LEGISLATIVE COUNCIL

Friday 1 May 1992

The PRESIDENT (Hon. G.L. Bruce) took the Chair at 11 a.m. and read prayers.

PRIVACY BILL

In Committee.

Clause 1—'Short title.'

The Hon. K.T. GRIFFIN: The proposal the Attorney made yesterday to deal with this Bill is an appropriate way to deal with it. We last debated the Bill at the second reading stage in November (some five or six months ago) and, since that time, there have been a number of developments, including 32 pages of amendments by the Hon. Mr Elliott, which make significant changes to the Bill, to such an extent that one could probably make a second reading speech on his amendments alone; then, yesterday, 13 pages of amendments from the Attorney to the amendments of the Hon. Mr Elliott. It may be that, even though the Liberal Party opposes the whole Bill, if, after hearing the Attorney, there is a prospect that the Bill will pass, Liberal members will give some consideration to amendments that we believe are necessary to rein back the scope of the Australian Democrats' amendments.

However, I make it clear that we oppose the original Bill and the scheme being proposed by the Hon. Mr Elliott. For that reason, although it may be stretching the Standing Orders significantly, it is appropriate that each of the three players in the consideration of this Bill have an opportunity to look at it as a whole, rather than just focusing on particular amendments as we deal with the matter clause by clause.

So, I would seek the indulgence of the Committee while I endeavour to retrace some of the matters that I put to the Council at the second reading stage as I work through the scheme being proposed by the Hon. Mr Elliott and being amended by the Attorney-General. That will give us a complete picture of where each one stands on this controversial piece of legislation. So, what I have to say may involve some repetition of what I said earlier, but I hope to be able to put that into a new context of consideration of the fresh amendments of the Hon. Mr Elliott and the Attorney-General.

Generally speaking, the Government's Privacy Bill as proposed to be amended by the Australian Democrats and further amended by the Attorney-General will in my view be a confused shambles with serious consequences for the South Australian community. Just as it is said that a camel is an animal designed by a committee, so it will become obvious at the end of the legislative process that the Privacy Bill has been enacted by a committee, with varieties of interest being represented in the submissions that were considered.

Tacked on to the Privacy Bill will be the Australian Democrats' privacy committee proposal, which was proposed to monitor compliance by Government agencies and local councils with information privacy principles and investigate allegations of violations of privacy. Note the word 'violations' of privacy, which is a quite emotional description of an infringement of privacy, which is the terminology used in other parts of the Bill. In amendments he tabled yesterday, the Attorney-General now proposes to remove the reference to councils, and I support this as an improvement, because councils have not been consulted about the imposition of this Bill on them and the information privacy principles—

The Hon. M.J. Elliott interjecting:

The CHAIRMAN: Order! The Hon. Mr Elliott will come to order.

The Hon. K.T. GRIFFIN:—which are extensive and which are quite a lot more extensive than information privacy principles which the Government has proposed and enforced administratively in so far as the Public Service is concerned.

The Hon. M.J. Elliott interjecting:

The Hon. K.T. GRIFFIN: The Hon. Mr Elliott is bantering on in the background, endeavouring to suggest that what I am saying is not correct. The amendments that he placed on file one must regard as his proposals for amendment. I know that he said yesterday—

The Hon. C.J. Sumner interjecting:

The CHAIRMAN: Order!

The Hon. K.T. GRIFFIN: One day ago. The day before yesterday the Hon. Mr Elliott said that he was not going on with the proposition in relation to councils. I have acknowledged that. All I have said is that there was no consultation with local government about the proposals which he had in his amendments and which were placed on file on 7 April this year.

The Hon. M.J. Elliott interjecting:

The Hon. K.T. GRIFFIN: That is good—I am pleased. It is quite unusual for the Democrats to consult with some of these people who will be adversely affected by their legislation. It would not be a problem if the privacy committee proposed by the Australian Democrats was confined to monitoring Government agencies. I would support that because it is no different from what the Government is doing administratively. The Democrats have said that that privacy committee is under-resourced. That is a matter for the Government and not a matter on which I must make a judgment. Whether it is a statutory or administrative committee will not make that much difference in relation to the monitoring of information privacy principles within the Government sector.

The amendments are not confined to the monitoring of Government agencies. The committee will be able to investigate allegations of violation of privacy. That brings the committee's activities into the private sector and into the affairs of private citizens. While the committee will not have specific power to coerce (and I acknowledge that in relation to the statement that the Hon. Mr Elliott made earlier this week), nevertheless one can imagine the sort of pressure that the committee will be able to bring to bear on individuals in respect of whom allegations of violation of privacy have been made. If the committee says to a private citizen, corporation or employer that it is investigating an alleged breach of privacy, which is very widely defined in the Bill and even more widely in the amendments, the person being investigated is really caught between the devil and the deep blue sea. On the one hand cooperation will not ensure that the principles of natural justice will be applied and a report could still be adverse and be published—

The Hon. C.J. Sumner: Of course the principles of natural justice will still apply.

The Hon. K.T. GRIFFIN: They do not.

The Hon. C.J. Sumner: They have to.

The Hon. K.T. GRIFFIN: They do not have to apply. There is no reference in the Bill to the principles of natural justice applying.

The Hon. C.J. Sumner: You know as well as I do that administrative law requires natural justice.

The CHAIRMAN: Order!

The Hon. K.T. GRIFFIN: There is significant doubt about it in relation to this committee.

The Hon. C.J. Sumner: No there's not.

The Hon. K.T. GRIFFIN: There is.

The CHAIRMAN: Order!

The Hon. K.T. GRIFFIN: There is no guarantee that principles of natural justice will apply.

The Hon. C.J. Sumner: They have to apply.

The Hon. K.T. GRIFFIN: There is no guarantee that the principles of natural justice will be applied.

The Hon. C.J. Sumner: In New South Wales a committee was set up by the Liberal Government in the 1970s and has had these powers since 1975.

The Hon. K.T. GRIFFIN: It doesn't matter what happened in New South Wales.

The CHAIRMAN: Order! The Attorney-General will come to order.

The Hon. C.J. Sumner: It has had coersive powers since 1975 and none of these things that you are complaining about have happened over there.

The CHAIRMAN: Order! The Attorney-General will come to order.

The Hon. K.T. GRIFFIN: Who knows! We are putting something into South Australian law for the first time. As I was saying, a report could still be adverse while on the other hand refusing to cooperate may mean that the committee reports adversely on that refusal and effectively victimises the person whose behaviour is under investigation. The committee is not required to hold a hearing. It can obtain information in any way that it thinks fit and can decide whether or not a person can have legal representation. It reports to the Minister responsible for the Act and to a committee of the Parliament. The Democrats say that it is the Social Development Committee and the Attorney-General and his amendments say that it is the Legislative Review Committee. In addition, the committee will have power to determine to publish the report. There is no right of appeal and there is no right of review of the committee's decision or action. What surprises me is that the Attorney-General should even contemplate supporting such an outrageous anti-rights proposal.

In investigating violations of privacy it is important to note what they may be. I will deal with this in more detail as I look at each provision of the amendments and the Bill. For example, a member of Parliament keeping a record which contains information or opinions about a person's financial affairs, criminal records, personal qualities or attributes, will infringe the right of privacy. Members of Parliament frequently keep information about other persons, and not necessarily for a political purpose. A constituent will make a complaint to a member of Parliament and the member will gather details. It may be in relation to some Government action or some private sector organisation or individual. Therefore, a member of Parliament, by keeping such records, will infringe the right of privacy in accordance with the provisions in the Bill.

Companies which keep records about customers or potential customers will be in trouble even if the information is necessary to enable them to deal with those people and even if they do not make that information available to anybody else. That is a different question. If they pass on the information to other companies or to the Credit Reference Association or other credit monitoring or reporting agencies—we will deal with that again in the discussion on the Bill—those companies will be in difficulty.

Employers who keep employment records will infringe the right of privacy under the provisions of the Bill. Researchers, librarians and historians will be in difficulties. Later I shall refer to a submission made by the Australian Library and Information Service about some of the difficulties it believes it will face as a result not only of the Bill but of the information privacy principles which are proposed to be enacted in the amendments of the Australian Democrats. Whilst journalists, media organisations and public interest groups will not be in breach of the right of privacy and while that is not a matter that is disputed, one has to ask as a matter of principle why, if they are to be exempted, should private citizens, employers in relation to employment records, retailers and others in business not have the same or similar exemptions for their legitimate purposes.

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: They will not have exemptions for their legitimate purposes.

The Hon. C.J. Sumner: Read the Bill.

The Hon. K.T. GRIFFIN: I have read the Bill. Come on, you know it's true.

The Hon. C.J. Sumner: It is not.

The Hon. K.T. GRIFFIN: Media organisations will have exemption—

The Hon. C.J. Sumner: You are making it up.

The Hon. K.T. GRIFFIN: I will deal with it in detail in a moment. Media organisations will have exemption, but people supplying them with information will not. People supplying the sort of information which is covered by the definition of personal affairs and personal information to a media organisation will not have any exemption. Public relations consultants will have to comply. Of course, they are in a similar area of promotion to the media, but they are not subject to the same exemptions.

Although the Attorney-General interjected earlier that I am off the track, the fact is that if we interpret the provisions of the Bill strictly there are all these risks inherent in the operation of the Bill originally and as proposed to be amended by the Australian Democrats. I will deal with it for him in a moment and explain how I see all this hanging together. That is why I am surprised that he is supporting some of these propositions. Hopefully we will get a clearer indication of what he is supporting or not supporting when he speaks during the day on this issue.

The Hon. C.J. Sumner: All that was part of the original Privacy Bill.

The Hon. K.T. GRIFFIN: It is not. The Democrats are proposing amendments to define personal affairs, personal information and public interest groups. There are other issues which now impinge upon the original issues which we debated.

The Hon. C.J. Sumner: The question of employment records and all that would have been covered by the original Bill.

The Hon. K.T. GRIFFIN: Well, it is quite possible. It is now specific that it is because of the definition which the Australian Democrats are proposing.

The Hon. C.J. Sumner: In relation to the privacy committee.

The Hon. K.T. GRIFFIN: I am talking about two things: the privacy committee and its jurisdiction in relation to alleged violation of rights and also what is a violation of a right of privacy, because I think we have to look at the two together. If the privacy committee is to have a responsibility to investigate allegations of violations of privacy, it is important to look at what it will be able to investigate. Although what the Attorney-General says is correct—

The Hon. C.J. Sumner: You were saying that employers could not keep records.

The Hon. K.T. GRIFFIN: No, I am saying that the keeping of employment records—

The Hon. C.J. Sumner: It is nonsense.

The Hon. K.T. GRIFFIN: You have a look at the definition that the Democrats are proposing. They are proposing that:

> 'personal affairs', in relation to a natural person includes a person's—
> *(a)* financial affairs (but not insofar as they relate to a business carried on by the person);
> *(b)* criminal records;
> *(c)* marital or other personal relationships;
> *(d)* employment records;
> *(e)* personal qualities or attributes.

It then states:

> 'personal information', in relation to a natural person, means information or an opinion—

Even if someone keeps a record of an opinion, that will be personal information which is all caught up by the general concept of an infringement of a right of privacy, whether true or not, and whether recorded in a material form or not, concerning the personal affairs of a person whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

It talks about personal information containing information or an opinion and about whether or not that opinion is true. It is ludicrous to try to suggest that, if I keep a note on my files which says that a person is stupid or does not have a clue, how can one judge whether that opinion is true? In my view, that opinion is true. Other people might say objectively, 'Well, that is not established by the facts', or 'Look, you cannot stack that up', but the fact is that it is my opinion. I could keep a note on file of an opinion relating to a natural person, and I may be keeping a file which resulted from an initial reference to me of a complaint by a constituent who said, 'So and so is crook.' I may decide that I want to keep a record of all the occasions when this person is mentioned in the media or I may want to keep information I gather from others who might confirm that view before I make a decision as to what I will do with it. I may decide to report it to the Attorney-General so that he can get someone to investigate. I may decide to report it to the Police Commissioner, the NCA, the Police Complaints Authority or the Ombudsman but, if I keep the information, I am in breach of the right of privacy under the provisions of this Bill.

The Hon. M.J. Elliott: You don't understand.

The Hon. K.T. GRIFFIN: Well, you can talk later. The fact is that you are in breach of the right of privacy.

The Hon. M.J. Elliott: You are not.

The Hon. K.T. GRIFFIN: You are. Well, the Hon. Mr Elliott seems to know everything about nothing, and he will get his chance to debate that issue but, when he does not agree, his constant interjection is, 'That's nonsense' or 'You don't understand.' When we talk about environmental matters, legal matters or individual rights, what does he come back with? He says, 'You don't understand.' That is nonsense. He is the one who does not understand a lot of this background and argument, and he closes his mind to reasonable arguments, largely because of his preconceived ideas about particular issues.

I now want to look at the amendments, and then I want to refer to some of the observations of various persons who have received the Hon. Mr Elliott's amendments. As I have already indicated, he defines 'personal affairs' and 'personal information', and he also defines a 'public interest group' as 'a non-profit organisation formed to protect the public or a particular public interest'. I will deal with that definition shortly, but one can see, if one looks at it carefully, that it is a very wide definition so that a whole range of organisations which would fall without the honourable member's definition of 'public interest group' will be entitled to gain some benefit from this legislation.

The principal provision is clause 3. I do not want to deal in depth with the issues that I raised in the second reading stage: I merely want to say, again to put all this in context, that a person has a right of privacy, and that right of privacy is infringed by a number of intentional intrusions into personal affairs. I can say that it is an advance that the Hon. Mr Elliott is prepared to exclude business affairs, although I think that, in the context of defining 'personal affairs' and deciding whether or not affairs are personal or business, particularly in relation to an individual, it will be very difficult in some instances to make a decision whether it is personal or whether it is business. Is it business because it is part of carrying on a business, or is it business because one is paying certain business-type bills? I think that that will have to be explored in the detailed consideration of the clauses.

Intentional intrusion on another person's personal affairs will occur in a number of ways, set out under clause 3—by obtaining confidential information as to another person's personal affairs. I have already raised the question, 'What is confidential information?' What is confidential to one person may not be confidential in another context. I raise the classic case of banking records, which are not confidential at law but, so far as the bank is concerned, will be confidential to the client although, in some circumstances, that information may be made available, particularly if the customer defaults.

If I obtain, as a member of Parliament, or if someone in the community is dealing with another person and obtains, information which some might say is confidential and others might argue about, there is a breach of privacy. It may either be the subject of civil action or investigated by the Privacy Committee. An infringement occurs if records of another person's personal affairs are kept, and it is in this context that one has to look at the definition of 'personal affairs'. I will not repeat it, but it refers to a number of matters.

In addition, there is an infringement by publishing information about another person's personal affairs; visual images of the other; words spoken by or sounds produced by the other; and private correspondence to which the other is a party or extracts from such correspondence. Just the publishing of information about another person's personal affairs is to be a breach of privacy. And, this is not limited to confidential information: it is any information about a person's personal affairs.

What is private correspondence? Is it private if I write to my bank or to General Motors, or if a citizen receives correspondence from one of those organisations or companies? There is a great deal of difficulty, I would suggest, in discerning from this Bill what is or is not private correspondence. But the focus—

The Hon. C.J. Sumner: That's all in the original Bill.

