will it be proclaimed?

The Hon. C.J. SUMNER: I will refer those questions to my colleague, but I understand that it is due to be proclaimed shortly.

CORONERS ACT

The Hon. R.J. RITSON: I seek leave to make a brief explanation before asking the Attorney-General a question about the Coroners Act.

Leave granted.

The Hon. R.J. RITSON: About a year ago the Coroners Act was amended. During the course of that debate the amending Bill was itself amended. It basically dealt with the question of the compulsory notification of the deaths of mentally ill people, whether or not the deaths were well documented as to natural causes. The way in which the initial amendment was worded would have required the notification of all deaths in institutions if part of the institution was devoted to the care of these mentally ill people. The amendment restructured the obligation to fall upon people knowing of the deaths of mentally ill people if they occurred in any institution, thus confining the reporting to that type of patient wherever they may be. That amending Bill passed the Council, the Government accepting the amendments.

Subsequently, the Coroner circularised medical practitioners, as he does from time to time, with Coroner's notes. I think about six months ago he drew this change in the law to the attention of the medical profession, so some of them, if their memory has retained that, believe this to be the law. However, it is not the law because the Act has not been proclaimed. My questions are:

1. Why has it not been proclaimed?

2. Does that mean that the Coroner should again circularise the profession to inform them that what they believe to be the law is now not the law?

The Hon. C.J. SUMNER: I do not know why it has not been proclaimed. I will try to find out and bring back a reply for the honourable member.

INVESTIGATIVE JOURNALISTS

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

Leave granted.

The Hon. R.I. LUCAS: I refer to a press release issued today by the member for Hartley and Chairman of the Select Committee on Privacy, Mr Groom. In his press release the Chairman of the select committee states:

> What concerns me is that it is now increasingly becoming obvious that some organisations are keeping people under surveillance and investigating personal and business affairs illegally by employing people not licensed under the Commercial and Private Agents Act. It is quite frightening for anyone to be watched and kept under observation by fly-by-nighters who are not accountable to anyone.

Mr Groom was reported to have said:

> Journalists themselves who for monetary or other considerations perform surveillance activities must be licensed under the Commercial and Private Agents Act.

I refer briefly to the Commercial and Private Agents Act, section 4 of which provides:

'agent' means—

(a) . . .

(b) a person who, for monetary or other consideration, performs on behalf of another any of the following functions:

(i) obtaining or providing (without the written consent of a person) information as to the personal character or actions of the person or as to the business or occupation of the person;

(ii) protecting or guarding a person or property or keeping a person or property under surveillance.

My questions are:

1. Does the Attorney-General agree with the contents of the statement of his colleague, the member for Hartley, that some investigative journalists might be breaking the law by carrying out surveillance activities personally if they are not licensed agents under the Commercial and Private Agents Act?

2. If so, does the Government intend taking any action to address this issue either by amending the Commercial and Private Agents Act or by exempting journalists under section 6 of the Act?

The Hon. C.J. SUMNER: I am not sure that the member for Hartley is correct on this point. Obviously, he is a lawyer who has raised an issue that has been considered in this general debate. I will look at the matter raised by the honourable member and bring back a reply.

REPLIES TO QUESTIONS

The Hon. ANNE LEVY: I seek leave to have the following answers to questions inserted in *Hansard.*

Leave granted.

STATE TRANSPORT AUTHORITY

In reply to **Hon. DIANA LAIDLAW** (14 August).

The Hon. ANNE LEVY: The Minister of Transport will instruct the State Transport Authority to conduct another cost benefit analysis into the operation of automatic ticket turnstiles on the Adelaide Railway Station, and the results of the analysis will be made available to the honourable member in due course.

PHOTOGRAPHIC DETECTION DEVICES

In reply to **Hon. DIANA LAIDLAW** (15 August).

The Hon. ANNE LEVY: My colleague the Minister of Transport has advised that proclamation of section 11 of the Road Traffic Act Amendment Act (No. 3) 1990 has been delayed to provide time for the Police Department to put in place the infrastructure required to produce copies of traffic camera photographs. Section 11 not only dealt with owner onus provisions but also provided for photographs of offences detected by camera to be provided on request. Tenders for the necessary equipment are currently under consideration and proclamation of section 11 will follow immediately the equipment is operational.

The Office of Road Safety recommendation to increase the number of intersections which can be controlled by traffic cameras is not expected to significantly increase the workload of the Police department. Therefore, consideration of this proposal can be undertaken prior to proclamation of section 11 of the Road Traffic Act Amendment Act (No. 3) 1990.

Expenditure to support the traffic camera initiative amounted to $1.1 million on the recurrent budget in the 1990-91 financial year. However, the provision of photographs on request without the appropriate equipment being operational would generate significant unnecessary costs which would more than offset the savings of police resources sought through the changes to the owner onus defence provisions of the legislation. The delay in proclamation of the legislative amendment in question has ensured that the Police Department is in a position to make best use of its resources.

SOUTH AUSTRALIAN FILM CORPORATION

In reply to **Hon. DIANA LAIDLAW** (15 August).

The Hon. ANNE LEVY: The board of the South Australian Film Corporation reached an agreement with Mr Blair to release him from his obligations under the terms of his contract of employment. Mr Blair will continue to be paid during the balance of the term of the contract. The amounts payable are confidential between the board of the corporation and Mr Blair. Mr Blair's present contract of employment was re-negotiated at the end of 1989 by the corporation's former Managing Director and the then board of the corporation.

Neither I nor the Department for the Arts and Cultural Heritage was consulted on the decision to re-appoint Mr Blair. The then board of the corporation decided to renew Mr Blair's contract having regard to circumstances at that time, and would have been aware of the recommendation contained in the earlier Milliken report. Board decisions such as this are not normally subject to ministerial direction.

In reply to **Hon. DIANA LAIDLAW** (21 August).

The Hon. ANNE LEVY: Following Mr Blair's success in financing and producing *Shadows of the Heart* and *Golden Fiddles* and in financing *Hammers Over the Anvil*, the board of the corporation believed that the corporation's other productions in development should be handled by the Managing Director, Ms Valerie Hardy. Only one of the five productions, namely *Starship Home*, has been written off. This was only done following a detailed reassessment of its marketability and after attempting to sell the production to another producer.

Of the remaining productions, both *Shadows of the Heart* and *Golden Fiddles* have been produced and shown on Australian television over the past 12 months, while work continues to raise the finance necessary to produce *The Battlers* and *One Crowded Hour.*

TANDANYA

In reply to **Hon. DIANA LAIDLAW** (22 August).

The Hon. ANNE LEVY: I have not yet received a report from the Auditor-General concerning Tandanya. The Minister of Lands who requested the investigation has also not received a report. Neither I nor the Department for the Arts and Cultural Heritage have received any interim reports from the Auditor-General. Tandanya finished the financial year in accordance with the funding strategy agreed to by the board of Tandanya and the Government. The strategy enabled Tandanya to reduce an expected $500 000 budget over-run, to $300 000. This is a direct result of Government intervention in the activities of the association.