The Hon. K.T. GRIFFIN: I am just putting it into context. The Attorney is getting stroppy because I am trying to put it into context. We talked about this six months ago, but now it is a totally new ball game, because we have a Privacy Committee that may investigate a whole range of infringements of privacy. I said that I will refer to these things. I will not do it at length, but I will refer to them because one has to look at the context in which this appears. A publication need not be a publication by the media, but may merely involve talking to someone else about it. Some defences are to be given, and we have dealt with the diffi-

culties in interpretation of the exemptions in subclause (4) of clause 3.

The Hon. Mr Elliott adds a couple of exemptions. Anything done by a media organisation or an agent or employee of a media organisation is to be exempt. Anything done by a journalist in his or her capacity as a journalist, whether or not he or she is acting on behalf of a media organisation, is to be exempt.

I refer also to anything done by a public interest group that is defined as a non-profit organisation formed to protect the public or a particular public interest. In relation to that definition, one has to raise immediately the question whether the organisation was formed for that purpose and whether one of its objectives is now to protect the public or a particular public interest. It may have been formed 20 years ago to protect the public or a particular public interest, but is it now undertaking that responsibility? The amendment focuses upon the formation and has no regard to what may occur subsequent thereto. It has to be a non-profit organisation. Therefore, it is not just the environmental, conservation or consumer groups; it can be any organisation other than a company limited by shares, which means that it can be an association incorporated or not incorporated. It can be a company limited by guarantee. It must be an organisation that is designed to protect the public or a particular public interest.

What is a public interest? Whilst there has been a number of cases about public interest, I would suggest that that is very broad. A particular public interest could be the preservation of rights for aged or disabled persons. It has been suggested to me that it could even be the Tobacco Institute, which was formed to serve a particular public interest. That is quite legitimate, I would suggest, because it has as part of its membership those who believe that there are no problems with smoking and that people ought to be able to exercise their own choice as to whether or not they smoke. In that context, if that interest is described and defined as a public interest, then that organisation—the Tobacco Institute, which is a non-profit organisation—can gain exemption from those provisions of the Bill which relate to infringements of privacy.

The Hon. Mr Elliott is also proposing to remove those other provisions in clause 4 which deal with media organisations, and we have no difficulty with that. However, he leaves in paragraph *(b)* of clause 4 (4), which provides that in having regard to whether or not a particular Act was justified in the public interest—which I think is used in a different context from public interest in terms of the public interest group—may have regard to any material relevant to that issue published by responsible international organisations or Australian State or Federal authorities. As I suggested the last time I spoke, that is very limited and took no cognisance of organisations which might be non-government organisations and either private sector driven or independent.

I turn to the provisions of the amendments in so far as they relate to the Privacy Committee. The Privacy Committee consists of five members appointed by the Governor, of whom not more than two may be Public Service employees. So, it is a Government committee. At least one member must be a woman and at least one must be a man. The quorum for meetings of the committee will be three persons, which may be the two Public Service employees and one other—at least that is certainly the potential. If the other members are part-time and cannot meet on particular occasions, then it is more likely, I would suggest, that the Public Service employees will form the core of the quorum, which meets for any purpose provided within its jurisdiction.

The membership is appointed for a term of three years, which is a fairly short period of time for a body which has the sort of wide powers which it is given under this Bill. It can delegate any of its powers and functions, and that would include the power to make decisions about whether or not there has been a breach of privacy in so far as it relates to the private sector. So far as the information privacy principles are concerned, a Government agency has broken those. So, they can be delegated; there is no limitation on the power of delegation. They can be delegated to public servants, to someone in the private sector, to organisations or to anyone it likes without any limitation.

The committee functions are set out in the proposed clause 12; they are to receive complaints of alleged breaches of privacy information principles or of the conditions of any exemption under section 14, and to refer such complaints to the Police Complaints Authority or the Ombudsman for investigation. There is no difficulty with reference to the Police Complaints Authority or the Ombudsman. I notice that the Attorney-General has some amendments on file in relation particularly to the reference to these two bodies. I think that follows some representation made by the Ombudsman, who had not been consulted by the Hon. Mr Elliott about the jurisdiction which he sought to confer on the Ombudsman. I suggest also that the Police Complaints Authority had not been consulted. The Ombudsman picked up some reference to his proposed jurisdiction from a newspaper article, wrote to the Attorney-General and, as a result of that, some of the amendments which have been proposed by the Attorney-General take into consideration the independence of the Ombudsman and the role which is conferred upon him by the Ombudsman Act, and that is the same in relation to the Police Complaints Authority.

If the Hon. Mr Elliott had consulted with these two bodies, which have important independent and statutory functions, he would have found that what he was proposing initially was a serious limitation upon the independence of both bodies. But that generally will be corrected by the amendments proposed by the Attorney-General. The committee has a responsibility to promote and monitor compliance with the information privacy principles; no-one has any difficulty with that in relation to the Government agencies which are bound by the information privacy principles. Then it has power to assist in the preparation of a code of practice, to conduct research and collect and collate information, to make reports and recommendations to the Minister, to disseminate information, to undertake educational work, to make public statements and to undertake such other functions as are assigned by this Act. However, it does have power to receive and investigate any other complaints concerning alleged violations of the privacy of natural persons.

In his speech, the Hon. Mr Elliott referred to what was happening in New South Wales, as did the Attorney-General by way of interjection. Certainly there is a Privacy Committee Act in New South Wales which was established in 1975. It has not got itself into a lot of difficulty, but it is important to look at the Privacy Committee in that State. It does have wider powers than are proposed for this committee, but I take no comfort from that. We are looking at a uniquely South Australian privacy committee which does have, I suggest, wide powers, powers for which it is unaccountable. It is unaccountable. It is not responsible to a Minister; it is not responsible to the Parliament; and there is no appeal from its decisions, particularly in relation to any determination it may make with respect to an alleged violation of privacy. So, it is totally unaccountable constitutionally.

The New South Wales Privacy Committee consists of not fewer than 12 nor more than 15 members. One is to be the Ombudsman, one is the executive member, and the remainder are appointed by the Governor. Of the appointed members, one is to be a member of the Legislative Assembly, one is to be appointed by the Minister responsible for the Act, and one is to be a member of the Legislative Assembly or the Legislative Council, nominated by the Leader of the Opposition in the Legislative Assembly. Not more than two out of the 12 to 15 should be members of the Public Service, and not fewer than two shall be persons, each of whom is employed by a university established in New South Wales, who shall be nominated by the Minister. Not fewer than four shall be persons each of whom has, in the opinion of the Minister, special knowledge of or interest in matters affecting the privacy of persons, and who shall be nominated by the Minister. Six members form a quorum.

So, it is a very wide-ranging and representative committee with a number of functions specified in the Act. The committee may not delegate the exercise or performance of particular powers or authorities, so there is some limitation on the power of delegation. Subject to the Act, the committee may conduct research and collect and collate information in respect of any matter relating to the privacy of persons. It may make and shall make, if directed by the Minister so to do, reports and recommendations to the Minister in relation to any matter that concerns the need for or the desirability of legislative or administrative action in the interests of privacy of persons. It can make reports and recommendations to any person in relation to any matter that concerns the need for or the desirability of action by that person in the interests of the privacy of persons. That is a fairly general proposition. It does not relate to specific alleged breaches of privacy. It may receive and investigate complaints about alleged violations of the privacy of persons and, in respect thereof, may make reports to complainants.

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: Yes, make reports to complainants. What the Hon. Mr Elliott has in this Bill is, 'may make reports to complainants, to the Minister, or to the Social Development or Legislative Review Committee', and may make them public.

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: I still say as a matter of principle, even if it does happen in New South Wales, the fact is it can constitute a breach of liberty and rights because it is unaccountable. I am saying that. You can disagree and compare it with New South Wales if you want to.

The Hon. M.J. Elliott: It's been in New South Wales for 17 years.

The Hon. K.T. GRIFFIN: I don't care if it has been in for 70 years.

The Hon. M.J. Elliott: It's never been a problem.

The Hon. K.T. GRIFFIN: That is what you say.

The Hon. R.I. Lucas: They've had poker machines in New South Wales for 30 years. Do you want pokies Mike?

The CHAIRMAN: Order! The Hon. Mr Griffin.

The Hon. K.T. GRIFFIN: We have to make a judgment on what we think is proper for South Australians. We can certainly take into consideration what happens in other States and in other jurisdictions. It is important to do so, but that does not mean that we are governed by what they do. The Federal Parliament passes all sorts of controversial legislation, legislation which I think is abhorrent. Look at the political ad bans legislation which is presently subject to challenge by the High Court.

The Hon. G. Weatherill interjecting:

The Hon. K.T. GRIFFIN: It is not. It was the Labor Party that introduced that, and the Australian Democrats supported it. In South Australia I think the State Government is very sensitive to that legislation, although it has been able to avoid making too much public comment about it. But we do not agree with that legislation. We oppose it vigorously, and we are entitled to do so. Just because it has been passed by the Federal Parliament does not mean it is a good thing.

The Hon. M.J. Elliott interjecting:

The CHAIRMAN: Order!

The Hon. K.T. GRIFFIN: As to the functions of the New South Wales committee, in relation to any matter relating to the privacy of persons it may make public statements. However, upon looking at this we see that it is not to make a public statement about a specifically alleged violation of privacy. It relates generally to the privacy of persons. Also, it may conduct such inquiries and make such investigations as it thinks fit. It is correct, and I do not deny it, that the committee may at any time make a special report to the Minister for presentation to Parliament, on any matter arising in connection with the exercise or performance of its powers, authorities, duties and functions. The committee may include in a report, under subsection (1), a recommendation that the report be made public forthwith. Then other mechanical provisions follow. But my point is that it does not matter what is in operation and what their experience has been in New South Wales, or in any other jurisdiction. If we look at the principle of this committee that the Hon. Mr Elliott seeks to establish, it is unaccountable, there is no right of appeal from its decisions and it has the capacity to create—

The Hon. C.J. Sumner: Is there any appeal in New South Wales?

The Hon. K.T. GRIFFIN: There is no appeal in New South Wales. That is fine. I am not suggesting that New South Wales is a good model. It was the Hon. Mr Elliott who said it was.

The Hon. M.J. Elliott interjecting:

The CHAIRMAN: Order!

The Hon. K.T. GRIFFIN: The Hon. Mr Elliott can argue about this later if he wants to. He obviously does not accept the argument, so why does he not keep quiet and let me get on with the job? I will argue with him all day if he wants me to. If he wants to sit here all next week, that is fine. If he wants to prolong the debate, that is a matter for him. He can disagree if he wants. This is a place where we do disagree on issues of principle.

The Hon. M.J. Elliott interjecting:

The Hon. K.T. GRIFFIN: Well, shut up!

The CHAIRMAN: Order! We are in Committee and everyone can disagree in the proper manner.

The Hon. K.T. GRIFFIN: The Hon. Mr Elliott does not like being taken to task on issues of principle, because he thinks he is a good judge on what principle is—but I would suggest that he is not. Then there is a provision in the Hon. Mr Elliott's proposal that deals with the public sector, and an agency, which is defined as an agency under the Freedom of Information Act, must comply with the information/privacy principles.

I have not had the opportunity, with the pressure of all the parliamentary activity in the past couple of weeks, to refresh my memory, but I recollect that under the Freedom of Information Act 'an agency' includes bodies such as universities; it does not include the State Bank, SGIC or bodies such as that. I wonder whether the Hon. Mr Elliott has bothered to consult with those.

The Government's own information privacy principles do not apply to tertiary institutions because they are, according to the statutes, independent. However, if the Freedom of Information Act applies to them—and I recollect that it does, but I am happy to be corrected—then these principles will apply to universities. I cannot imagine that there would have been any consultation with them about those principles. As I say, the Government's own administrative principles do not apply to them because they are not 'a Government agency' for the purpose of the application of those administrative principles. I think that area certainly needs to be further checked.

Matters subject to investigation under proposed clause 18 may be investigated where there is an allegation of violation of the privacy of a natural person. The committee may make such an investigation on receipt of a complaint or on its own initiative, so it does not have to wait for a complaint, it can do it itself. If the complaint relates to a Government agency, it goes to either the Ombudsman or the Police Complaints Authority. A complaint may be made by any person or by the personal representative of any person. A member of either House of Parliament may make a complaint on behalf of any person with the consent of that person. There are penalties for obstructing or hindering a person who may wish to make a complaint under the provisions of the Act.

It is important to note that in clause 23 the procedures for investigations are set out, and these are the ones to which I have already referred. Every investigation must be conducted in private. The investigative or investigating authority, whichever one that will be after we have discussed it in the Committee stage, is not required to hold a hearing for the purpose of an investigation, may obtain information from such persons and in such manner as the investigating authority thinks fit, and may determine whether any person to whom an investigation relates may have legal or other representation.

Before making a report, the report must be provided to the person or body, the subject of the investigation, to afford them a reasonable opportunity to comment on the subject matter of the report, but there is no obligation to publish that comment if, in fact, the committee subsequently publishes the report. So, it can ignore the response that is made.

If the committee is of the opinion that the action to which the investigation relates violates the privacy of a natural person, it may do certain things. It must report its opinion and reasons to the person or body the subject of the investigation and make such recommendations as the committee thinks fit. A copy is to be sent to the Minister and to the relevant committee which, according to the Hon. Mr Elliott, should be the Social Development Committee and, according to the Attorney-General, the Legislative Review Committee.

The report under proposed clause 25 may be published by the committee and, obviously, by the Minister under parliamentary privilege or by the relevant parliamentary committee. According to the amendments proposed by the Hon. Mr Elliott, the Act binds the Crown. In the original Bill, the Act binds the Crown. I notice that the Attorney-General's amendment deletes the reference to the Act binding the Crown.

The Hon. C.J. Sumner: We have passed the Bill in respect of the Crown Proceedings Act.

The Hon. K.T. GRIFFIN: The Attorney-General reminds me that we have passed the Crown Proceedings Bill and that explains that. I was just raising a question about it, I was not at this stage prepared to be critical until I had heard the response—now I have heard it.

The Hon. R.I. Lucas: A very reasonable approach.

The Hon. K.T. GRIFFIN: That is a very reasonable approach. There is general legislation which deals with that, so I accept the interjection.

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: I am not worrying about whether or not it is progressive. When legislation that might be controversial is passed, the Government is always prepared to say that it was the Parliament that passed it. On occasions when it might be good legislation that the Parliament passes, the Government still likes to take some credit for it. It is easy to shift responsibility as one sees fit. At this stage I do not intend to deal with the detail of the information privacy principles, except to say that we will be giving close consideration to these in the course of the detailed consideration of those propositions. I note that the Attorney has a number of amendments on those, and others have raised with me questions about aspects of the principles and the extent of the bureaucracy that will be established as a result of the enactment of more extensive information privacy principles than those presently applied by the Government administratively.

For a few minutes now I want to turn to some of the propositions that have been put to me by various bodies and persons to whom I have sent the Bill. I am not sure whether the Attorney has received a submission from the Australian Library and Information Association, which comments on the amendments to be moved by the Hon. Mr Elliott. It deals first, with defences against an action. I quote the submission as follows:

> Libraries are concerned about the possibility of complaints being made by people other than the donor about material in local history collections, for example, in diaries, oral history tapes and photographs. ALIA is concerned that both the Bill and the proposed amendments have removed public interest as a defence in an action for infringement of privacy, as this seemed to offer possible protection in such cases. We would like to see in clause 3 (4) 'by the inclusion of unpublished material in library collections where that material is genuinely provided for research purposes'. Failing that, we would like to see public interest restored as a defence in clause 4 (3).
>
> Research
>
> Clause 12 *(g)* lists as one of the functions of the Privacy Committee dealing with applications for access for research purposes, while clause 16 (1) discusses the collection of a fee from the applicant. Is it proposed that the approval of research be totally removed from agencies? We see this as undesirable, since agencies are more likely to be able to assist a researcher to frame a request, are more familiar with any privacy issues concerning their records, as well as issues affecting the running of the agency, and are better placed to handle an application quickly with full-time paid officers available. They are also better placed to negotiate modifications to an unacceptable application which would make it acceptable. If requests go to the agency for recommendation and sifting, then to the committee, this introduces a time delay and an unnecessary layer of bureaucracy (this has been the experience with the current Privacy Committee). Some agencies receive a considerable volume of research requests.
>
> Clause 16 (5) states that a decision by the committee to grant access for research purposes could override exemptions under the FOI Act. It is far from clear how privacy would be assisted by overruling the FOI Act's provisions. We urge that the provisions for the committee to approve research applications be deleted.
>
> Part 5: Investigations
>
> It is not clear how this sits with clause 4 on the actionable tort. When would a complainant use the committee and when the tort? Is it intended that there be a hierarchy of approaches as in FOI, for example, first the committee, then the tort? Why should complaints about agencies be investigated by the Ombudsman or the Police Complaints Authority and then referred to the committee? Cannot the Ombudsman determine a course of action? It would be better for the Ombudsman to refer to the committee only those matters with wider implications, for example, where a service-wide approach is called for.

To some extent that will be addressed by the amendments proposed by the Attorney-General. The submission continues:

Clause 19 (2) re complaints by MPs appears to be redundant, in that this is surely covered by 'personal representative' in 19 (1).

Information Privacy Principles

These are referred to as the privacy information principles in the Bill amendments and the information privacy principles in the proposed schedule. The latter is what they have been known as for the past three years in Cabinet instruction No. 1 of 1989. As these intended to be for agencies only or for private bodies as well?

I should interpose that it is my understanding of the amendments that they are to apply only to Government agencies. If I am wrong, I should like to know. One view has been put to me by a lawyer in the private sector: that, whilst it appears on the face of it that the information privacy principles apply only to Government agencies, there is an argument that they can ultimately be applied to private sector bodies. The ALIA submission continues:

The proposed information privacy principles in the schedule are considerably different from those in Cabinet instruction No. 1 of 1989. There would be a considerable cost penalty in making such changes, considering the training effort which has gone into the old principles and the retraining which would be required. In large decentralised human services agencies such as education, FACS, health and DETAFE, the training time and costs are significant.

The proposed principle 5 (3), re record-keeping would also be an extremely costly exercise, especially in the large human services agencies, and would not appear to be justified. The proposed principle 7 (3), *re* amendment of records duplicates the provisions of the FOI Act and is not necessary.

The proposed principle 11 would appear to create difficulties for employers, where the use of such information may be vital to their operation or to the public interest, for example, the notification to the Education Department of teachers charged with criminal offences or, also in the Education Department, the notification to staffing officers by occupational health and safety counsellors of changes in a teacher's fitness to teach due to medical reasons.

The privacy Committee

The ALIA is not opposed to the concept of a committee, but has reservations about some aspects (see above). There would be benefit in aligning such a committee with the Equal Opportunity Commission, since they already handle complaints under the Commonwealth Privacy Act and have a suitable structure and resources.

Journalists and the media—

I am putting all this, whether or not I agree with it—

We see no reason why journalists and the media should be totally exempted from infringement of privacy. Removing business affairs as an aspect of privacy should suffice. There is still substantial scope for journalists and the media to invade personal privacy, for examble, of celebrities and of victims of crime, and we do not see why they should not be able to be required to justify their actions in terms of public interest if a person is aggrieved.

That is a submission from the Australian Library and Information Association, and I hope that in the consideration of the amendments the Attorney, particularly, since it relates largely to the public sector, would take into account those matters. I have also received a submission from the Credit Reference Association of Australia, which does not object to the application of provisions relating to disclosure of information that is being held. It is, of course, subject to the fair credit reporting provisions of the Fair Trading Act relating to credit information. I always argue that, because of their existence in South Australia, that was sufficient and that the Federal privacy legislation, which placed even more onerous requirements upon bodies such as the Credit Reference Association, was unnecessary. But the Credit Reference Association wrote to Mr Elliott (and I have a copy of this) that it does not believe the Privacy Bill is necessary or appropriate. It states, and I think it is important to put this on the record again:

In South Australia the Fair Trading Act regulates the provision of credit reports and has been in operation for a total of at least 17 years. Under that Act and its predecessor, the Fair Credit Reporting Act 1974. CRAA is not aware of any criticism of the operation of these Acts. The CRAA system fully complies with the South Australian Act.

With the amendments to the Federal Privacy Act 1988, adopted in December 1990, the operations of credit reporting agencies and the exchange of credit information between credit providers are subject to a considerable level of additional regulation. CRAA and its members have invested a considerable amount of time and money ensuring their operations comply with the strict standards of the Privacy Act 1988 (as amended). The association is concerned that there should not be another piece of legislation, a State Privacy Act, which further complicates both the existing South Australian and Commonwealth law. Such an Act would place additional burdens on CRAA and the business, professional and commercial community which it serves, without commensurate advantages to the general community.

The CRAA does make some observations on the amendments and draws attention to the fact that, if this legislation is passed, quite obviously, although there is a specific exemption for certain credit organisations, it is limited only, as I argued back in November last year, and if bodies such as the CRAA already complying with State and Federal law are to be further covered by this legislation some attention will need to be given to ensuring that that does not occur, because I think it is unnecessary. If it does occur, it should not be in conflict with existing law.

The code of conduct that the CRAA has put in place has a number of features. They include dealing promptly with individuals' requests for access and amendment of personal credit information; ensuring that only permitted and accurate information is included in an individual's credit information file; keeping adequate records in regard to any disclosure of personal credit information; adopting specific procedures in setting credit reporting disputes; providing staff training on the new Privacy Act requirements (that is, the Federal Act); and a number of other matters. So, bodies like CRAA have acted in accordance with the law and have taken their responsibilities quite seriously, and I do not think anyone at the Federal Privacy Commission level or at the State level could criticise what bodies like that have done.

In a subsequent letter to Mr Elliott, a copy of which was sent to me, CRAA makes reference particularly to Insurance Reference Services Ltd and a claims database which provides insurers with an invaluable tool for the identification of fraudulent claims and the verification of claims history and as a measure of underwriting risk, as follows:

By recording all insurance inquiries which have been made on the database, IRS members are made aware of other insurers who have an interest in a particular claimant.

Whilst there is an exemption in relation to fraud, and investigations made into fraud, not all the initiatives by insurers and underwriters are focused only on the prevention of fraud. Sometimes it goes to the measure of weighing the risk. The CRAA letter goes on to say:

The majority of insurance inquiries directed to Insurance Reference Services do not involve fraud, however, they are made for the purpose of discovering whether fraud may have occurred or has possibly been attempted. To cover this situation I recommend the following amendment [in relation to defences]:

(b) by an insurer or other commercial organisation or a person, acting on behalf of an insurer, in carrying out reasonable inquiries for the purpose of assessing an insurance claim or assessing the risk of providing insurance.

The retail traders have sent a fairly comprehensive submission, which deals with various aspects of the proposed amendments, but they oppose the Bill and the amendments on principle. They deal specifically with the definitions of journalist, personal affairs (which includes financial affairs) and public interest groups. I have largely paraphrased what they have been saying, but I will reserve the right to deal more extensively with those proposed definitions. They share the view that I have expressed that the privacy committee as proposed to be established is largely unaccountable for

its actions, and I think that in this day and age, although the New South Wales experience is thrown up at me, we have to ensure that there are adequate safeguards against abuse if such a committee is to be established.

I have received submissions from bodies such as the Engineering Employers Association, which deals with this issue of employment records, now specifically included in the amendments proposed by the Hon. Mr Elliott. That organisation indicates its opposition to the Bill and the amendments. Television stations and the Federation of Australian Radio Broadcasters have made submissions, along with the Australian Journalists Association. The Australian Journalists Association made an interesting submission, which Mr Elliott also received. In relation to the definition of journalists and their exemptions, it states:

1. Any exemptions and references to journalists should also include media photographers, media camera operators and media artists. While this had been dealt with in some areas simply by referring to the 'media' as a whole, it may be inappropriate to refer to journalists alone in some areas. This could unfairly expose 'photo-journalism' to restrictive elements of the Bill, where these workers are performing their vital part in news coverage in the electronic and print media.

That issue needs to be addressed and I would like a response at some stage from the Attorney-General on that point. It is interesting that, in the submission from the *Advertiser*, the definition of journalist, whilst not being critical of it, notes that it is extremely wide. The submission states:

Perhaps rather surprisingly, the librarian employed by the *Advertiser* would be a journalist. So also an advertising agency employee, or a person who takes telephone calls of information to be published by way of an advertisement. Likewise those collecting information for surveys to be published in the media.

So, it is fairly wide. I make only one further reference to a number of submissions I have received, namely that from the Australian Broadcasting Corporation. Mr Martin, the head of television news and current affairs, stated (and I have raised this issue previously) that the ABC is a Commonwealth statutory corporation and that its affairs ought not to be subject to scrutiny under this legislation. I have no difficulty with that concept. He states:

While the ABC already has taken considerable steps to outline its opposition to the provisions of the Bill, I should reiterate that the ABC does not consider that South Australian privacy legislation could apply to the corporation in any event. This is because the Privacy Act 1988 (Commonwealth) is the relevant privacy legislation pertaining to the ABC, as well as Section 82 of the Australian Broadcasting Corporation Act 1983.

A set of far-reaching information privacy principles has been established in the Commonwealth Privacy Act, which applies generally to the ABC. However, section 7 (1) *(c)* explicitly exempts 'any act done, or practice engaged in' in relation to the program material of the ABC from the application of the Act. Since the Commonwealth Parliament has seen fit to exempt, the ABC's program-making activities from such provisions, it is clearly extremely difficult for the South Australian Parliament to attempt, in effect, to overturn the Commonwealth Act.

That is correct.

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: Constitutionally, I think that is correct.

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: You can explain it, but I think constitutionally that is correct. Even if it were bound by the South Australian Act, it would have an exemption under the provisions of the Hon. Mr Elliott's amendment. I was talking about the fact that they were saying that it is a Commonwealth statutory corporation and it does not believe that it is bound by the South Australian Act because of its specific exemption from Federal Privacy Act principles. If the Attorney-General has a different point of view, he can make that clear, but if it is not clear—

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: I was going on to say—and the Attorney-General did not wait for me to respond—that, if it is bound, a media organisation would still be exempt under the amendments being proposed by the Hon. Mr Elliott.

The Hon. M.J. Elliott: Channels 7, 9 and 10 are exempt as well.

The Hon. C.J. Sumner interjecting:

The CHAIRMAN: Order!

The Hon. K.T. GRIFFIN: It is not irrelevant. It has a general view about the Bill. There is substantial concern, if the Bill is passed, with the provisions as they stand. The Hon. Mr Elliott challenged me yesterday to move some amendments. It may be that I will. However, we will still oppose the Bill and the Australian Democrats amendments finally, although we will support those amendments which limit the scope of the legislation and we will support the Attorney-General's amendments which limit the scope of the Privacy Committee. But, when it comes down to the final judgment on the third reading, we cannot accept that the Privacy Committee, which is being established under this legislation, should be unaccountable and should have the power to investigate complaints of violations of privacy. That is the position as we see it at present. I appreciate the opportunity to put all that into a global context.

The Hon. C.J. SUMNER: First, I thank the Committee for its indulgence in allowing this procedure to be adopted. I think it will ensure that the issues are fully explored in a general way before we embark on the Committee stage in detail.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: The Hon. Mr Griffin has raised a number of matters and I am prepared to look at some of the issues he has posed. It may be that we can address those later in the Committee stage, the Hon. Mr Elliott having given some consideration to them between now and next week. There are a number of matters to which I should like to respond in general terms to the Hon. Mr Griffin. First, the proposal by the Hon. Mr Elliott, which is supported by the Government in general terms, provides for the Privacy Committee to be established with investigative powers through the Ombudsman and the Police Complaints Authority relating to Government agencies. The Hon. Mr Griffin said that if it went only that far he would be happy. He says that it is confined not only to monitoring Government agencies but that it applies to the private sector. The Privacy Committee applies to the private sector, but not in the same way as it applies to the Government sector. In the private sector the Privacy Committee will have the capacity to investigate breaches of privacy but without any coercive powers. On that point, it is interesting to note that the New South Wales Privacy Committee has been in place since 1975. Legislation was introduced by a Liberal Government in New South Wales 17 years ago.

The Hon. K.T. Griffin: Wasn't it Neville Wran?

The Hon. C.J. SUMNER: No, it was passed in 1975, and my recollection is that Mr Wran was elected as Premier of New South Wales in May 1976. This was an initiative of the New South Wales Liberal Government. The New South Wales Privacy Committee has been in operation for some 17 years, and the powers that the Hon. Mr Elliott and the Government propose to give to the Privacy Committee in South Australia are less than the powers that have existed for 17 years in New South Wales. It is quite clear that the New South Wales Act gives to the committee certain coercive powers. In fact, section 16 provides:

The committee may require any person to give any statement of information, to produce any document or thing or to give a

copy of any document to a member of the committee specified in the requirement.

It is also true that that section picks up certain provisions of the New South Wales Royal Commissions Act. Therefore, the powers which the New South Wales Privacy Committee has had for 17 years exceed those which are proposed by these amendments for the South Australian Privacy Committee in so far as that committee covers the private sector.

The next point made by the Hon. Mr Griffin was that natural justice will not apply. In my view, that is not true. All Government agencies, statutory authorities and organisations—whether they be royal commissions, Auditor-General's examinations, Worthington inquiries or anything else of that nature—must comply with the rules of natural justice in carrying out their investigations. Not only does this committee not have coercive powers, such as in the case of a citizen or company not wishing to cooperate with the committee, and they are perfectly entitled to do so, but, under the general rules of administrative law, the rules of natural justice would apply and, if the committee were going to report adversely on an individual, they would have to give that individual the opportunity to comment on the report in accordance with the normal rules of natural justice.

The Hon. Mr Griffin then went on to talk about the privacy tort and made certain comments about how it would prevent members of Parliament keeping records and employers keeping records on employees, etc. They were all arguments raised under the general discussion of the tort of privacy which I thought had been answered by the Government, because it is quite clear that the intrusion of privacy must be substantial and unreasonable and not justified in the public interest. It is quite clear that an employer keeping records of an employee for the purposes of employment would not be covered by the tort of privacy, first, because just doing that would not constitute a substantial and unreasonable intrusion of privacy.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: Well, it depends on what sort of records are being kept. I suppose it could be that, if they are keeping records on the sexual practices of their employees or—

The Hon. M.J. Elliott: Or what political Party they belong to.