Mr George Lewkowicz's term as Interim Executive Officer expires on Tuesday 10 September 1991. The positions of Director and Business Manager have been advertised and interviews conducted. I am hopeful that both positions will soon be filled. In the meantime, the board has decided that Tandanya's interim Business Manager, Mr John Aquilina, will remain until the new Director has arrived. The board is also presently examining options to provide assistance to Mr Aquilina during the period. Now that orderly management systems are in place and a new board structure is being finalised, I am satisfied that there is efficient management of operations at Tandanya.

PARKLANDS PARKING

In reply to **Hon. I. GILFILLAN** (21 August).

The Hon. ANNE LEVY: My colleague the Minister of Environment and Planning is fully aware of the plans prepared by Maunsell Pty Ltd for the Botanic Gardens Board.

The plans are the result of several surveys and more recent negotiations between representatives of the Botanic Garden, Zoo, Adelaide City Council, St Peters Council and Department of Road Transport, and were initiated some 8 years ago by the Botanic Gardens Board. The board has set a good example in the Botanic Park balancing user needs with landscape conservation. The proposal seeks to further conserve the character of Botanic Park while retaining existing parking facilities.

The proposal does not alienate land for car parking, and actually occupies 500 square metres less parkland as a result of rationalisation of parking space. The Minister supports the recommendations of the Botanic Gardens Board on the maximum number of parking spaces which Botanic Park can accommodate. The charging of parking fees will assist with the management of parking and provide revenue to help ensure the character of Botanic Park can be preserved in perpetuity, while giving continued access to the community. The proposal was initiated by the Botanic Gardens board who have a statutory responsibility for Botanic Park, and the Minister fully endorses the measures they propose, through Maunsell Pty Ltd, to help conserve the character of Botanic Park for the future.

FINNISS SPRINGS PASTORAL PROPERTY

In reply to **Hon. PETER DUNN** (21 August).

The Hon. ANNE LEVY: My colleague the Minister of Lands has advised that the lease on the Finniss Springs pastoral property is being resumed pursuant to the Pastoral Land Management and Conservation Act 1989 which states under section 32 (3):

> The resumption takes effect on a day specified in the notice in the *Gazette*, which must be a day falling at least six months after the date on which that notice is given.

It will be the shareholders who wish to retain cultural affiliation with the land through a lease under the National Parks and Wildlife Act. This is a matter for the incorporated body. The Government's understanding is that the body will be made up of these shareholders who did not elect to liquidate their value in the pastoral lease asset. The agents are free to make representations to the Government on any matter of concern to them. Until such representations are made and assessed on their merits it is premature to speculate on a timetable for any possible outcome. The Dog Fence moneys matter will be addressed when the lease value and consequent payments are finalised.

In reply to **Hon. PETER DUNN** (27 August).

The Hon. ANNE LEVY: My colleague the Minister of Lands has advised that the Government proposes to establish the Finniss Springs lands as a reserve under the National Parks and Wildlife Act managed under a joint arrangement with the Aboriginal community. Public access arrangements will be accommodated and detailed in a plan of management that will be prepared for the area in consultation with the Aboriginal community and other interested parties. This plan will be released for public comment and input prior to adoption.

MOUNT LOFTY RANGES REVIEW

In reply to **Hon. M.J. ELLIOTT** (15 August).

The Hon. ANNE LEVY: My colleague the Minister for Environment and Planning has advised that a number of studies have been carried out, or are in the process of being carried out, as part of the review process. A database containing information relating to land capability has been assembled by the Information Systems Branch of the Department of Environment and Planning for the last four years, and this work is continuing at the present time. PPK Planning Consultants have prepared a study examining the concept of the overall investigations of the review team.

Another study relating to tourism has been completed this year by Graham Gaston and Associates, and similarly some of the proposals in this study will be incorporated in the management plan scheduled for public release in November 1991. The remaining investigations are being undertaken by a joint State and local government team.

It is intended, with the agreement of local government, that the management plan be released first and that public comment received on this will be taken into account in the drafting of the Regional Supplementary Development Plan. Studies necessary for the preparation of the management plan and regional SDP are expected to be finalised by November 1991. There will be ongoing studies on various topics that will need to be done under the auspices of a regional planning authority, should that body be established as proposed. The SDP, with the agreement of local government, will be available in early 1992, once public comment on the management plan is received and assessed.

GARG REVIEW

The Hon. ANNE LEVY: Since we are having this clearing of the decks, I wondered whether I could incorporate in *Hansard* a response to a question asked by the Hon. Mr Lucas on 14 August about the GARG review. Mr Lucas was given an indication on 27 August that the answer was available. I have had this response here for quite some time, which suggests that the honourable member was more interested in asking the question than in receiving the reply. I seek leave to have the answer inserted in *Hansard* without my reading it.

Leave granted.

My colleague the Minister of Education has advised that the GARG submission is completed. Cabinet approval and consultations with the relevant unions are in train. It is not true that the officer referred to by the honourable member has been removed from her position because of failure. She has returned to her substantive position because her work on the GARG submission has been successfully completed.

No report was received late last year. Given the magnitude of the task, it is obvious that various drafts have been prepared and reworked by the group coordinated by a senior officer over a period of time. None of these drafts has ever had the status of a completed submission. Action will be taken on the completed submission, after due consultation with the unions and affected personnel. It is inappropriate to discuss details of GARG proposals before the final submission is presented to the GARG committee and consultations begin.

LEAVE OF ABSENCE: HON. BERNICE PFITZNER

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

> That three weeks leave of absence from 23 September 1991 be granted to the Hon. B.L. Pfitzner on account of her absence overseas in China.

She will in fact be a guest of the Chinese Government.

Motion carried.

GEOGRAPHICAL NAMES BILL

Adjourned debate on second reading.

(Continued from 11 September. Page 743.)

The Hon. K.T. GRIFFIN: After the remarks of the Hon. Mr Elliott yesterday in relation to statutory authorities, I could not resist the opportunity to get into the debate on this Bill.

The Hon. Anne Levy: You're not going to spin it out too long, are you?

The Hon. K.T. GRIFFIN: I will speak for however long I want, thank you. The Hon. Mr Elliott said yesterday he understood that the Liberal Party wanted to get rid of statutory bodies and authorities and that he was, therefore, surprised that we should be supporting the reinstatement in this Bill of the Geographical Names Board. There has been much debate about what is or is not a statutory body or authority, and some have chosen to describe even committees established by Act of Parliament as statutory authorities or bodies, whilst others have limited that description to those which have a corporate entity conferred by statute, referring particularly to bodies such as the State Bank, SGIC and the Electricity Trust of South Australia—all bodies corporate established by statute.

It is not uncommon, of course, for legislation to establish an advisory committee, a functional committee or a council such as the Child Protection Advisory Council or, in this case, the Geographical Names Advisory Committee. I should have thought that it was quite reasonable for those committees to be established for the purposes conferred upon them by the legislation. The real objection has always been to the creation of bodies by statute which have a corporate entity.

One could ask what is different in the creation of a committee by statute from the creation of a committee by a Minister without necessary statutory approval, or a working party or task force, or inter-departmental committee formed, again, without necessarily being established by statute.

I suggest there is very little difference between a committee established by a Government without statutory authority and a committee established by statute. So, whilst the Hon. Mr Elliott can throw away a line about the Liberal Party being concerned to see the elimination of statutory bodies, he takes that out of context and should focus more on the substance rather than on the rhetoric.

With the Geographical Names Act, a Geographical Names Board is already in existence. It does not have corporate status. It is a body which has statutory functions. Those functions are important, but it derives its authority from that Act. The interesting thing about the Geographical Names Act and the operations of the Geographical Names Board is that it is the board, and not the Minister, which makes decisions about nomenclature. This Bill seeks to dispose of the Geographical Names Board and to establish a Geographical Names Advisory Committee, different in function but nevertheless still established by statute. So, if the Hon. Mr Elliott is going to support that, the criticism that he levelled at the Liberal Party can equally be levelled at him for maintaining—

The Hon. M.J. Elliott interjecting:

The Hon. K.T. GRIFFIN: I said that the criticism he has levelled at the Liberal Party in relation to its position can equally be levelled at his own position, if he supports the Geographical Names Advisory Committee.

It is important to note the difference in structure of this Bill from the existing Act. As I said under the existing Act, the Minister has no initiating power, whereas under this Bill the Minister has the responsibility to assign names to places. Whilst the Geographical Names Board largely comprises statutory office holders, it is not subject to the general control and direction of the Minister and therefore is somewhat removed from day to day political pressures of constituents and others whereas, under this Bill, the Minister is directly involved in the political process and is subject to political pressure.

Under clause 12 of this Bill, the Surveyor-General has some responsibility, but I suggest that what used to be the marginal note and is now the header note is incorrect, because it refers to certain places not to be named without the Surveyor-General's approval. When I read that, I took some heart believing that that perhaps meant the Surveyor-General's approval had to be given before the Minister could make an ultimate declaration, but that is not correct. Under clause 12, the Surveyor-General may approve certain names, but nowhere does that suggest that the Surveyor-General's approval is required for those functions and stands in the way of the Minister exercising a political role.

My colleague the Hon. Mr Davis has already identified the extent to which the political views of the Minister may be brought to bear upon the naming of places and leave the Minister's political mark on nomenclature throughout South Australia. Personally, I think that is undesirable.

The Hon. L.H. Davis: Lenehan's Valley!

The Hon. K.T. GRIFFIN: Lenehan's Valley, Dunstan Court, Walsh Court or something akin to that. I am concerned that this is very much a politically motivated Bill. It gives the Minister of the day a very powerful role in the naming of places which may be politically motivated, and the maintenance of a Geographical Names Board to intervene in that process and minimise that risk is in my view an important protection for the citizens of tomorrow and for posterity. Therefore, I support the second reading and concur with the remarks of the Hon. Legh Davis.

The Hon. ANNE LEVY (Minister for the Arts and Cultural Heritage): I was going to thank members for their contribution, but I do not wish to enter into the secondary argument which has arisen in the course of this debate. Mr Elliott asked a question during his contribution regarding the exemptions by the Government of places or types of places from the operation of this Act, and queried why this subclause was in the Bill. It has been indicated to me that the present legislation identifies three types of places which are exempt from the operation of the current Act. These are local government areas and wards, electoral districts, divisions or subdivisions, and the names of roads or streets.

The power of naming any of those three categories is vested in other legislation. It is considered that there may be instances in the future where a similar situation is encountered and, rather than continually alter legislation, this clause would give the power to exclude places or types of places from this Act when they will be included in another Act. A possible example could be the proposed Principal Roads Act. It has been suggested that, pursuant to that Act, the Minister of Transport should have the power to name highways. If that should become the case, the Governor could proclaim highways as being exempt from the operations of the Geographical Names Act. The reason for the provision is to be able to exempt situations where naming is dealt with in a different Act.

The exemption of places or types of places from the operation of the Geographical Names Act does not mean that the expertise of the advisory committee or support staff cannot be used for advice on proposed names. Indeed, such

advice is now sought on occasions for the naming of categories which are currently excluded from the Geographical Names Act, such as the naming of streets, electoral districts and so on. In those cases, the advice of the board is sought and is given due regard by the people with responsibility for naming. Where the responsibility lies elsewhere, it is desirable to have such category excluded from the Geographical Names Act. I hope that explains the situation raised yesterday by the Hon. Mr Elliott.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Progress reported; Committee to sit again.

CLEAN AIR (OPEN AIR BURNING) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 10 September. Page 658.)

The Hon. DIANA LAIDLAW: The Opposition is pleased to support the second reading of this Bill. It is a lapsed Bill, in the sense that it has been before this place in the past. A long time ago, in March 1990, I recall speaking on essentially the same Bill and I would be interested in any advice from the Minister as to why this Bill was seen as important in March last year and has not been reintroduced until this time when we have had two sittings during the past 18 months. The Bill looks at the issues of domestic and non-domestic fires in the open and incinerators on domestic premises. It is an important Bill and has been requested by local government, which is keen to see more controls in these areas. As I indicated when speaking to the same measure last time, the Liberal Party and I are keen to support local government in that regard.

It is very important to recognise that, with urban consolidation and other renewal programs in the inner area, this issue of the disposal of rubbish becomes more and more important. I live in an apartment block and I remember that, when I moved in about six years ago, the huge incinerator used to burn fiercely every day, and our caretaker was anxious to fill it with everything he could find all around our block. It was a great irritant to the occupants of those apartments and, I have no doubt, for many others in the neighbourhood. That incinerator no longer burns, and our rubbish is removed by other means. That is excellent for all concerned.

I would note that there is one difference between this Bill and the Bill to which I referred, in terms of the debate of March last year. This Bill deletes provisions relating to the powers to make regulations fixing fees for exemptions from the prohibition against the sale, use and so on of ozone depleting substances. That matter was of considerable concern to the Conservation Council. It was raised in this place, at least by me; I am not sure whether the Hon. Mr Elliott contributed to the debate at that time.

The Hon. M.J. Elliott interjecting:

The Hon. DIANA LAIDLAW: Yes, but I do not think that you referred to those provisions at the time. Certainly, the Conservation Council was concerned about the Government's provisions in this Bill in relation to the ozone depleting substances. I understand now that the Government intends that the provisions of the March 1990 Bill be incorporated in more comprehensive legislation on this subject and have therefore been removed from the Bill now before us. I acknowledge that the Hon. Mr Elliott introduced a private member's Bill on the ozone issues that followed very similar legislation passed by a Liberal Government in Tasmania some time earlier. I do not recall the fate of Mr Elliott's Bill.

The Hon. M.J. Elliott: I did mine, then they did theirs.