The Hon. C.J. SUMNER: Yes, or what political Party they belong to and things like that. In those circumstances, one could imagine that to be an invasion of privacy by the employer, and I would expect that most people here would agree that that would be an illegitimate invasion of privacy and would not be justified in the public interest. But if they are keeping normal employment records—the sorts of records which one would expect employers to keep on employees, such as application forms and the like—clearly, in my view, there would not be a breach of the tort of privacy.

A lot of the other examples which the honourable member gave in his speech and which have been given during the debate on this matter fall into the same category. Regrettably, there has been a lot of scaremongering about this legislation in the media and in the Parliament, and I think that what is now being proposed should remove most of the concerns that people have. I point to the New South Wales example to indicate that the scaremongering, which has gone on around this and in which the Hon. Mr Griffin has engaged to some extent, even in recent days, is simply not justified.

The honourable member then raised the question whether the privacy principles would apply to the universities. That is not a major issue. If there is concern about that—that the current privacy principles do not apply to universities and that they have not been consulted—I am sure that some mechanism can be found to deal with that issue in Committee. As to the representations that the honourable member has received from various groups, we have obviously considered some of these. In so far as the honourable member made the suggestion that possibly the information privacy principles could apply to the private sector, that is not the intention. We do not believe that the Bill is drafted to do that but, if it is or if there is any doubt about it, the Government and, I am sure, the Hon. Mr Elliott, would have no problems with ensuring that that is clear in the legislation.

The Hon. Mr Griffin also said that it is an unaccountable committee, that there are no rights of appeal and so on. Well, there are no rights of appeal, but then again there are no rights of appeal in the New South Wales Privacy Committee. I emphasise that the committee, in so far as the private sector is concerned, has no coercive powers: it has only a general investigatory power. It can examine issues, but it cannot coerce anyone to do anything.

The Hon. K.T. Griffin: If the committee asks, 'What is your answer to this?' and they say, 'You have no jurisdiction. I don't want to answer', that is a matter of comment in itself.

The Hon. C.J. SUMNER: It may not be.

The Hon. K.T. Griffin: In a sense it can be coercive.

The Hon. C.J. SUMNER: I do not think that that is a major problem. As I said, there has not been a major problem in New South Wales. The criticisms that the honourable member raises about lack of appeal apply equally at the present time to the Ombudsman as far as the investigation of the actions of public servants is concerned. There is no right of appeal against a decision of the Ombudsman, and the Ombudsman has coercive powers and can make recommendations. The Government does not have to accept those recommendations or put them into place with respect to particular individuals, but neither can the Privacy Committee enforce anything on the private sector.

The Hon. K.T. Griffin: He is dealing only with administrative acts.

The Hon. C.J. SUMNER: Well, he is dealing only with administrative acts, but they can be serious administrative breaches. All I am saying to the honourable member is that—

The Hon. K.T. Griffin: They relate to Government behaviour.

The Hon. C.J. SUMNER: Sure they relate to Government behaviour, but they also relate to individuals in government who may do certain things. The Ombudsman may make findings about those individuals and, under the Ombudsman's Act, those individuals have no right of appeal against those findings. It is not a particularly unique provision—that is, that there is no right of appeal—because the committee has no coercive powers in relation to the private sector. However, it will have to follow the principles of natural justice. I make those points to indicate that I do not think the scaremongering about the Bill and the amendments now proposed is justified.

But I get back to the point about the lack of accountability. The members of the committee are appointed by the Governor for certain terms to start with; secondly, there is provision for a report to Parliament; and, thirdly, there is provision for a report to one of the standing committees of the Parliament, either the Legislative Review Committee, which is the Government's proposition, or the Social Development Committee, which is the Hon. Mr Elliott's proposition, presumably because the Democrats are represented on that committee and not on the Legislative Review Com-

mittee. But, nothing much should turn on that: the fact is that one of those standing committees will have jurisdiction over the acitivities of the Privacy Committee. It will have to provide reports to Parliament and, clearly, the standing committee will be able to call the committee before it and question it. So there is some degree of accountability—sufficient accountability, given the nature of the powers that this Privacy Committee has. I do not believe that a full paraphernalia of appeal rights is necessary.

The comments of the Credit Reference Association have been noted by the Government and I have replied to them. I have sent copies of my reply to the Hon. Mr Elliott, at least, and I can provide a copy to the Hon. Mr Griffin. I can assure him that that was only an oversight: he should have been provided with a copy. I do not think the concerns are justified in any way whatsoever. As the association says, its record-keeping is covered by the Fair Trading Act of South Australia and by the Federal Privacy Act. As far as I am concerned, unless it conducts activities outside that which this legislation might impinge upon in some way, the association will not be affected by the proposals that the Government and the Democrats are putting forward. So, I am not worried—and I do not think that the association should be worried—about the issues it has raised.

Theoretically, I suppose, the Privacy Committee in South Australia could duplicate what happens at the Federal level or under the Fair Trading Act, but that really does not accord very much with commonsense. When one has a regulatory regime in place it is most unlikely that another body would want to intervene. In any event, in so far as it is covered by specific legislation, that would obviously override any general legislation relating to privacy.

The ABC has written to the Hon. Mr Griffin, to me and, I understand, to all members. I do not know quite what the commission is on about in this respect. It seems to me that its correspondence was something of a *non sequitur*. The commission earlier argued that the tort of privacy would not apply to it because of the provisions of the Federal Privacy Act, which it said covered the field: as a result, any local privacy legislation would be inconsistent and therefore not applicable to that Commonwealth instrumentality—the ABC, my advice—not fully considered—from the Crown Solicitor was that that conclusion was not correct. The ABC, for instance, is bound by the laws of this State—tort laws, defamation laws and suppression laws. I think that the commission would always have been bound by the general tort of privacy.

However—and this is why I wondered why the ABC bothered to write—it was made quite clear by the Hon. Mr Elliott and the Government last year that the media would be excluded from the general right of privacy, and that obviously includes the ABC and, as the Hon. Mr Elliott said, Channel 7, Channel 9 and Channel 10 as well. So, I am not really sure what the ABC was trying to achieve by its correspondence. It may be covered by the Privacy Committee's general powers of monitoring, but in that respect it would be in no different position to anyone else. However, in so far as it argued that it was not covered by the tort of privacy, in my view those arguments were not correct.

So, in summary, the information privacy principles in South Australia have been in place since 1988, as has a Privacy Committee. These amendments will put the committee and the principle in a slightly modified form on a statutory footing. As I understand it—

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: Somewhat more extensive. As I understand it, the Hon. Mr Griffin really has not much objection to that in any event. I do not believe this will require a large increase, if any, in the size of the bureaucracy. I hope it does not. Certainly, the Treasury will not be very enthusiastic if it does require significant extra resources. There may be some extra resources; one might have to concede that. I have not done any—

The Hon. M.J. Elliott: They have been asking for them anyway.

The Hon. C.J. SUMNER: I know they have been asking for them. Everyone asks for more resources. That is part of life.

The Hon. K.T. Griffin: This is extra resources within Government agencies, as well as the question of extra resources—

The Hon. C.J. SUMNER: We would need to look at that. But my view is that most agencies have already developed their practices in accordance with the administrative instructions on privacy. Whilst information privacy principles are, to some extent, different, I do not believe they will be so onerous beyond what already exists as to require significant additional resources.

I have already commented on the fact that the committee has no coercive powers in relation to the private sector; I compared it with New South Wales. However, another important role would be that, by being empowered to receive and investigate complaints of alleged breaches of privacy, but not necessarily having coercive powers in relation to it, it will be able to have an important educative role, as has the New South Wales Privacy Committee, to identify areas if further action is needed to protect individual privacy.

I am unable to understand the criticism of the proposed committee that will be investigator, prosecutor, judge and executor in relation to any alleged violation of privacy. They are the words, I understand, that were in the Hon. Mr Griffin's press release, although he did not get to the same degree of hyperbole in his contribution this morning. I could understand that criticism if the committee had any coercive powers, but it does not.

I have already pointed out that that criticism, as far as I am aware, has not been raised against the Ombudsman who, in fact, does have coercive powers and who makes findings against individuals. Nor do I understand the criticisms that have been made of the composition of the committee. The notion of the Privacy Committee in New South Wales in that respect is probably a bit over the top. A committee of five is reasonable, a quorum is three members, and there may be two public servants who can form the quorum. But, if that happened on a regular basis, obviously there would be a problem, and it would have to be corrected.

I do not see any difficulty in having public servants on the committee. They are, after all, people who, like most, try to do their job conscientiously. It is important that the role for the Privacy Committee is the monitoring of public sector databases. It therefore seems to me that public sector participation in the Privacy Committee is important.

The Hon. Mr Griffin also raised the question, I think in his press release, of legal representation being investigated by the committee. There is nothing to prevent a person having his or her legal representative when he or she is talking to the committee. The person is free to talk to the committee or not to do so. It is their choice and, if they choose to do so only when their legal representative is present, the committee will have to accept that.

The Hon. K.T. Griffin: So, the committee can make a decision whether or not there is to be legal representation.

The Hon. C.J. SUMNER: That is a matter that can be looked at. But obviously, if the committee wants to interview the person and it has no coercive powers, if the require-

ments for being interviewed by the committee is that an individual or a company has their legal representative present, the committee has to accept that or not interview the person.

The Hon. K.T. Griffin: That might be the practical effect but under the amendments that are being proposed the committee decides whether or not a person may have legal or other representation. The practical effect might be what you are saying, but the amendments—

The Hon. C.J. SUMNER: Obviously, that matter can be looked at if it is a matter of concern. I am merely saying to the Committee is that what is being put forward now is a significant modification of the original Bill. Personally, the exclusion of the media and the like from the original purview of the tort was unreasonable, particularly as it was clear right from the start that the media would be completely protected, provided that they were acting within their code of ethics. However, the decision has clearly been made by the Parliament that the media and some others ought not to be covered by the general right of privacy.

The amendments to be moved by the Hon. Mr Elliott do have the broad support of the Government, with some modifications. I am certainly prepared to look at the individual criticisms raised by the Hon. Mr Griffin, that is, to the technical issues, as happens in the Committee stage of any Bill.

I do not think there is a basis for scaremongering or extreme criticism of the proposals that have been put forward. Privacy is an important principle. It is an issue that has been dealt with at the Federal level. It has been dealt with in New South Wales, and further work is being done on privacy at the present time in New South Wales. It is an issue with which most Governments in Australia are concerned. More importantly, it is an issue that most nations with which we like to compare ourselves are also concerned, and they will, I believe, continue to be concerned with it.

We have before us a proposal that is reasonable. It will give us a regime, perhaps imperfect, but nevertheless a regime, to deal with privacy issues in this State. In so doing, we will be dealing with an issue that most other Western industrialised nations have felt the need to deal with. I hope that the Committee will now be prepared to give serious consideration to the issues that have been raised, obviously with some amendments, but accepting the basic thrust of the Hon. Mr Elliott's proposals which are supported by the Government with the amendments I have placed on file.

Progress reported; Committee to sit again.

The Hon. ANNE LEVY: Mr President, I draw your attention to the state of the Council.

A quorum having been formed:

LOCAL GOVERNMENT (REFORM) AMENDMENT BILL

Returned from the House of Assembly with the following amendments:

No. 1. Long title, page 1, lines 6 to 8—Leave out 'the building Act 1971, the Land Agents, Brokers and Valuers Act 1973, the Planning Act 1982, the Real Property Act 1886, the Strata Titles Act 1988 and'.

No. 2. Clause 4, page 8, line 14—Leave out '50' and substitute '25'.

No. 3. Clause 4, page 9, line 10—Leave out 'a person' and substitute 'a member or former member of a council'.

No. 4. Clause 4, page 9, line 12—After 'person' insert 'with extensive experience in management or financial matters (other than a member or an officer of a council)'.

No. 5. Clause 4, page 9, after line 28—Insert—

(ab) in the case of a person appointed under subsection (1) *(d)*—the person has within the previous 12 months been employed or engaged by such a council;.

No. 6. Clause 4, page 10, after line 38—Insert—

(1a) A legally qualified person is not entitled to act as a representative.

No. 7. Clause 4, page 11, lines 33 to 39—Leave out paragraphs *(b)*, *(c)* and *(d)* and substitute—

and

(b) consultation with any organisation or association that represents persons who have a particular interest in the matter (whether as ratepayers or residents, officers or employees of a council, employers within the local community, persons who are interested in relevant environmental issues, or otherwise),.

No. 8. Clause 4, page 12, lines 23 to 29—Leave out paragraphs *(b)*, *(c)* and *(d)* and substitute—

and

(b) consultation with any organisation or association that represents persons who have a particular interest in the matter (whether as ratepayers or residents, officers or employees of a council, employers with the local community, persons who are interested in relevant environmental issues, or otherwise),.

No. 9. Clause 4, page 12, line 34—Leave out *'(b)'*.

No. 10. Clause 4, page 13, lines 1 and 2—Leave out 'in relation to any recommendation contained in the report' and substitute 'in relation to the matter'.

No. 11. Clause 4, page 13, line 6—Leave out 'recommendation of the panel' and substitute 'proposal (being either the original proposal or an alternative proposal (if any) recommended by the panel)'.

No. 12. Clause 4, page 13, after line 8—Insert—

(14a) Where a poll is to be conducted—

(a) if—

(i) the original proposal was initiated other than by a council (or councils);

(ii) the panel has recommended—

(A) that an alternative proposal be carried into effect;

or

(B) that the proposal not be carried into effect (and the panel has not recommended an alternative);

(iii) a person nominated under section 17 (3) has maintained serious opposition to the recommendation under subsection (11),

then—

(iv) if subparagraph (ii) (A) applies—the original proposal, the alternative proposal and a proposal that no change occur must be submitted to the poll;

(v) if subparagraph (ii) (B) applies—the original proposal and a proposal that no change occur must be submitted to the poll;

(b) in any other case, the recommendation of the panel must be submitted to the poll.

No. 13. Clause 4, page 13, lines 9 and 10—Leave out 'the recommendation' and substitute 'the original proposal, or by an alternative proposal (if any) recommended by the panel'.

No. 14. Clause 4, page 13, line 15—Leave out 'any recommendation of the panel that is to be the subject of a poll' and substitute 'any question to be submitted to the poll'.

No. 15. Clause 4, page 13, line 23—Leave out 'any council affected by the recommendation' and substitute 'the council'.

No. 16. Clause 4, page 13, after line 27—Insert—

(20a) Where subsection (14a) *(a)* (iv) applies to the poll—

(a) a ballot paper for the poll must contain three squares, one being clearly differentiated as the square to be marked by voters desiring to vote in favour of the original proposal, one being clearly differentiated as the square to be marked by voters desiring to vote in favour of the alternative proposal, and one being clearly differentiated as the square to be marked by voters desiring to vote in favour of no change;

(b) a person voting at the poll must make a vote on a ballot paper by placing the number 1 in the square opposite the voter's first preference, the number 2 in the square opposite the voter's second preference, and the number 3 in the square opposite the voter's third preference;

and

(c) the result of the poll will be determined as follows:

(i) all ballot papers that contain an informal vote will be rejected;

(ii) the remaining ballot papers will be arranged into three parcels according to the first preference indicated on each ballot paper;
(iii) the number of ballot papers in each parcel will be counted;
(iv) the ballot papers in the parcel with the fewest ballot papers must be redistributed to the parcels next in order of the voter's preference;
(v) the number of ballot papers in the remaining two parcels will be counted;
and
(vi) the result will be determined according to the parcel with the greatest number of ballot papers.