The Hon. DIANA LAIDLAW: No, I do not think so. Anyway, it does not matter. It is important that the issue is on the agenda and will be on the agenda again soon in the form of a Government Bill. Certainly this Clean Air Bill before us now and the endeavour to assist local councils in controlling fires in the open on non-domestic premises and fires in the open and in incinerators on domestic premises have the Liberal Party's wholehearted support.

The Hon. M. J. ELLIOTT: The Democrats support this Bill. It is something that needs to be done and, as we are tightening up on the controls on industry, it is becoming increasingly apparent that perhaps it is sometimes the activities of individuals that pose one of the biggest threats to air quality in South Australia. It has been brought to my attention more since I moved house some six weeks ago, from the Adelaide Plains up into the hills, and when driving down to the plains one morning I looked across the city and saw the smog and thought, 'Thank goodness I am not breathing in that stuff any more.' I think it was the next night that I was sitting in the bus going home and when driving past the many houses with smoke belching out of their fireplaces I thought to myself, 'I am sitting in another lot of smoke up here, which is probably worse than what people are breathing down in the city.'

There seems to be an attitude (in some areas worse than others) that burning off in the open, often with wet material, is all right. The question of individual responsibility must be tackled. There is no doubt that, for a number of reasons, increasingly, backyard burning needs to be controlled. I think that the Government should be pursuing other options besides simply giving stronger powers to councils in relation to the controlling of backyard burning. Perhaps we should be putting a little more effort into encouraging people to compost materials that can be returned to the garden and also, of course, recycling programs should be speeded up so that instead of things finding their way into incinerators, they find their way into compost heaps or, eventually, are recycled. I think that both of those programs are happening at a very low level and need to be accelerated. That can happen in conjunction with the sorts of moves that the Government is carrying out in this legislation.

One area which has not been tackled, but which I expect will be in legislation soon, concerns domestic fireplaces. There is no doubt that many fireplaces in the metropolitan area, where it is a particular problem, are inappropriately designed and do not burn efficiently. People burn wood that has not been cured and which has often been left out in the rain. As a consequence, there is incomplete combustion and large amounts of smoke. In fact, in many cases the smoke that they are putting out—

The Hon. R.J. Ritson: They need to understand how to adjust the airflow.

The Hon. M.J. ELLIOTT: That is part of the problem. You first must have a fireplace designed such that you can control the air supply but, still, the fuel you put into it is important. I think that we are now getting to the point where councils will need to be given the power, first, to require that when a fireplace is installed it meets certain standards, and there should be requirements that houses with such fireplaces have suitable storage places for wood to keep it dry so that when it is burnt it will not smoke out the neighbours. That is a very real problem and, in some areas, it is probably a more severe problem than the one

we are tackling at present in this legislation. It is a problem that is a matter of irritation to many people, and I appreciate that. I mentioned that I had moved house. I also inherited a fireplace after not having one since my childhood, and I am very conscious of what might be going up the flue.

The Hon. R.J. Ritson: It is nice though, isn't it?

The Hon. M.J. ELLIOTT: It is lovely indeed, but I recognise, though, that some tight controls are needed in that area. I hope that the Government looks at legislating in this regard in the very near future.

The Hon. L.H. Davis: No pot-bellies for the Democrats?

The Hon. M.J. ELLIOTT: No.

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

GEOGRAPHICAL NAMES BILL

Adjourned debate in Committee (resumed on motion).

(Continued from page 743.)

Clause 3—'Interpretation.'

The Hon. L.H. DAVIS: I move:

Page 1, line 18—Leave out this line and insert the following:
'the Board' means the Geographical Names Board established by this Act:.

Page 2, line 21—Leave out this line and insert the following:
DIVISION I—THE GEOGRAPHICAL NAMES BOARD

The amendments which the Liberal Party has on file for clause 3 and subsequent clauses involve the maintenance of the Geographical Names Board as it currently exists. Therefore, it may be appropriate to take these amendments as the test case, given that the other amendments on file are consequential.

My colleague, the Hon. Trevor Griffin and I, in our second reading contributions, expressed concern that the Government was taking away the Geographical Names Board and providing the Minister with the power to name geographical places. We believe that that power is far-reaching and far too sweeping. Indeed, in the second reading it is unambiguous: the final determination of the geographical name will lie with the Minister. These amendments thus refer to the Geographical Names Board.

In her second reading explanation the Minister said that consultation had taken place with respect to this Bill, and I accept that for once there was some attempt at widespread consultation by the Government. It is welcome to see that in this case there was an effort made to consult widely. For the record, will the Minister advise the Committee what consultation took place and what support existed for the retention of the Geographical Names Board? Was an opportunity given for people who were invited to make submissions to comment on whether they preferred the existing arrangement of the Geographical Names Board or the amended legislation that we now have before us?

The Hon. ANNE LEVY: I take it that the Hon. Mr Davis's several amendments are all connected, and that it may be as well to comment on all of them at the same time. There was considerable consultation about the dissolution of the Geographical Names Board and its replacement with the Geographical Names Advisory Committee. As has already been said, I point out that the dissolution of that board will remove a statutory authority. A green paper was put out suggesting the replacement of the board by an advisory committee, and 17 submissions were received in response. Of those 17 submissions, seven supported the abolition of the board and four specifically supported the change from the board to the advisory committee. A further three made no mention either way of there being either a board or an advisory committee (the submissions did not comment on that aspect of the green paper), and of the remaining three submissions which supported the retention of the board two came from members of the board itself.

I should perhaps point out that among the seven submissions which supported the dissolution of the board, two were from the Housing Industry Association and the Real Estate Institute—two bodies very much concerned with the naming of geographical places. So, there did seem to be very widespread support for either the complete abandonment of the board or a change from a board to an advisory committee.

In his contribution to the second reading debate the Hon. Mr Griffin indicated that under the current Act the board makes the decision on a geographical name. This is not strictly correct: the board makes a recommendation to the Minister, who has the power of veto.

The Hon. K.T. Griffin: But not the power to amend.

The Hon. ANNE LEVY: I agree, not a power to amend, but certainly the Minister does have the power of veto, which is not the same as the board making the ultimate decision. Furthermore, the Hon. Mr Griffin suggested that at the moment the Minister does not have any power to initiate a name. This again is not correct. Under the current legislation any person can suggest a name, and the Minister is not excluded from that process any more than is the Hon. Mr Griffin or any member of the public who wishes to initiate a name.

The Hon. K.T. Griffin: By initiation I meant to actually make the decision to name or change a name. I was technically incorrect, but in general terms—

The Hon. ANNE LEVY: The usual meaning of the word 'initiating' means to come up with the idea and start a process. Currently, any member of the South Australian community, not excluding the Minister, can start that process. Members may be interested to know that in the current situation the Minister has the power of veto over a board decision, but this power has been used only once in the 21 years of the board's existence. This situation occurred where the board wished to change the name of a part of the suburb of Colonel Light Gardens. That proposal was strongly resisted by the residents of Colonel Light Gardens who wished their suburb to be set out specifically as a garden suburb to commemorate Colonel William Light and to remain intact, and the Minister did veto that recommendation of the board.