(20b) Where subsection (14a) *(a)* (v) or *(b)* applies to the poll—
(a) a ballot paper for the poll must contain two squares—
(i) in the case of subsection (14a) *(a)* (v)—one being clearly differentiated as the square to be marked by voters desiring to vote in favour of the original proposal and the other being clearly differentiated as the square to be marked by voters desiring to vote in favour of no change;
(ii) in the case of subsection (14a) *(b)*—one being clearly differentiated as the square to be marked by voters desiring to vote in favour of the recommendation and the other being clearly differentiated as the square to be marked by voters desiring to vote against the recommendation;
(b) a person voting at the poll must vote by placing an X on the ballot paper in a square opposite the voter's preference;
and
(c) the result of the poll will be determined as follows:
(i) all ballot papers that contain an informal vote will be rejected;
(ii) the remaining ballot papers will be arranged into two parcels according to the vote indicated on each ballot paper;
(iii) the number of ballot papers in each parcel will be counted;
and
(iv) the result will be determined according to the parcel with the greatest number of ballot papers.

(20c) A ballot paper is not informal by reason of non-compliance with subsection (20a) or (20b) if the voter's intention is clearly indicated on the ballot paper.

(20d) Subsections (20a) and (20b) do not preclude the preliminary counting of ballot papers at various polling booths after the close of voting.

No. 17. Clause 4, page 13, line 28—Leave out '50' and substitute '25'.

No. 18. Clause 4, page 13, lines 28 to 47—Leave out all words in these lines after 'electors for the' in line 28 and substitute 'relevant area or areas vote at the poll, then the result of the poll (disregarding the area or areas in which the electors are voting) is binding (notwithstanding any opposition under subsection (11)), and the panel must, if necessary, in consultation with the representatives of the parties, revise its report to such extent as is appropriate to enable the outcome of the poll to be brought into effect'.

No. 19. Clause 4, page 13, after line 47—Insert—

(22) If less than 25 per cent of the electors for the relevant area or areas vote at the poll, the result of the poll is not binding but if a majority of electors voting at the poll indicate opposition to a recommendation of the panel—
(a) the panel must reconsider the recommendation in consultation with the representatives of the parties (and may, if it thinks fit, alter its report):
and
(b) if the panel decides to maintain its recommendation in any event, the panel must set out its reasons for the decision in its report.

No. 20. Clause 4, page 14, line 10—Leave out 'formulated' and substitute 'dealt with'.

No. 21. Clause 4, page 17, lines 30 to 35—Leave out section 28 and substitute—

Reports and expiry

28. (1) The Local Government Association of South Australia must, on or before 31 October in each year, deliver to the Minister a report on the operation of this Division during the preceding financial year.

(2) The Minister must cause a copy of the report to be laid before both Houses of Parliament within four sitting days after his or her receipt of the report.

(3) The Minister and the Local Government Association of South Australia must, on or before 31 October 1997, present a report to Parliament on any legislative changes to this Division that appear appropriate in the circumstances.

(4) This Division expires on 30 June 1998.

No. 22. Clause 17, page 19, lines 34 to 43 and page 20, lines 1 to 6—Leave out all words in these lines after 'subsection (1a)' in line 34.

No. 23. Clause 14, page 20, line 28—After 'five financial years' insert 'or, in the case of an amalgamation, such longer period (if any) as may be specified by a proclamation made for the purposes of the amalgamation under Part II'.

No. 24. Clause 17, page 21, line 2—After 'amended' insert—

—
(a).

No. 25. Clause 17, page 21, after line 5—Insert—

and
(b) by inserting after subsection (7) the following subsection:
(8) The Local Government Association of South Australia may prepare guidelines relating to the fixing of fees and charges by councils under this section.

No. 26. Clause 18, page 21, lines 7 to 33—Leave out the clause.

No. 27. Clause 23, page 24, lines 39 and 40—Leave out subsection (2) and substitute—

(2) A by-law cannot be made under this Act unless—
(a) the by-law is made at a meeting of the council where at least two-thirds of the members of the council are present;
and
(b) the relevant resolution is supported by an absolute majority of members of the council.

No. 28. Clause 23, page 25, lines 5 to 7—Leave out subsections (4) and (5), and substitute—

(4) Subject to subsection (5), a by-law comes into operation four months after the day on which it is published in the *Gazette* or from such later day or days fixed in the by-law.

(5) A by-law may take effect from an earlier day specified in the by-law if—
(a) it revokes a by-law without making any provision in substitution for that by-law;
(b) it corrects an error or inaccuracy in a by-law;
(c) it is required for the purposes of an Act that will come into operation on assent or less than four months after assent;
or
(d) it confers a benefit on a person (other than the council or an authority of the council) and does not operate so as—
(i) to affect, in a manner prejudicial to any person (other than the council or an authority of the council), the rights of that person existing before the date of commencement of the by-law;
or
(ii) to impose a liability on any person (other than the council or an authority of the council) in respect of anything done or omitted to be done before the date of commencement of the by-law.

No. 29. Clause 23, page 25, after line 7—Insert—

Expiry of regulations

672. (1) A by-law will, unless it has already expired or been revoked, expire as follows:
(a) a by-law made before the commencement of this section, and all subsequent by-laws varying that by-law, will expire on 1 January 1996;
(b) a by-law made after the commencement of this section, and all subsequent by-laws varying that by-law, will expire on 1 January of the year following the year in which the seventh anniversary of the day on which the by-law was made falls.

(2) For the purposes of this section, a by-law will be taken to have been made on the day on which it was published in the *Gazette*.

No. 30. Clause 26, page 25, lines 13 to 40 and page 26, lines 1 to 8—Leave out the clause.

No. 31. Page 26, after line 8—Insert new clause 26a as follows:

Insertion of section 685

26a. The following section is inserted immediately after section 684 of the principal Act:

Model by-laws prepared by the LGA

685. The Local Government Association of South Australia may prepare model by-laws with a view to their adoption by councils under this Act.

No. 32. Schedule, page 29—Leave out clauses 1 to 5 (inclusive) (and the heading to the schedule).

No. 33. Schedule, page 30—Leave out '(including model by-laws made by the Local Government Association of South Australia)'.

No. 34. Schedule, page 30—Leave out subparagraph (iii).

In Committee.

The Hon. ANNE LEVY: As there are pages and pages of amendments with the Bill as it comes back to us from the other place, I suggest that we deal with these in groups, relating to each topic. I think that will make life much simpler.

Amendment No. 2:

The Hon. ANNE LEVY: I move:

That the House of Assembly's amendment No. 2 be agreed to.

This deals with the proportion of the population that has to sign a petition to start an electors' proposal. Initially, the figure was 50 per cent, but the House of Assembly has suggested that 25 per cent would be sufficient. For any council with a large number of people, 25 per cent would represent a considerable number of individuals who would have to sign the petition. The Government feels that 25 per cent would be sufficient in this case.

Motion carried.

Amendments Nos 3, 4 and 5:

The Hon. ANNE LEVY: I move:

That the House of Assembly's amendments Nos 3, 4 and 5 be agreed to.

These amendments concern the qualifications of the members of a panel. They are self-explanatory and merely elaborate the qualifications. They were always intended anyway, but this merely inserts into the Act what was previously intended.

Motion carried.

Amendment No. 6:

The Hon. ANNE LEVY: I move:

That the House of Assembly's amendment No. 6 be agreed to.

This amendment seeks to disqualify lawyers from being able to make representations to the panel. It is certainly desirable that the whole procedure be not an adversarial one, that it be a consensus approach, and it was felt undesirable to allow lawyers to be part of this procedure.

The Hon. J.C. IRWIN: I accept this amendment and the desire behind it, but I cannot judge the consequences of it. We have all had enough experience to know that eventually these matters will need to be sorted out with legal advice. Hopefully, that can be done quite easily by the various representatives obtaining their own legal advice and putting it forward as lay people. If there were legal representation from the beginning, some problems down the track might be avoided, but at the same time it might be a better process to obtain legal advice at the end and to sort out matters as they arise.

The Hon. I. GILFILLAN: I intend to vote against the amendment but not make much fuss about it because I gather already that the numbers are against me in this matter. I have pondered it since I was informed of the consequences and I was very grateful for the briefing I had this morning by Ms Jenny Gerlach from the Minister's department. I would like to put on record that I appreciated the cooperation and time made available to me so that I was thoroughly briefed on these amendments in the schedule; it makes a big difference.

There have been precedents in other legislation (I cannot recall them accurately enough to quote, but I refer to some industrial matters) and possibly in WorkCover where we have specifically excluded legal representatives on the basis that if they are involved professionally the ball game changes from a relatively open innocent exchange of views to a competent point scoring exercise in which some guile is used that often protracts the proceedings.

Far be it from me to say that that does not occur from time to time, but this is a specific exclusion in an area where I am not yet convinced it is justified and, therefore, I am not prepared to vote for it. People with legal qualifications are often capable and articulate advocates as proponents of points of view and others whom they represent may not be. I can see in this matter of representation of parties that some parties may be at a disadvantage on a face to face experience with others who by nature are more articulate and forceful, and in the circumstances it may not be a level playing field.

I am sure it is a matter that will come up for further discussion in subsequent pieces of legislation, but I put the warning in, as I indicate clearly that I will be opposing the amendment, that I have not heard enough argument and I have not seen enough evidence to take what I think is a strong step to exclude specifically a category of people from being able to act as a representative. I am not sure that the wording of the amendment would go so far as to exclude a legally qualified person who may be representing totally voluntarily without any fee or professional commitment or involvement.

If that is the case, it makes it even more of an undesirable, or less desirable, amendment and would reinforce even more strongly my opposition to it. I oppose the amendment.

Motion carried.

Progress reported; Committee to sit again.

[*Sitting suspended from 1 to 2.15 p.m.*]

CONDUCT OF MEMBERS

The PRESIDENT: In perusing yesterday's *Hansard*, in my altercation with the Attorney-General, I am of the opinion that the exchange between us did neither ourselves nor the Parliament any good. I take very seriously the issue which was raised—that I do not keep the Council under control and have failed to do so for the weeks during the Hon. Ms Wiese's interrogation on her affairs. I have been Presiding Officer for some three years and at all times have endeavoured to see that the Council complies with Standing Orders and shows respect not only to members but also to the parliamentary institution, and have worked on the assumption that there are 22 elected adult members of Parliament who are there to represent and do their best for the constituency which has elected them.

I have not seen fit during my three years to have anyone removed from the Chamber for flagrant abuse of Standing Orders, and have endeavoured at all times to give everyone a 'fair go'. I do not believe that Parliament can be completely sterile and free from interjections and exchanges between members, but I do believe that members themselves have a responsibility to see that the decorum of the Chamber is not flouted—for it reflects on them and the people they represent.

If members indicate to me that they are not happy with the way I have handled debates and interjections, I am only too happy to take a harder line, but I do feel it would not be in the best interest of this Parliament or members. I would also advise that at all times I am subject to the members' control and answerable to the members of this

Chamber for the way I run the chamber or the way they want it run.

The Hon. R.I. LUCAS (Leader of the Opposition): It goes without saying, Sir, that you have the support of my position and of other members of the Liberal Party in relation to the statement you have just made.

QUESTIONS

PUBLIC SERVICE

The Hon. R.I. LUCAS: I seek leave to make a brief explanation before asking the Minister for the Arts and Cultural Heritage a question about Public Service cuts.

Leave granted.

The Hon. R.I. LUCAS: The Liberal Party has been provided with a leaked copy of a letter dated 3 March 1992 from the State Secretary of Actors Equity of Australia, SA Division, Mr Stephen Spence, to the Minister for the Arts and Cultural Heritage. I am informed that Mr Spence is a former ALP parliamentary candidate. The letter to the Minister, addressed 'Dear Anne', states that the Minister has advised Mr Spence that '10 to 15 per cent cuts are being proposed across the Public Service as a whole'. I am sure that the Minister will be aware of the debate that has been taking place about 10 to 15 per cent cuts in arts funding. Mr Spence then continues in his letter:

> The reality is that cuts are to be implemented and in the process some departments will be more equal to others. If Labour takes the easy path and hits what is foolishly identified as a soft target, Labor attacks its own soul and the fallout from that battle will be more deadening than anything the farmers or the captains of industry will put up. Labor will attack the one officially accepted subversive medium that has the power to change hearts and minds in a way that no political program ever could. If Labor turns on the arts, it attacks its own destiny as an agent of progressive social change.

While my colleague the Hon. Legh Davis has previously raised the spectre of 10 to 15 per cent cuts in the arts budget, this is the first indication, if the Minister is to be believed, that similar draconian cuts are being considered for all other areas of the public sector. My questions to the Minister are as follows:

1. Did the Minister provide information to Mr Spence that cuts of 10 to 15 per cent are being proposed across the Public Service as a whole and, if so, on what basis?

2. If she did not provide such information to Mr Spence, could the Minister explain how he could arrive at these figures following discussions with her; has she replied to Mr Spence denying his assertion and, if so, will she table a copy of that denial in the Council?

The Hon. ANNE LEVY: In response to those questions I can say only that Mr Spence is mistaken. I did not tell him that there were going to be cuts of 10 to 15 per cent across the whole public sector. I said no such thing to him at all, nor did I tell him that there would be 10 to 15 per cent cuts in the Arts. I could not say when, because I have had numerous conversations with Mr Spence, but I indicated to him, as I have indicated to all Arts organisations, that cuts will be made in the Arts budget and that the extent of the cuts is not yet known.

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: I have said to Mr Spence, as I have said to all Arts organisations, that cuts will be made to the Arts in the forthcoming State budget and that the extent of those cuts is not yet known. It is still not known and it is quite erroneous to keep repeating these figures, which must have arisen in some conversation that somebody had with someone at some time, presumably as a rumour. I am sure that all members know how rumours gain credibility and are circulated rapidly in many different areas. I repeat: I did not state—

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: I certainly did not make that statement to Mr Spence, regarding either the whole of the public sector or the Arts. With regard to the second question, I have certainly advised Mr Spence of his error. I am unable to say at the moment whether I did so by letter or by telephone conversation, but I have certainly responded to his comment and corrected his erroneous assumption. I will check my files and, if I did respond in writing, I will be happy to make a copy of that letter available but, without checking the files, I cannot say whether I responded in writing or orally.

DUCHYS RESTAURANT

The Hon. K.T. GRIFFIN: I seek leave to make an explanation before directing a question to the Attorney-General as Leader of the Government and also as the Minister representing the Minister of Mines and Energy on the subject of ETSA and Duchys restaurant.

Leave granted.

The Hon. K.T. GRIFFIN: I have addressed my question in this way, because the Minister representing the Minister of Mines and Energy is not here and a policy question is involved as well as a practical question. Yesterday the *Advertiser* reported that ETSA pulled the switch on Duchys Restaurant, plunging it into darkness while customers were still in the shop. The provisional liquidator of the company operating Duchys (Mr Michael Mount) has written to me as follows:

> I was appointed on 27 March 1992. However, I did not immediately contact ETSA to inform them of my appointment as I have known them always to withhold supply until their outstanding accounts have been paid. I am aware that all liquidators follow this practice because they know of ETSA's attitude. On Tuesday 27 April 1992 ETSA sought to disconnect the power. I advised them that I was prepared to pay for the supply during my administration. However, the Corporations Law did not allow me to pay their old debt in priority to other unsecured creditors.
>
> On 29 April 1992 I sent a copy of the enclosed letter to ETSA by facsimile stating my position. The letter was later handed to ETSA with a cheque for $900 in accordance with the preceding paragraph. This letter did not stop them turning off the power on that day at 3.30 p.m. whilst customers were still being served. I am attempting to sell the business by tender, with tomorrow, Friday, [that is today] as the closing date for tenders. Although 15 persons have expressed interest in purchasing the business I am of the opinion that my chance of selling the business as a going concern or of receiving a fair price for the business has been significantly diminished by ETSA's action. I am now considering whether I should commence legal action for damages.

The provisional liquidator in his letter to ETSA said:

> Consequential upon that appointment [as provisional liquidator] I decided that it was in the interests of creditors to advertise the business for sale as a going concern. Were I not to do so the assets would of necessity be sold at distress prices and I would be denied the opportunity to obtain value for goodwill. My decision has resulted in the continuation of the business and its advertisement for sale. The closing date for offers has been set at Friday 1 May. So far I have had 14 inquiries . . . I am prepared to pay for the supply for the period during which I have been in office as a consequence of the court's order. I will not make payment in respect of the earlier period. To do so would be contrary to the provisions of the Corporations Law and would clearly be against the interests of creditors generally.
>
> You have told me, by telephone, this morning that it is trust policy to cut off supply unless all outstanding accounts are paid by this Friday and you clearly indicated that you will not accept payment only in respect of the period since my appointment. You insist that your monopolistic powers be respected and that

you be favoured over all other creditors. You implicitly deny me the chance of saving the collapse of a small business. I must advise you that in the event of the supply being discontinued today I shall take advice in respect of the damage which you will surely cause as a consequence of your actions.

We know from the newspaper report what finally happened. I am told that Telecom adopts the same attitude—pay up all that is owed, even when it accrued before the appointment of a liquidator, or the plug will be pulled on telecommunications. This practice by Telecom and ETSA effectively gives these Government bodies priority over all other unsecured creditors, even though by the Corporations Law they are not entitled to that priority or preference. Will the Minister ensure that ETSA complies with the law and by its monopolistic position and its 'blackmail' attitude is not treated any differently from all other unsecured creditors, so that ultimately it gets a priority payment?

The Hon. C.J. SUMNER: I would have thought that it was fairly obvious that these organisations should comply with the law and I assume that they do. It is a little curious though. Normally we have the Hon. Mr Griffin coming in here complaining when Government authorities do not take the necessary steps to look after taxpayers' funds. When it seems that they are taking action to protect taxpayers' funds, the honourable member again complains. However, that is the stuff of politics. We are accustomed to that sort of thing in this place from the Hon. Mr Griffin and others.

However, statutory authorities are like anyone else and they are obliged to comply with the law. If they are not complying with the law I assume that people aggrieved by the non-compliance, if that has occurred, would have legal recourse, and I can only suggest that they examine that course of action if necessary. I will refer the specific matters to the Minister and bring back a reply.

TORRENS RIVER

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Minister for the Arts and Cultural Heritage, representing the Acting Minister of Tourism, a question about the draining of the Torrens River.

Leave granted.

The Hon. DIANA LAIDLAW: The Torrens River is the heart of the City of Adelaide. It reflects the lifestyle of the city, it is the basis for the operation of a number of successful businesses, including Popeye, and it is the backdrop for Tourism South Australia's important 'Rotunda' promotional campaign. The decision by the Adelaide City Council to drain the river for five months to allow its banks to be reinforced has turned this cultural and tourism asset into a muddy mess.

On 20 November last year I asked the then Minister of Tourism whether she would ask the council to reconsider its decision and to assess other options. The Minister replied:

I will undertake to look at the matter and, if I think there is some value to be gained in requesting the city council to reschedule its works program, that would certainly be a matter that I will take up with it.

Regrettably, in the five months since this undertaking by the then Minister, she has not bothered to inform either me or the Parliament what action, if any, she took on this matter. In the meantime, the tourism industry in Adelaide is anxious about the impact of the drained riverbed on tourism. It has posed to me the question: what other city in the world that is trying to attract visitors and encourage visitors to return would drain the heart of the city for five months in order to reinforce the river bank? Certainly not Washington, London, Paris or even Melbourne.

Members interjecting:

The Hon. DIANA LAIDLAW: There is some competition with Melbourne in terms of tourism stakes. Melbourne would not do this according to those in the tourism industry here, and I agree with that view. Equally, the managers of the Riverside Taipan and Flannigan's restaurants, the Adelaide Festival Centre's Lyrics and Bistro restaurants, plus Jolley's Boathouse Bistro, have expressed their alarm. They know from previous experience—in fact, I think it was 18 months ago—that their businesses will be compromised. This time, however, they are facing a recession and are struggling to survive as restaurants so the impact will be worse. Of course, Popeye will not operate, nor will the paddle boats, while a cynic at the Hyatt has suggested to me that they will cope by pulling down the blinds of all their riverfront rooms. I am not sure whether they will be offering a discount at that time!

Today I have spoken to a few engineers and all have confirmed that the council need never again drain the river for maintenance works if coffer dams are constructed. I made inquiries of these engineers following an article in the *Advertiser* today suggesting that coffer dams were probably the answer to this issue. As I said, the engineers have confirmed that that would be so.

The Hon. M.J. Elliott interjecting:

The Hon. DIANA LAIDLAW: The inane interjection by the Hon. Mr Elliott is that it may increase taxes. What we are losing in tourism must also be taken into account. I ask the acting Minister of Tourism:

1. At a time when the Government believes it can afford to resuscitate the Gillman-Dry Creek site for the MFP, will he undertake to discuss with the Adelaide City Council the potential to build coffer dams, possibly with the assistance of some State Government funding?

2. Has Tourism South Australia undertaken an assessment of the impact of an empty Torrens River on tourism promotional campaigns, visitor numbers and visitor nights? If so, what is the conclusion and, if not, why not?

The Hon. ANNE LEVY: I had always understood that the Torrens River was the responsibility of the Adelaide City Council, but I will certainly refer those questions to my colleague in another place and bring back a reply.

NATIONAL TIDY TOWNS CONTEST

The Hon. T. CROTHERS: I seek leave to make a brief explanation before asking the Minister for Local Government Relations a question about the National Tidy Towns Contest.

Leave granted.

The Hon. T. CROTHERS: Recently there has been ongoing a National Tidy Towns Contest. This project certainly carries a lot of prestige with it for the ultimate winner and I have no doubt that it will do much for tourism in whatever local area receives the first prize. It will also reflect on local government and speak volumes for the beneficial cooperation that such a prize would indicate exists between the State and local governments in whichever State hosts the winner of the National Tidy Towns Contest.

The Hon. T.G. Roberts: Do you want to present the award?

The Hon. T. CROTHERS: I thought you were the first prize. In light of the fact that I have always followed tourism and local government issues with avid interest and, as I understand that the time of reaching a decision is close at hand, will the Minister inform the Council of the current

state of play in relation to the National Tidy Towns Contest?

The Hon. ANNE LEVY: I am delighted to be able to inform the Council that I have received a fax from Mr Don McDonnell, the Mayor of Mount Gambier, to indicate that today Mount Gambier was chosen as the winner of the National Tidy Towns Contest.

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: Despite the sniggers coming from various members opposite, I do not think the National Tidy Towns Contest is a laughing matter, and I would expect every member of this Council to be absolutely delighted that a South Australian town has been chosen as the national winner of this contest. I hope everyone will join with me in congratulating Mount Gambier, its people, its council and its Mayor on this great achievement.

TANDANYA

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 in relation to an environmental impact statement for Tandanya.

Leave granted.

The Hon. R.I. Lucas: We all support Mount Gambier.

The Hon. M.J. ELLIOTT: The Democrats certainly do.

The Hon. R.I. Lucas: And the Liberal Party.

The Hon. M.J. ELLIOTT: Well, you can speak for yourselves.

The PRESIDENT: Order!

The Hon. M.J. ELLIOTT: My question relates to statements made by the Minister for Environment and Planning over the past 24 hours that she believes an environmental impact statement is not needed for the Tandanya tourism development proposed for the western end of Kangaroo Island. Her reason for saying that an EIS is unnecessary has been that a supplementary development plan was prepared for the site when its zoning was changed to tourism accommodation. It should not have to be pointed out to the Minister that an SDP is a planning document and not a scientific assessment, which could be regarded under the Planning Act as anything remotely adequate to fulfil the criteria required of an EIS.

Under section 49 (1) of the Planning Act the Minister may order an EIS where 'a person proposes to undertake a development or project that is, in the opinion of the Minister, of major social, economic or environmental importance.' Perhaps the Minister is saying that the Tandanya resort is not environmentally significant or economically important enough to warrant an EIS. While the SDP was open for public comment during the zoning change process, it is not specific to any particular project. In fact, the final form for Tandanya is still to be decided by the site's Japanese owners.

The SDP process is not one which carries out or even requires detailed scientific analysis of environmental impacts. It must be remembered that the Tandanya resort, which will be constructed in an area of native vegetation, is adjacent to a national park and on the surface could present problems in relation to sewage disposal and water availability. The Government has under its own regulation, recently moved to deny public input into the planning process in relation to tourist accommodation zones. It is probably worth noting that the Government moved that regulation that agrees almost concurrently with a change in zoning for Tandanya.

The Hon. Diana Laidlaw: Is that a coincidence?

The Hon. M.J. ELLIOTT: Well, yes, one of those enormous coincidences of life. However, an EIS would open up an extensive process of analysis of the development's likely impacts and involve the public. We have a Minister saying that an EIS is not needed and it could appear that the Government is intentionally doing everything possible to exclude public comment and debate from the Tandanya approval process. My question to the Minister is: how can she maintain her credibility when she fails to comprehend the difference between the environmental impact assessment process specific to a development proposal and a supplementary development plan, which is a general planning document, and is pushing the Tandanya project through channels which deny public input?

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

PARKING OFFENCES

The Hon. J.C. IRWIN: I seek leave to make an explanation before asking the Minister for Local Government Relations a question about parking.

Leave granted.

The Hon. J.C. IRWIN: I ask another question today about parking because of the Minister's flippant answer to me yesterday. Mr Howie may well be having a private war over parking with the Adelaide City Council and other councils, but to say that he should not, through me or others, bring in the Government is ridiculous and shows that this Minister, unlike Mr Howie, has little regard, if any, for the, people. It again raises the point that the Minister has little or no regard for the Act and regulations for which she has direct responsibility. Surely the people who are affected by Acts of Parliament should have confidence that someone is looking after their interests.

I again use the Adelaide City Council as an example with respect to temporary parking signs. I have raised this problem before, but it still remains a problem, with temporary signs being left for months after their declarations have expired. Two areas, T225 and T224, in Norman Street, Adelaide, regarding prohibited areas and a two hour time limit, have signs which are still in position, although the declarations expired on 28 June and 16 July last year respectively. On 3 April this year, Mr Howie received 29 final notices from the City of Adelaide. The notices used were from the regulations which were repealed in August last year, and they are inscribed 'has been reported for a breach of the Parking Regulations 1981' and 'under the Parking Regulations 1981 proceedings may be taken against the owner of the vehicle'.

All 29 notices (and I have copies of them here) have the same inscription. I am advised that these notices are legally useless, particularly with respect to the late payment fee of $12.30. The final notice refers to an expiation fee of $11 and a late payment fee of $12.30, making a total fee of $23.30. The advice is that the notices are unlawfully inviting the payment of the late payment fee. The unsuspecting public would, I agree with the Minister in her answer yesterday, probably pull up to a meter, find that it had expired and pay up; but, in many instances, which I have tried to bring before this Council through questions over the past year, they probably would not have to pay up. People should not have to go to court, and would not if the process was being dealt with properly by councils. In the interests of the

unsuspecting public, will the Minister take positive action immediately to ensure that the Local Government Act with respect to parking regulations is being administered properly?

The Hon. ANNE LEVY: Yesterday, I certainly in no way reflected on the ability of Mr Irwin to raise questions in Parliament on behalf of Mr Howie. What I queried was whether it was appropriate to raise in the Council detailed questions relating to parking regulations of the nature which the honourable member raised yesterday. If the honourable member wants information on such detailed matters, a letter will achieve a result just as rapidly and will get proper consideration; the time of the Council will not be taken up with finicky details, which I am sure the honourable member would not expect me to be able to answer on the spot.

It would seem to me that, rather than take up some of the precious time that members have to ask questions with questions to which an answer is not possible at the time, he could put his questions in writing. I indicated to him yesterday that I would take up the matter with the Local Government Services Bureau. That has already been done, but, efficient though the bureau is it has not yet had a chance to deal with the detailed matters that the honourable member raised yesterday. However, I can assure him that, as soon as I obtain a response, I will let him know.

SHADOW MINISTER FOR THE ARTS AND CULTURAL HERITAGE

The Hon. CAROLYN PICKLES: I direct my question to the Minister for the Arts and Cultural Heritage. I understand that while the shadow Minister for the Arts and Cultural Heritage was previously shadow Minister for the same portfolio, he was dealing in commercial investment. Can the Minister provide any details on this issue, and does she see any conflict with previous moralistic statements made to the Council in the recent past by the Hon. Legh Davis?

The Hon. ANNE LEVY: It is a very interesting question indeed, of which many members of the Council may not be aware, although, of course, there is plenty of public information on this matter. Members may recall that in 1988 a musical called the *History of Australia* was put on in Melbourne. This musical is on record as losing the most money of any production ever to go on the Australian stage. I understand that the total loss was in the region of $1.8 million. According to an article in the Melbourne *Sun* of 19 March 1988, the musical lost an estimated $10 000 a day during its short run, and people with free tickets frequently outnumbered the paying audience.

Both this article in the Melbourne *Sun* and another in the Melbourne *Herald* of 18 March 1988 indicated that various people made investments in this production. The articles indicated that, amongst many other people, the Hon. Legh Davis, South Australian MP and consultant to the stockbroking firm of A.C. Goode, organised an investment of $250 000. The article further indicated that this entire investment was lost.

Of course, the question whether the Hon. Mr Davis had invested in the production himself is not answered. Certainly, it does not appear on his list of pecuniary interests, so one can only presume that he had no pecuniary interest in this production. But—

Members interjecting:

The Hon. ANNE LEVY: Whether or not he made a loss, it would still have to appear on his pecuniary interest list if he had invested in the production himself. However, he certainly organised other people to provide an investment of $250 000 in this production. I point out to members that, at that time, the Hon. Mr Davis was shadow Minister for the Arts. He obviously felt that there was no conflict of interest between being shadow Minister for the Arts and taking part in or organising investors in the commercial side of the arts industry.

Members interjecting:

The PRESIDENT: Order! The honourable Minister.

The Hon. ANNE LEVY: It may well have been disclosed in exactly the same way as the Minister of Tourism disclosed her interest in Tandanya.