The Hon. R.J. Ritson: What was the proposed change?

The Hon. ANNE LEVY: To become part of Daw Park, as I understand it. That recommendation of the board was vetoed. There has also been one situation where a recommendation to the Minister was referred back to the board for further consideration, and this concerned the naming of a new suburb. The board had proposed the name of Edwardstown East, but the residents preferred their suburb to be called Melrose Park. When referred back to the board, on reconsideration, it agreed to the residents' request for Melrose Park. So, no-one can say that there has been an irresponsible use of ministerial powers or prerogative. Certainly, if the powers of the board are vested in the Minister, as proposed in this Bill, this will give the elected representatives the decision-making powers in this area of responsibility. In the tradition of Westminster Government, it is appropriate that final decisions should lie with elected representatives, who are answerable through the ballot box for the decisions that they make.

I should point out to members that, interstate, with two exceptions, all States have advisory committees and that

the naming of geographical locations is the same as that proposed under this legislation. Interstate experience shows that the existence of an advisory committee is working very well, and without any problems in the majority of Australian States that have this system. New South Wales and Tasmania still have a statutory authority, but in all the other States there are advisory committees, or even recommendations from Public Service officers, and there have been no problems resulting from that situation.

I point out that in all other States, with the exception of New South Wales, the Minister has the power to alter recommendations. Even in Tasmania, where there is a statutory authority, the Minister has the power to alter recommendations. I therefore oppose the amendment moved by the Hon. Mr Davis as being unnecessary. There is general agreement, particularly from the people most concerned, that the board should be dissolved and replaced by an advisory committee, and there is no suggestion that the naming system proposed in the Bill will not work extremely well.

The Hon. K.T. GRIFFIN: The present system is working adequately and has done so for many years. I can remember nearly 30 years ago as a young articled clerk having to contact the Geographical Names Board in the Lands Department to ascertain the precise name for a suburb in connection with the place of death of a testator in relation to whom probate was being sought. In all that time, I never heard any complaint about the way in which the system was operating. For that reason, I cannot see any need for change just for change's sake. What happens in other States is in my view, irrelevant. If something has worked satisfactorily in South Australia, why not stick with it?

In relation to what the Minister said about my contribution to the second reading debate, what I had intended to convey—and obviously it was not done with sufficient precision—was that, whilst the Minister may initiate a matter before the Geographical Names Board, there is no obligation upon the board to accept the Minister's proposal. It could be properly assessed and then a recommendation made.

I also acknowledge that, at the end of the process, the board could make a recommendation to the Minister and the Minister could reject it, although the Minister could not change it. It is interesting to note that, in the period during which the board has been operating, there has been only one occasion on which a recommendation has been declined by the Minister, so the board must have been doing something right in all that time.

The Hon. ANNE LEVY: I am given to understand that there have been numerous complaints regarding the present system. This arises particularly through the real estate industry, especially on the question of the time that is required. The Geographical Names Board meets infrequently, with a large agenda before it each time, and there have been numerous complaints that the time taken for finalising these matters has been excessive. This has been traced to the time lapse between board meetings.

When something major is involved, people do not expect a quick decision, but where it is fairly trivial it can be extremely irritating for a lengthy time to elapse before decisions are made. The board itself realised that there were deficiencies with the present system, particularly in relation to names of residential estates being drawn up by developers.

The board itself was considering desirable changes to the procedure and to the rules, and had virtually recommended what is before us prior to the official review of the legislation which occurred as part of the normal departmental review of legislation. Therefore, the changes, particularly with regard to minor naming, and so on, have been recommended by the board in the light of its experience with the current legislation. It is true that the current legislation has worked moderately well, but one could not say that there was no room for improvement. The board itself had recommended that improvement in procedures was desirable.

The Hon. L.H. DAVIS: We have heard for the first time that there had been complaints about the operation of the Geographical Names Board as it is currently constituted. The second reading explanation made no mention of that. It referred to problems, but they were problems not of the board's making: for example, the problem of estates being held out as the residential addresses for future households, and the challenge of dual naming in certain areas to recognise the European and Aboriginal significance of a particular location.

However, nowhere in the second reading explanation did the Minister attempt to explain the practical difficulties that may exist with the current board. How often was the board meeting? The Minister seemed to be unclear on that point, and it would be worth elaborating on that. Certainly, if a major development such as a new suburb is taking place, one would not expect developers to be seeking approval for a new name at the last moment. What will be different in the future? Is it that these matters that require urgent attention will be rushed through the Surveyor-General's office or, ultimately, through the Minister who has the power in these matters? I am still somewhat mystified about how the new system will solve the problems about which we have heard for the first time without taking away the checks and balances that currently exist.

The Hon. ANNE LEVY: I am informed that the Geographical Names Board has met monthly, and it is not unreasonable to expect people dealing with estate developments and major namings of that type to wait a month until the board meets. No-one is suggesting otherwise. It involves more the question of more minor things such as the name of a school, where it is extremely likely that the school will take the name of the suburb. There have been great delays in waiting for the board to meet to approve what appears very obvious.

Under the proposed system, the Surveyor-General will be able to replace the advisory committee and give advice where approval of the name chosen might be required as being less important or fairly obvious. Of course, the Surveyor-General is available on a daily basis and will prevent what have been irritating and unnecessary delays.

The Hon. M.J. ELLIOTT: I indicated in the second reading debate that I did not have substantial concern about the proposed change from the old Act to the new one where the Geographical Names Board was to be replaced by an advisory committee. Under those circumstances, I will not support the amendment. I have other amendments which address some of the concerns expressed by the Hon. Mr Davis, and I will move them with respect to subsequent clauses.

The Committee divided on the amendments:

Ayes (9)—The Hons J.C. Burdett, L.H. Davis (teller), Peter Dunn, K.T. Griffin, J.C. Irwin, Diana Laidlaw, R.I. Lucas, Bernice Pfitzner and R.J. Ritson.

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

Pair—Aye—The Hon. J.F. Stefani. No—The Hon. T.G. Roberts.

Majority of 1 for the Noes.

Amendments thus negatived; clause passed.

Consideration of clause 4 deferred.

Clauses 5 to 7 passed.

Clause 8—'Assignation of geographical name.'

The Hon. M.J. ELLIOTT: I move:

Page 4, line 4—After 'Surveyor-General' insert 'and the committee'.

As I understand it, the intention is that, where the Minister is carrying out functions under this section and advice is sought from the Surveyor-General, the Surveyor-General (who is on the committee) would be expected to seek the committee's advice. I am simply trying to ensure that that is the case in all instances and that the committee itself is consulted and not just the Surveyor-General.

The Hon. ANNE LEVY: The Government is happy to accept this amendment. It was always the intention that this would occur, anyway.

The Hon. L.H. DAVIS: The Liberal Party also accepts the amendment.

Amendment carried; clause as amended passed.

Clause 9—'Functions of the Surveyor-General.'

The Hon. L.H. DAVIS: For the record, can the Minister say whether the procedures set down in clause 9 and what we now have in place in the Act are similar to those in other States with respect to geographical names?

The Hon. ANNE LEVY: I am informed that in Queensland and New South Wales the functions are virtually the same as those set out in this Bill. In Western Australia, Victoria and Tasmania the matter is dealt with much more summarily; in fact, there are only two lines in another Act. So, it is not dealt with legislatively in anywhere near the same detail as applies here.

Clause passed.

Clause 10—'Establishment of committee.'

The Hon. L.H. DAVIS: This clause establishes the Geographical Names Advisory Committee and gives the Minister very broad powers. The committee will consist of the Surveyor-General (the presiding member) and five other persons appointed by the Minister after taking into account the recommendations of the Surveyor-General. So, the Minister has the power to select the advisory committee after taking into account the recommendations of the Surveyor-General. That is a very sweeping power, the more so, given the open-ended nature of the clause.

At least one member of the committee must be a woman and at least one must be a man. That could come from any constitution of any club in South Australia. A member of the committee holds office on such conditions and for such term as the Minister determines, and so on. There is no reference to people of particular skill or expertise, which is not unusual in a specialist committee of this nature. Has the Government any specific criteria in mind in appointing members to this most important committee?

The Hon. ANNE LEVY: I am informed that it is intended—and this is recorded—that one of the five will be an Aboriginal person, one will be a historian and one will be a person with expertise in heritage matters. The skills and qualifications of the other two people have not been set out in a similar manner, but it is certainly expected that very competent people will be appointed to this very important committee.

Clause passed.

Clauses 11 to 18 passed.

Clause 4—'Act not to apply to certain places.'

The Hon. M.J. ELLIOTT: I move:

Page 2—
Line 11—Strike out 'or'.
After line 12—Insert the following:
or
(d) a place prescribed by regulation.
Lines 13 to 16 (inclusive)—Strike out these lines.

I asked a question during the second reading debate as to the purpose of the proclamation section of this clause. The Minister referred to occasions when there may be other categories, and she gave one example of categories of places that the Minister may wish to exempt. It seems to me that, while it may be desirable not to have to come back to the Parliament to amend the legislation for the Minister to exempt other categories which the Minister justifiably feels should be granted exemption, it is reasonable that Parliament might at least insist that any exemption be prescribed by way of regulation. I am very loath for the Parliament to give up any power. Clearly within this Bill three categories have been exempted; we are doing that deliberately and with full knowledge, but simply to agree *carte blanche* that any other category may be exempted by proclamation is the sort of thing that I find unacceptable in any legislation, not just one relating to geographical names. For that reason, I move my amendment.

The Hon. ANNE LEVY: The Government is happy to accept these amendments.

The Hon. L.H. DAVIS: The Liberal Party also supports the amendments.

Amendments carried.

The Hon. L.H. DAVIS: The Act does not apply to or in relation to the name of a road or street. I find that understandable, given that local government has the power over roads and streets in most instances, but there are principal highways in the naming of which, one suspects, the Government may have an interest. I can remember the Philip Highway at Elizabeth as an example. To bring a principal road under the umbrella of this legislation would seem to be appropriate. I am wondering whether the Minister believes that the legislation as it now stands provides for that.

The Hon. ANNE LEVY: As I mentioned earlier, there is currently being drafted a principal roads Act, which will deal with matters referring to principal roads as opposed to the roads and streets under normal council control, and the naming of such principal roads will be dealt with in that legislation.

Clause as amended passed.

Title passed.

Bill read a third time and passed.

EVIDENCE AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 14 August. Page 156.)

The Hon. K.T. GRIFFIN: The Opposition supports this Bill with one qualification in relation to which an amendment will be moved at the appropriate time. The Bill provides a procedure for taking evidence from a person who is dangerously ill and who, in the opinion of a medical practitioner, is unlikely to recover from the illness. Such evidence relates to an indictable offence and must be taken by a magistrate or a justice of the peace. The statement taken is admissible in evidence at the committal proceedings or trial of the person charged, if it can be established that the person from whom the statement was taken is dead or unable to give evidence, and if either the prosecutor or the defendant (as the case may be) had reasonable notice of the proposal to take evidence and a reasonable opportunity to attend and cross-examine the person.

Where a statement by a witness is filed or tendered at a committal proceeding, and the witness subsequently dies or becomes so ill that he or she cannot give evidence at the trial, the record of the evidence at the preliminary hearing may, by leave of the court, be tendered at the trial as evidence. The reservation is that it cannot be so tendered

and admitted if the court considers that such statement would cause severe and unfair prejudice to the defendant.

The provisions contained in this Bill reflect provisions which are obtained in the Justices Act. Sections 152, 153 and 154 of the Justices Act are in similar terms, but it is proposed to transfer them to the Evidence Act and include them in a redrafted form. The Opposition has no difficulty with that. One area of amendment which I would want the Attorney-General to consider (and I will put an amendment on file to this effect) is that, in proposed subsection 4 (3) *(a)*, there be provision that if it can be established at the preliminary examination or trial of a person subsequently charged with an indictable offence that the person from whom the statement was taken is dead or unable to give evidence, then the statement is admissible subject, of course, to the proviso to which I referred earlier.

The concern I have is the reference to 'unable to give evidence'. It could be an inability for any reason, and it seems to me that it needs to be qualified. The qualification would be that, if the person is unable, through illness or infirmity, to attend and give evidence, the statement should be admissible. I would suggest that that is a minor matter of drafting, but it is a matter that needs to be addressed. Subject to that, the Opposition supports the Bill.

Bill read a second time.

WRONGS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 28 August. Page 541.)

The Hon. K.T. GRIFFIN: The Opposition has some difficulties with this Bill. It is a Bill that was introduced into the House of Assembly where the Opposition opposed it. Some amendments were made as a result of matters raised by the Opposition in that place, and the Bill now comes before us in an amended form. The Bill has been restored to the Notice Paper following the last session, during which we did not have an opportunity to speak on it at the second reading stage or to consider its ramifications.

What the Bill seeks to do is apply the amendments that were made in 1986 to the Wrongs Act, in so far as they then related to motor vehicles covered by the compulsory third party bodily injury insurance scheme, to railways, tramways and other vehicles which run on a fixed track or path.

I think it is important to retrace some of the history of this legislation. In 1985 there was a report from Mr Richard Daniell of SGIC recommending substantial changes to the Wrongs Act and the Motor Vehicles Act in so far as it concerned the compulsory third party bodily injury insurance scheme. That scheme provides compulsory cover for all motor vehicles in respect of injury or death caused as a result of an accident involving such vehicles. Up until 1975 there were a number of insurers in the field of insuring against the risks required to be covered by both the Motor Vehicles Act and the Wrongs Act.