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: The Minister's interest in Tandanya was certainly disclosed on numerous occasions. However, the interesting point is that on 2 April this year the Hon. Mr Davis said that he had declined to become shadow Minister of Tourism when his Leader was dissatisfied with the performance of the current shadow Minister because his wife had occasional dealings with Tourism SA. Her occasional dealings with Tourism SA produced a conflict of interest for him, but his investing in commercial arts activities when shadow Minister for the Arts apparently did not produce any conflict of interest. I certainly find the double standards of the honourable member rather interesting and, if he is not guilty of a conflict of interest, he is at the least guilty of extremely poor financial judgment.

PERSONAL EXPLANATION

The Hon. L.H. DAVIS: I seek leave to make a personal explanation.

Leave granted.

The Hon. L.H. DAVIS: It comes as no surprise that this matter would eventually be raised in this Parliament. Certainly, as the Labor Party would well know, at least two of my colleagues have received, anonymously in their boxes in the Parliament the matters that have been raised by the Minister on the basis of a dorothy dixer, exactly the same information being paraded in such a tawdry fashion today. My involvement with the *History of Australia* is no secret and, given that the Minister has raised this matter, I am entitled to make a personal explanation.

Let me give the Council the background. Mr John Timlan, who is a producer of *History Australia*, was seeking to raise money for a musical for the bicentenary of Australia. It was going to be called *History of Australia*, by Manning Clark, a well known Labor supporter. It was based on Manning Clark's *History of Australia.* Some of the very best people in Australia were associated with the production. Director John Bell, who is one of Australia's finest actors, George Rush, who is one of Australia's finest musical producers—

The Hon. ANNE LEVY: On a point of order, Mr President, is this a personal explanation? I thought that under Standing Orders a personal explanation could deal only with personal matters.

The PRESIDENT: I think the honourable member will eventually get around to himself.

The Hon. L.H. DAVIS: I agreed, without any fee on my part, to raise some money, because I thought it was a worthwhile gesture for the bicentenary. I certainly did not raise a quarter of a million dollars. If the Minister had bothered to read and be honest about her investigation, she would have read that I did, in fact, lose money in that investment. My involvement is no secret: in fact, my name

is mentioned in the program, and that, of course, was made available. I attended the opening night, as did the Prime Minister and numerous other people. I did not have any need to include the matter in my pecuniary interests because, as the Minister herself has already revealed, the production fell over so quickly that, by the end of June, the loss of $1.7 million was available for all to see. No pecuniary interest whatsoever was involved. Quite clearly, I put in my money in January 1988, and sadly by March it was very obvious that I had lost it. It was—

An honourable member: Just as well you're not the shadow Treasurer!

The PRESIDENT: Order!

The Hon. L.H. DAVIS: As I said, if the Minister was honest, she would also have noted that in April 1988 there was a page 2 story—

The Hon. ANNE LEVY: On a point of order, Mr President, a personal explanation should not refer to other people, but only to personal matters.

The PRESIDENT: I uphold the point of order.

The Hon. L.H. DAVIS: If the Minister had bothered to check her facts, she would have seen that Rex Jory, the political editor for the *Advertiser*, reported this in some detail on page 2 of the *Advertiser* some time in April 1988; there is no secret about that. I explained my involvement exactly. It was a matter of public record; it was a gesture for the bicentenary. My participation was no secret, and there was no need to register my pecuniary interest because at 30 June there certainly was not a pecuniary interest. At the time, I had no executive position in the Parliament. I was the shadow Minister for the Arts, and there certainly was not any conflict of interest. I did it as a gesture for the bicentenary. I have no regrets about my involvement in the project. It was sad that it did not succeed in view of the fact that Australia has been spectacularly unsuccessful in producing musicals.

The PRESIDENT: Order! Mr Davis, you are straying again.

The Hon. L.H. DAVIS: The suggestion that there is a double standard on my part is, of course, a complete red herring, because the matter I raised about my wife's involvement with the Minister of Tourism did involve her direct contact with the Department of Tourism for financial gain. In this instance, I had raised funds for a production that took place in Melbourne. Admittedly, it was a very high risk venture, and people did that on the basis of supporting the bicentenary. There was certainly the chance for financial gain, but there was certainly no opportunity for conflict with my position as shadow Minister for the Arts in South Australia with no executive responsibility.

WHITE CLIFFS EXPLOSIVES RANGE

The Hon. I. GILFILLAN: I seek leave to make an explanation before asking the Attorney-General, representing the Minister of Emergency Services, a question concerning the ERT explosives range at White Cliffs.

Leave granted.

The Hon. I. GILFILLAN: Yesterday in this place I raised the issue of safety and security at the ERT explosives site in relation to emergency service personnel involved in recent bushfire operations. On 31 March this year I raised a similar matter with the Minister and yesterday received an extensive reply to my original questions, for which I thank the Minister. However, in that answer the Minister stated:

> The site is fully fenced with a commercial standard security fence and has two entrance gates (kept closed) in series to prevent ready access to the factory site and is in a reasonably remote rural setting.

According to information I received earlier today from a journalist who visited the area recently, this is not the case. The journalist arrived at the main gate of the explosives factory last Friday to find that all gates were fully opened, no security arrangements or staff were in place and, to use the Minister's own words, 'ready access' was in fact easily attained, simply be driving through. The journalist also told me that the so-called 'security fence', referred to in the Minister's reply, is in fact a standard farm wire fence, less than a metre high with a single strand of barbed wire running along the top. He has taken photographs of the open gates and the fence and has undertaken to provide me with copies of the photos as soon as possible. He also told me that the fence is old, rusting in parts and has large holes at several points around the site's perimeter. There are no warning signs along external boundaries, and from the nearby road turn-off there is no signage indicating a dangerous area.

According to local residents, children have often been seen hunting rabbits inside the boundary area with their dogs. According to the journalist, on the afternoon that he visited the site there were constant explosions in the area and the nearest resident to the explosives site, who lives within 1 000 metres, claimed his house was being shaken apart by the explosions. The journalist has taken photographs showing huge cracks in the walls of the house, and I indicate that when I receive copies of these photographs I will be happy to make them available to the Minister. This description of the gates, security fence, access and the reaction of local residents is at odds with the extensive answer provided to me by the Minister yesterday and must shake the faith in the balance of the answer. In the light of this recent information, my questions to the Minister are:

1. Will he give a guarantee to have a further investigation undertaken into security arrangements at the site with a special emphasis on the state of the perimeter fence, and make that report available to Parliament?

2. Will the Minister explain how apparently erroneous information was provided by him to Parliament?

3. Will he ensure that the balance of his answer and the answer to my question of yesterday are personally checked and verified so as to prevent any possiblity of misleading Parliament?

The Hon. C.J. SUMNER: I will refer the questions to my colleague and bring back a reply.

SMALL BUSINESS CONTRACTS

The Hon. PETER DUNN: I seek leave to make a brief explanation before asking the Minister representing the Minister of Small Business a question on the setting of contracts between local small businesses and State instrumentalities.

Leave granted.

The Hon. PETER DUNN: I have received a letter from a small business in Whyalla, Sea-Coatings South Australia, a division of Westcoast Diving Services. The letter states:

> On 5 December 1991 my business, Westcoast Diving Services, was asked by the Pipelines Authority of South Australia to submit a tender for the inspection of the underwater section of the Port Pirie to Whyalla high pressure gas pipeline. On 21 February we were advised that our tender was unsuccessful.
>
> Believing that I was competing against other commercial diving enterprises, I was disappointed but happy to leave the matter rest. However, much to my surprise I now find the work is being undertaken by the South Australian police divers supported by Department of Marine and Harbors staff and plant.

Being a local business, we naturally employ Whyalla people and buy locally. Of course, this type of work helps to maintain the regional level of expertise in commercial diving.

Also, I have the Pipelines Authority compensation schedule, which sets out eight different items and an estimate of the cost. The cost estimated was $30 000, that is, by the Pipelines Authority of South Australia. However, the quote from West Coast Diving Services was $16 488. Naturally, he is a little disturbed as to why he did not get the contract. My question, therefore, is: will the Minister be prepared to take action to ensure that the awarding of Government contracts maximises employment opportunities for local business in regional cities like Whyalla?

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

NATIONAL FACSIMILE CLASSIFIED

The Hon. L.H. DAVIS: In the absence of the Minister of Consumer Affairs, I ask the Attorney-General, as Leader of the Government, a question about bogus accounts, and I seek leave to make a brief explanation before doing so.

Leave granted.

The Hon. L.H. DAVIS: I have received correspondence from Mr Stephen Middleton, who has a well-established and well-known public relations firm, and I understand that the Attorney-General has also received this letter. In his letter, Mr Middleton advises that on 22 April Mr Middleton's Executive Assistant received a phone call from a woman who claimed to be representing a firm called National Facsimile Classified. Her notes of the conversation indicate that the representative called to check Mr Middleton's fax number, on the pretext that they were updating their fax list. The following day, Stephen Middleton Public Relations received an account for $198. I shall read an extract from the letter that the firm received from National Facsimile Classified:

To Stephen Middleton and Public Relations, 1 King William Street, Adelaide, SA 5000.

Following our representative's call, thank you for your response regarding an insertion in the forthcoming sixth edition of the National Facsimile Classified.

Your insertion has been prepared as follows:

Middleton Stephen & Public Relations
1 King William Street, Adelaide, SA 5000.

They did not even get the firm's name correct. It continues:

Would you kindly check and send by return fax any queries or amendments to this proof wording.

As discussed, the cost of this insertion is $198.

It goes on:

The current edition of the directory has in excess of 1 500 pages and lists over 180 000 fax numbers.

The letter concludes with a signature from someone in the Administration Department, and with a note:

We wish to advise all our clients to beware of bogus accounts for international fax listings.

I rang National Facsimile Classified, on the Sydney phone number which appeared on their account to Mr Middleton and they confirmed that, indeed, there was a minimum fee of $198 for an entry in their publication and that over 180 000 fax numbers were used. If that number that they provided me, as in their claim to Mr Middleton, is correct, they would be receiving total fees of at least $36 million—which of course is a remarkable amount. Mr Middleton was understandably angry at receiving an account in this fashion, and as he says in his letter to me:

These people may well be operating on the basis that receptionists in large organisations will automatically pass the invoice on to 'accounts payable' for payment.

There was certainly no mention whatsoever to Mr Middleton's Executive Assistant of any account, and so therefore Mr Middleton was appalled, surprised and angry when he received this account. Mr Middleton has no intention of paying this account. My question to the Attorney-General is: is this kind of soliciting for business against the law and will he refer this matter to the Department for Public and Consumer Affairs for its attention and follow up?

The Hon. C.J. SUMNER: It could be against the law. I cannot answer that question without full knowledge of the facts. Nevertheless, I will refer the question to the appropriate Minister and either bring back a reply myself or ask the Minister of Consumer Affairs to do so.

WORKERS COMPENSATION CLAIMS

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister of Labour, a question about workers compensation claims by Government workers.

Leave granted.

The Hon. J.F. STEFANI: The Government is an exempt employer. This means that the Government carries its own workers compensation insurance. For some time, the Auditor-General has been advocating that each Government department should prepare an estimate of its potential liabilities arising from unresolved workers compensation claims. My questions are:

1. Has the Minister established the quantum of workers compensation claims and the amount of potential liability arising from those claims; if not, why not?

2. Will the Minister advise the total estimated value of the number of claims made by injured workers against each Government department?

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

ABORIGINAL CHILDREN

The Hon. BERNICE PFITZNER: I seek leave to make a brief explanation before asking the Minister representing the Minister of Education a question about language development in Aboriginal children.

Leave granted.

The Hon. BERNICE PFITZNER: We are aware that the vision and coordination of Aboriginal children appear to be in advance of the general Australian community. We are also aware that there is a high incidence of ear infection and therefore possible hearing defects in Aboriginal children. There is the perception—and some research studies show—that language development in Aboriginal children lags behind the general Australian community. I understand that a study of kindergarten children (four-year-olds) has shown that they are one or two years behind their chronological age in language development. We all know the importance of language with regard to hearing. My questions are:

1. If these studies are correct, what strategy will the Government, through the Health Commission, implement to target the improvement of language development in Aboriginal children?

2. Is the delay in language development due to frequent hearing loss in these children?

3. Will the Minister look into the implementation of a special language program to improve the standard of language development in Aborigines during early childhood?

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

STATE BANK

The Hon. K.T. GRIFFIN: I seek leave to make an explanation before asking the Attorney-General, representing the Treasurer, a question about the State Bank.

Leave granted.

The Hon. K.T. GRIFFIN: The State Bank group's total assets grew from $15 029 million at 30 June 1989 to $21 620 million at 30 June 1991. In the same period its loans, advances and receivables grew from $10 269 million to $14 539 million. I would suggest that it is important for taxpayers to know how much of this massive growth at a time when the economy was heading into recession has now gone bad and become non-accrual or otherwise non-productive. My question to the Attorney, representing the Treasurer, is: will he seek a report on the percentage of the State Bank group's $6.6 billion asset growth and of its $4.3 billion growth in loans, advances and receivables after 30 June 1989 which had become non-accrual or otherwise unproductive as at 30 June 1991 when the bank reported that gross non-accrual accounts had reached $4 200 million?

The Hon. C.J. SUMNER: I will refer the question to the Treasurer.

REPLIES TO QUESTIONS

EAST END MARKET

In reply to **Hon. I. GILFILLAN** (1 April).

The Hon. ANNE LEVY: The Minister for Environment and Planning was fully aware of the archaeological excavation which uncovered a row of 1840s cottages on the southern side of the former East End Market. The excavation was a joint project of the Adelaide City Council, the National Trust of South Australia and the Adelaide-based archaeological consultants, Austral Archaeology. The results were for the Minister as for all South Australians a fascinating glimpse into our past and a valuable insight into nineteenth century Adelaide.

The site is not totally obliterated as the honourable member suggests and he will be pleased to know that on completion of excavation the cottage remains were spread with black plastic and carefully covered with soil and rubble. A condition of the project was that the site would be backfilled by 2 March to enable the carparking firm, Secure Parking Pty Ltd, to again utilise that portion of its lease. Backfilling of 'The Rookery' site was not only carried out as a requirement for carpark space but was necessary to protect and conserve the site from salt attack, human intervention and vandalism of the exposed remains and weather damage caused by rain or intense heat. All these elements would have reduced the integrity of an unprotected historic site.

In the event of comprehensive development of the site the excavation has provided documentation to rigorous professional standards and allowed for the retrieval and cataloguing of artefacts from the row of cottages and their surrounds. Depending upon ultimate development of the site, options for further exposure of the cottage footings do exist as the historic remains lie intact beneath the present carpark area. Uncovering the site would be a relatively simple operation.

There is still an opportunity to stabilise the remains of the cottages and tannery and incorporate them into a display complemented by an exhibition of the more salient artefacts. These, in most tangible form, could bring to life the colonial activity in Adelaide's east end from 1840 to the 1890s and educate and delight future generations.

There has been no heritage vandalism. Rather, there has been professional and volunteer cooperation from all sections of the community to properly record and carefully rebury a significant historic place. The future of this fascinating and valuable site lies in further cooperation for sympathetic redevelopment of the site which will protect and incorporate significant elements of the historic remains. The National Trust has chosen the theme 'Discover our Hidden Heritage' for Heritage Week 26 April-3 May. 'The Rookery' is at present still part of this hideen heritage.