However, the private sector became somewhat disenchanted with the scheme and opted out, so the State Government Insurance Commission became the sole insurer with no competition, and subsequently it administered the legislation. Its premiums were fixed by the Third Party Premiums Committee from time to time, and those were the premiums that were imposed on the owners of motor vehicles, such premiums to be paid concurrently with registration being taken out or renewed under the Motor Vehicles Act. In recent times my colleague, the Hon. Diana Laidlaw, has introduced legislation which seeks to broaden the scope of the scheme to open it to the private sector to provide competition to the State Government Insurance Commission on the basis that the private sector believes that it can do the work and provide the cover less expensively than SGIC. I suppose one only needs to look at the recent history of SGIC to believe that, at least in relation to investment policy, many organisations could have done it better.

It was obvious in 1984-85 that there were likely to be some very substantial increases in third party premiums which would have impacted quite heavily on motorists. Those increases in premiums were said to be necessary because the compulsory third party fund was running at a substantial loss—I think it was well over $100 million and probably closer to $150 million at the time. As a result of the publication of the report and its consideration by the Government, on 27 November 1986 a Bill was introduced to make some fairly substantial changes to the liability that the scheme would cover, and that Bill had to be addressed very quickly with a view to having it passed before Parliament rose for the Christmas/New Year break.

In addition, there were some other amendments to the Motor Vehicles Act which sought to limit the cover for injury sustained in a motor vehicle accident to injuries which arose out of the driving of a motor vehicle or a collision or action taken to avoid a collision with a stationary vehicle or a motor vehicle running out of control. That is an area that the Liberal Party supported because it was quite obvious that there were a number of accidents which were being covered by the compulsory third party scheme and which could not be related to any of those three categories; for example, the unloading of a motor vehicle where a person, in the course of the unloading of a stationary vehicle, sustained some injury.

At the time there had been some accidents that had been the subject of litigation, where damages had been awarded for such injury occurring in those circumstances. In 1988 there was an amendment that sought to clarify certain aspects of the events in relation to which cover was provided. At the time of the debate the most substantial change was to limit the awarding of non-economic loss from what was then about the current maximum level of around $180 000—that is an amount that was awarded by the courts—back to $60 000 as a maximum, and that was to be indexed.

At the time the Law Society and other groups strongly opposed that because it did result in significant hardship to those injured in a motor vehicle accident where there was serious injury. The Opposition indicated that it had grave reservations about that proposal but was not prepared to stop it or move to stop it at that time. There was something of a dilemma because we recognised, on the information that was available to us, that third party insurance premiums were going through the roof and that some action had to be taken to try to limit that burden.

Of course, because we had a compulsory third party insurance scheme where those injuries in a motor vehicle accident as a result of negligence would definitely receive some cover, we took the view that we ought not to oppose that change, although we did express some concern. In relation to one area, that is, the injury of juveniles, we proposed an amendment that did not gain the support of the majority of the Legislative Council. Quite obviously in relation to other areas, such as the workers compensation scheme, where there was a scheme in place to provide cover for those who were injured at work or on the way to work—a comprehensive scheme that was designed to provide support for injured workers—the same issue of damages was

considered, and the view was been taken by the Parliament that the limit on the damages that should be made available, because it was a non-fault scheme, ought to be more limited than the common law allowed.

At the time when the 1986 legislation was considered, it was obviously in the context of limiting the premiums to those vehicle owners who were covered by the CTP scheme. No consideration was given to any other area of negligence or accident arising as a result of negligence, I suspect because no other area of negligence was covered by a compulsory scheme. In the second reading explanation, the Attorney-General specifically referred to the amendments relating to the compulsory third party fund, when he said:

As a result of the increase in deficit, the State Government Insurance Commission conducted an inquiry into the Compulsory Third Party Fund. The report was released earlier this year and sets out a number of recommendations aimed at:

- reducing costs;
- reducing delays and improving procedures; and
- reducing the road toll.

In the introduction to that second reading explanation, the Attorney stated:

The Bill is linked to the Motor Vehicles Act Amendment Bill 1986, and together the Bills form a package aimed at reducing the pressure on third party insurance premiums.

In his reply to the second reading debate he said this:

If the Parliament wants a cap on third party premiums, reflecting the view of the community, it must take some action in respect of what causes the increase in third party premiums, the direct cause, that is, the level of common law damages awarded. That is what this Bill does, hopefully in as equitable fashion as possible in the circumstances.

Further, he stated:

If some restraint on third party premiums is required, then somewhere there must be a restraint on damages awarded, and it is the area of non-economic loss to which the SGIC has directed its attention.

It is in that context that the 1986 legislation was enacted. Since that time, the operations of SGIC have been examined both by the Auditor-General and by the Government Management Board through a sub-board called the Business Operations Reviews Sub-board. It is obvious from that that, although in 1986 SGIC believed that changes should be made to the law to reduce damages and to build in other provisions that would result in lower premiums, now at least, if not then, the policy of investment of the CTP fund has been under scrutiny, and that scrutiny has disclosed considerable incompetence in the way in which investments of the fund have been made.

I do not want to spend a lot of time in the consideration of this Bill looking at the operation of that fund, but I want to say that the CTP fund, because it appears to have been easy money, is the major fund of the SGIC, which has carried so many of its losses or non-performing loans, and that other funds such as the life fund have benefited significantly to the disadvantage of the CTP fund.

The review by the Government Management Board sub-board indicates that in 1988-89 the return on investments of the CTP fund was 4.61 per cent yet on the life fund was 17.3 per cent. In 1989-90 the return on the CTP fund was 6.06 per cent and on the life fund, 16.3 per cent. In the nine months to 31 March 1991, on an annualised basis, the return to the CTP fund was 8 per cent and to the life fund was 14 per cent. At 30 June 1990, 75.7 per cent of SGIC's property investments were allocated to the CTP fund. The Government Management Board sub-board report notes as follows:

The Auditor-General commented in correspondence to SGIC dated 17 July 1990 that:

> ... it would seem inappropriate that other funds of the commission received a benefit at the expense of the CTP fund, given the compulsory nature of premiums received into the CTP fund.

We share these concerns. The performance of investments made on behalf of the CTP fund is poor, and is much worse than the performance of investments made on behalf of the life fund.

On 31 January 1991 part of the investments made on behalf of the CTP fund were financed by $155 million borrowed from the life fund and $14.5 million borrowed from the general fund at 15 per cent per annum. These funds were invested on behalf of the CTP fund in assets which produced little or no income.

We find that with the CTP fund investments the Terrace Hotel, which is owned by Bouvet Pty Ltd, a subsidiary of the SGIC, was funded by the CTP fund to the extent of $125 million; that the SGIC was a joint venturer in Scrimber International and had a 50 per cent interest, with the South Australian Timber Corporation holding the remainder; and that both investments are non-performing and returning no income.

In addition to that, there are significant shareholdings in companies that are non-performing: some $45 million in listed shares and close to $20 million in unlisted shares, along with $10 million of unlisted notes. If all those non-performing loans, including the put option relating to the Collins Exchange Building in Melbourne, are taken into consideration, a very substantial amount of non-performing assets is attributed to the CTP fund which, if they were bearing a return, would undoubtedly result in much lower CTP premiums to motor vehicle owners.

That is all related to an issue which will be explored in other ways at a later stage. What we have in the Bill before us is an attempt by the STA to get into the act. The way in which it seeks to get into the act is to provide that the definition of a motor vehicle, originally amended to deal only with motor vehicles under the CTP scheme, should be extended to cover railways, tramways and busways.

The Government now argues that, because it is a self-insurer for personal injury claims arising out of the use of its public transport vehicles up to $1 million for any one incident and is covered by calamity insurance risk over that amount, it may result in a reduction of liability of the State Transport Authority arising out of an accident involving a train, tram or bus on the busway, and also a reduction in premium for calamity insurance if the same limitations that apply to motor accidents under the compulsory third party bodily insurance scheme were applied to Government transportation.

No case of any significance has yet arisen where such savings could have been made, nor are the savings in insurance identified, except in the case of a hypothetical accident involving a train or tram where 100 passengers were injured. In those circumstances, the Government argues that 50 per cent of the damages which presently could be awarded would be saved. The figure which it uses is $3 750 000 now, and a 50 per cent reduction if the Bill passes, but that is merely hypothesis.

There is, I would suggest, an important principle involved in the Bill, and that is whether the specific amendments which were designed to deal with the compulsory third party bodily injury insurance scheme should be extended to busways, tramways and railways. Should damages for injuries arising from negligent acts or omissions or default be limited, as they are in relation to motor accidents under the compulsory third party bodily injury insurance scheme? It is possible, of course, to argue that trams, trains and buses on busways should be treated no differently from motor vehicles on the ordinary roads, but I suggest that one cannot look at those means of transportation in isolation from the general principle. Those sorts of vehicles have never ever been covered by any compulsory third party bodily insurance scheme as had motor vehicles in relation to motor vehicle accidents.

I suggest that the Government cannot argue that it was

operating within the motor vehicles scheme but yet acting as a self-insurer in relation to those trams, trains and buses on busways. All this relates to the law of negligence which in essence provides that, if a person or body does something or omits to do something which would not have been done by a reasonable person or would have been done by a reasonable person, as the case may be, and loss and injury results from that failure to act as a reasonable person would have acted or not acted as the case may be, the person who suffers loss and injury is entitled to damages which will, so far as money can compensate, compensate for that loss and injury, placing that person in a similar position as he or she would have been in if the negligent act or omission had not occurred.

That means that, if one is injured or is a paraplegic or quadriplegic, not only that medical costs are payable but also that costs for care, equipment, loss of earning capacity, special needs and an amount for pain and suffering, which could be up to $200 000 in present monetary terms, are payable. However, under the 1986 amendment to the Wrongs Act, the figure would probably be $70 000 or $80 000 for those injured in a motor vehicle accident.

I suppose one could take an example relating to this Bill that, when two trains collide, a train runs into the buffer at the Adelaide Railway Station, a tram runs off the rails as a result of a poorly maintained track, a bus runs into the back of another bus on the busway, or there is a problem with lack of maintenance on such vehicle, those who are injured are entitled to be compensated.

If the provisions of the Wrongs Act as they apply under the CTP scheme were to be extended to these sorts of accidents, it is extending the line and limiting liability in relation to persons injured in those sorts of accidents. However, it still does not deal with the situation where perhaps a speed boat negligently driven on the River Murray crashes into a swimmer or another boat, the *Island Seaway* negligently runs over a runabout in the Port River, or a block of concrete falls onto a pedestrian from a crane manoeuvring above a building site. If negligence can be established, any injured citizen has a right to recover damages.

I am suggesting not that there ought to be limitations but that the limitations under the 1986 amendment do not apply to those situations, and injured persons in those circumstances are entitled to full compensation. One really must address the issue whether the sort of limit that was imposed in relation to the CTP scheme ought to be extended to other means of transportation or other forms of accidents arising from negligence and, if so, in what form.

Also, one needs to ask what is so special about transport accidents, with trains, trams and busways, that they must be treated differently from those other areas of negligence claims that I have referred to outside the normal CTP claims so that they are then put into the same category as motor vehicle accidents covered under a special scheme of insurance.

It is the Liberal Party's view that the Bill does proceed down the track of further eroding the rights of citizens and that, before that occurs, the whole issue of negligence ought to be examined and changes should not be made on an *ad hoc* basis for the benefit of a loss-making public authority. I suppose the relevance of that reference to a loss-making public authority is even more significant at the present time when, quite obviously, steps are being taken by the State Transport Authority and the Government to reduce its operating loss by reducing long-standing benefits which have been available to tertiary students, by reducing the free travel scheme for primary and secondary students, and by taking other steps to reduce those costs.

I should say at this point, as I have already said, that there is no evidence that the proposition before us will reduce costs, and no plausible reason has been proposed, other than the proposition than it may help the State Transport Authority in the longer term. That is certainly not sufficient to warrant the reduction of ordinary citizens' rights in favour of a Government loss-making statutory authority.

If the amendment is passed by Parliament, one could have a situation where, for example, passengers who are injured when a train runs into the buffers at the Adelaide Railway Station have a reduced entitlement to damages but, when a passenger steps off a train at the Adelaide Railway Station and slips on a patch of oil or something else left lying around and injures himself or herself, that passenger will be entitled to sue for damages without any limitation.

So, it is a question of where the line should be drawn and whether this form of transportation should be treated differently from *Popeye*, the *Island Seaway* or speed boats, for no other reason than that the Government and the STA think that there may be some saving in the future. I view with very great concern the proposition to provide a benefit to the STA to the cost of ordinary citizens. Some amendments were made to the Bill in the House of Assembly because at that stage the amendment would have allowed transport such as the Mad Mouse at the Royal Show, a roller-coaster, trams at the St Kilda Tram Museum, a ghost train, miniature trains at school fetes and moving gantries running on fixed tracks also to be subject to the provisions of the Bill, and that has now been amended to relate the modification in liability only to the State Transport Authority and the Australian National Railways Commission.

I draw attention to the fact that the limitation on liability in the amendment can also be extended to any other prescribed person or body and, regardless of whether or not as a principle the Bill should be supported, it is inappropriate and certainly not justified to allow citizens' rights to be significantly reduced if they are in an accident that involves a person or body which might be prescribed by regulation. If there is to be any limitation, and if this Bill is to pass, then it ought to be applied only to those bodies which are considered in the Parliament and specifically provided for in legislation.

In conclusion, therefore, I repeat that the Liberal Party does not accept that any further erosion of rights of individual citizens ought to be permitted and that those who may be injured through no fault of their own whilst on busways, tramways or railways should not be compromised for the sake of a possible saving by a governmental authority in not having to meet what until now had been normal and reasonable damages. I therefore indicate, as I said earlier, that the Liberal Party does not support the second reading of this Bill.

The Hon. R.J. RITSON secured the adjournment of the debate.

ADJOURNMENT

At 5.26 p.m. the Council adjourned until Tuesday 8 October at 2.15 p.m.