MOUNT GAMBIER RAIL SERVICE

In reply to **Hon. I. GILFILLAN** (14 April).

The Hon. ANNE LEVY: The Minister of Transport has provided the following responses:

1. Yes, on receipt of the letter from the Prime Minister confirming the availability of funds for standardisation.
2. Not applicable.
3. There is no discrepancy. The decision relates to the passager train service and the 'rumours' related to the future of the Mount Gambier line.

YOUTH UNEMPLOYMENT

In reply to **Hon. I. GILFILLAN** (8 April).

The Hon. ANNE LEVY: The South Australian Government is committed to doing as much as possible to provide young people in South Australia with employment opportunities. The high unemployment levels of young people in comparison to the rest of the work force is of considerable concern.

At the same time, however, it must be recognised that the level of public sector employment has a significant financial impact on the State budget. For this reason, steps will continue to be taken to achieve expenditure reductions in the public sector by further reducing public sector employment levels.

While reductions in expenditure and employment in aggregate terms are necessary, the Government acknowledges that some increase in employment is essential in high priority areas, for example, the recruitment of police trainees.

Recruitment figures for the Public Service for the past 12 months are not available. The Commissioner for Public Employment's 1990-91 annual report showed that during 1990-91, 92 people aged 15-19 years and a further 229 people aged 20-24 years were recruited into the Government Management and Employment Act work force of administrative units. In comparison, during 1989-90, 541 people aged 15-19 years were recruited, while in 1988-89, 345 people aged 15-19 years were recruited.

In November 1990, as part of tighter restrictions on public sector recruitment, centralised youth recruitment programs were suspended. However, work is currently being undertaken within the Department of Labour to identify the capacity of agencies to employ young people under another targeted program.

It should be noted however that the current labour market for young people is changing. The higher retention rates in secondary schools and the higher participation of young people in post-secondary education mean that less young people are available to employ, and those that are available are likely to be older than in the past. In addition, the opportunities for the employment of young people in the public sector are more limited than in the private sector, as many jobs in the public sector require particular qualifications. For this reason any specific recruitment programs which are developed will also address the 20-24 age group, including those with post-secondary qualifications.

RURAL UNEMPLOYMENT

In reply to **Hon. I. GILFILLAN** (1 April).

The Hon. ANNE LEVY: The Minister of Employment and Further Education has provided the following responses to the questions raised by the honourable member:

1. The requirement for job seekers to attend training courses under the Commonwealth Jobsearch and Newstart schemes is a central requirement of the Federal Government's 'Active Employ-

ment Strategy'. This strategy seeks to identify relevant training opportunities for both short and long-term job seekers to develop skills that will enable them to find employment or compete more effectively in the labour market. The attendances at these courses are arranged under an agreed contract between the job seeker and the Commonwealth Employment Service. We would all agree that retraining and skills development are of key inportance to job seekers wanting to enter or re-enter the work force. It would be short-sighted to ignore this requirement and to deny job seekers the opportunity to develop new skills.

That job seekers in rural areas find it more difficult to attend mutually agreed training courses is acknowledged and it is this issue rather than the 'requirement to train' which needs to be addressed. This issue is addressed in the replies to the second and third questions of the honourable member.

2. and 3. The honourable member has pointed out that reimbursement for travel to job seekers attending training courses is only provided in respect of a round trip that exceeds 80 km. In the first instance information provided by State officers of the Department of Employment, Education and Training states that 80 km is only a guideline and that the Commonwealth Employment Service can use its discretion to apply allowances to trips of 30 km or more per day. This allowance, which was only very recently doubled, currently stands at 20 cents per kilometre if private transport is used or, alternatively, the cost of public transport is reimbursed. In applying this discretionary power the Commonwealth Employment Service attempts to ensure that it is applied sensibly and is most often utilised in regions where people are locationally disadvantaged.

If it did not apply to the particular training course referred to by the honourable member, then those people who participated in the course should make contact with the Commonwealth Employment Office at Noarlunga (which administers the Kangaroo Island Region) to discuss the issue of reimbursement.

As well as the Jobsearch and Newstart programs, there are other avenues of support for job seekers who reside in remote/rural areas.

At the Federal level there is the Mobility Assistance Scheme. This includes:

- Relocation assistance for people who have found employment in another area. This can include assistance with travelling, transport and moving expenses, a re-establishment allowance and contribution to house purchase or rental costs.
- A petrol allowance for job seekers in remote locations who need to travel by private transport to attend job interviews.
- A support grant of $260 per week for short-term job search activity by long-term unemployed job seekers who are prepared to move to gain employment. Successful job seekers are also eligible for a resettlement allowance of up to $500.

In addition to Commonwealth support programs, the concern of the State Government to assist locationally disadvantaged people is reflected in the regional localities where the Kickstart Employment and Training Strategy is being introduced. During 1991-92, Eyre Peninsula, Whyalla and Port Augusta were set up as Kickstart regions. Regional employment and training bodies were established and are being supported by the State Government with funds to develop local employment and training projects specifically designed to assist locally unemployed people. Each regional body is being provided with the services of a full-time employment and training officer. During this year, three more regional country areas will be developed: Port Pirie, Riverland and the South-East. The development of these regions was a conscious decision on the part of the State Government to ensure that locationally disadvantaged groups do receive 'a fair go'. In addition to these regions, two major metropolitan-based regions have also been targeted: Western Adelaide and Southern Adelaide.

The regional network under Kickstart will be progressively developed until a full State-wide coverage is achieved. However, in the interim period, those regions which are not under immediate development can still access funds and support under the program's $16.5 million strategy. Obviously, this includes Kangaroo Island.

I would encourage any organisations or individuals on Kangaroo Island who are seeking assistance in the development of employment and training projects to contact the Director of the Employment and Training Division in the Department of Employment and Technical and Further Education (Mr Charles Connelly, telephone (08) 210 8446) and discuss how the Kickstart strategy could be utilised.

4. With regard to child-care facilities, the State Government is concerned to ensure that within the limits of its resources adequate child-care facilities are developed. To achieve this, it is also crucial that significant levels of Commonwealth support be provided to the States. The State Government has developed an extensive family day care scheme on Kangaroo Island. This scheme has over 40 registered and approved family day care providers. This scheme currently responds to the needs of over 120 families. It requires a significant level of State funding support and the registered providers also receive Commonwealth Government support. The scheme employs a full-time field worker on the island to administer and coordinate its activities (Ms Linda Hasenbalag, telephone (0848) 22754). There is also a preschool facility in Kingscote and a play centre at Penneshaw, both of which receive State Government support.

The State Government has and continues to make a significant effort to assist families on Kangaroo Island who require this service.

In response to the honourable member's supplementary question, my colleague has advised that while much of the foregoing relates to the Federal Government's areas of responsibility, there is a genuine level of concern by the State Government for the people on the island, which is reflected in the response.

UNIVERSITY SEMESTERS

In reply to **Hon. M.J. ELLIOTT** (19 February).

The Hon. ANNE LEVY: The Minister of Employment and Further Education has informed me that all of the State's universities are aware of the potential benefits of extending the teaching year, not just into the summer but also into the break between first and second semesters. However, there are significant additional costs in running summer courses. For this reason most summer courses presently run must be offered on a fee paying basis.

The question is a timely one as a study of these issues has just been released under the Commonwealth Evaluations and Investigations Program of the Department of Employment, Education and Training. It was written by W.H. Richmond and D.J. Warren Piper and is called Study of the Resource Implications of Extensions to the Teaching Year.

Notwithstanding the resource constraints, the number of summer courses on offer is slowly expanding. For example, Flinders University offers subjects in Primary Health Care, Nursing and the Sciences. The University of Adelaide's offerings include subjects in the Master of Business Administration and the Botany subjects referred to by the honourable member and it is proposed to offer some subjects in the Faculty of Agricultural and Natural Resource Sciences over the 1992-93 summer. Similarly, at the University of South Australia many of the master degree programs are offered on a one calendar year, three semester basis. In a promising development, the University of South Australia's Distance Education Centre is working on a proposal which will include an initiative to run a pilot summer semester involving a number of internal and external programs.

The State Government would support the plans of our universities for any moves which increase access to their courses and make further use of their capital facilities. Officers have been in touch with the institutions and the universities are aware of the Government's interest in the continued development of these offerings.

MUANU FEEDLOT

In reply to **Hon. M.J. ELLIOTT** (24 March).

The Hon. ANNE LEVY: The Minister for Environment and Planning has provided the following responses:

1. As stated by the honourable member in his preamble to his questions, an injunction has been placed on the applicant requiring that the number of cattle be reduced to 3 000 head by 1 May 1992. At the time of the appeal against the injunction the Judge also varied the original order to enable development in relation to cleaning and runoff measures to occur.

2. The South Australian Planning Commission is the deciding authority for the planning application submitted pursuant to the Planning Act 1982. The District Council of Clare, pursuant to section 47 of the Planning Act, requested that the Minister for Environment and Planning declare the South Australian Planning Commission the planning authority in lieu of council as council felt it may be seen as having a bias and the proposal's impact extends beyond the Clare council's boundary.

3. Pursuant to the Planning Act, the Planning Authority is obliged to assess any application it receives. If, after the assessment process it is determined that the location is inappropriate for the proposed use, the application is refused. In this case the Commission has advised the applicant that further information is required to assess the application. When this information is received the procedures contained within the regulations under

the Planning Act 1982 will be instigated, that is, public notification.

SCHOOL SECURITY

In reply to **Hon. M.J. ELLIOTT** (18 March).

The Hon. ANNE LEVY: The Minister of Education has provided the following responses:

1. $6.871 million.

2. From 1978 to the end of 1991, there have been 806 security surveys carried out in schools. There has been and will continue to be provision for advice on security to schools through the Department's Security Branch. Security surveys are one approach available, and priorities are set on the basis of a risk management approach having regard to the nature of the request and the incident history (if applicable).

3. The implementation of the recommendations of security surveys forms part of the preventative security measures strategy employed by the department. The strategy is based upon a risk assessment and subsequent prioritisation of the request.

The solutions employed included monitored alarm systems and security patrols.

In the current financial year 1991-92 a total of $470 000 has been allocated to the school security program for the provision or upgrading of alarm systems.

In addition to this program, security measures form part of the planning processes associated with the construction of new schools or the redevelopment of existing schools where deemed appropriate.

To further reduce the impact of vandalism and arson, School Watch was initiated as a project in seven schools in August 1990. The program has now been introduced in 37 school communities.

TRAINING SCHEME

In reply to **Hon. I. GILFILLAN** (18 December).

The Hon. ANNE LEVY: My colleague, the Minister of Employment and Further Education, has provided the following responses:

1. A meeting between the Minister of Employment and Further Education and representatives of the building industry (including employers and unions) took place on 5 September 1991. At this meeting, a full discussion took place at which the Minister agreed that industry taking responsibility for collection and management of a Statewide industry levy would be a positive move, subject to the following points:

- that all sectors of the industry were consulted and advised of the proposal;
- that all sectors agreed that the proposed training fund would be beneficial to the industry;
- that all sectors of industry were satisfied that this proposal could provide the most efficient means by which to provide additional training funds to the industry.

DETAFE officers have assisted in the above process in that they have attended a number of meetings with industry representatives in order to discuss and explain the concept.

They have also provided extensive advice and assistance to the Building and Construction Industry Training Committee and its Training Executive, Ms Linley Cooper.

DETAFE staff have also liaised with:

- relevant officers of the Commonwealth Taxation Office and DEET on behalf of the industry in order to ensure that the proposed levy complies with the minimum 'exemption obligations' under the Federal Government's 'Training Guarantee Act'.
- Mr Andrew Bond of the Department of Employment and Industrial Relations and Training in Tasmania in order to obtain information which would be relevant to the South Australian proposal.
- Mr Peter Coad, executive officer of the Tasmanian Building and Construction ITB, in order to obtain information on the processes involved in implementing this scheme in Tasmania.

A meeting of industry representatives, the ITC and officers of DETAFE and the executive officer of the Tasmanian Building and Construction ITB took place on Friday 6 December 1991 in order to begin the process of developing a discussion paper detailing the proposed fund. This paper will be circulated throughout the industry for comment and ratification, this being normal procedure.

Although assistance is being provided by officers of the State Government, it is important to recognise that this is an industry led and driven initiative, and is not and must not be perceived to be 'another impost' by Government.

Indications at this time are that the industry in general is supportive of this proposal. However, more time is required to allow industry the opportunity to reach full understanding and consensus.

2. The Minister of Employment and Further Education agrees that more funds are needed and believes that an industry-based and controlled training fund will most definitely generate additional funds to add to the substantial funds already invested by the industry and the State and Commonwealth Governments for training development. That is why there have been discussions with industry and the appointment of DETAFE officers to assist with the process and development of the proposal.

3. Ensuring that the level of skills in the building and construction industry are maintained and secured for the future is a challenge which must be answered by industry. However, in recognising the industry's strategic importance, extensive support has been and continues to be provided by the State Government to a wide range of employment and training initiatives, many of which are specifically designed to maintain and develop its skill base while providing opportunities for South Australians. These include:

- Assistance to the building industry through a contribution to the operation of group training schemes. These employ some 170 apprentices in the building trades at a current annual cost to the State of $212 690. (This includes $60 000 State contribution to the Building Industry Group Training Scheme and $30 000 to the Plumbing, Electrical, Electronics and Refrigeration Group Training Scheme.) In addition, there are seven regional group training schemes that also provide opportunities for young people to be trained in building trades. These receive State Government assistance. All contributions by the State Government are matched on a dollar for dollar basis by the Commonwealth. The total State budget for group training this year is $756 000 when matched by the Commonwealth this will be in excess of $1.5 million. More than a quarter of this will be used to support training in the building trades.
- It should also be noted that the State Government, as well as providing financial support to group training schemes, forgoes revenue by exemption of payroll tax on apprentices employed under such arrangements. Given that group training schemes employ collectively some 1 000 apprentices, this is a significant contribution to industry training.
- The provision of 'off the job' training through TAFE colleges for apprentices and pre-vocational students is a significant contribution to meeting the training needs of the building and related industries. Specialist 'building' colleges located at Gilles Plains and Marleston provide a comprehensive program of building related training, which is complemented by other colleges located in the metropolitan area (for example, Noarlunga and Elizabeth) and also non-metropolitan areas (for example, Whyalla, Riverland, etc.).
  Based on a four-year carpentry apprenticeship and the 800 hour course of instruction it requires, a conservative estimate of the cost to TAFE is $8 000. The provision of post-trade training is also provided through a number of TAFE colleges.
- Support and advice to Industry Training Councils (ITCs) by State Government representatives is ongoing. The assistance being provided to the Construction ITC in developing an industry training fund proposal is a perfect example.
- Support of apprentices and employers in the workplace through the employment of 20 training supervisors, whose primary role is to provide advice and assistance to employers and employees and ensure that apprentice training, both 'on' and 'off the job' is effective. These supervisors are funded through the State Government and service industries located throughout the State.
- In the past three years the State Government has directly indentured 201 apprentices in Government departments in building and related industry occupations. This is a very substantial investment that helps provide skilled tradespeople for the industry and employment for young people. Government recruitment is ongoing. Many of these apprentices enter the building industry fully trained.
- Graduate recruitment by Government departments also provides training and employment opportunities for architects, estimators, surveyors and other occupations directly related to the building industry.
- State Government skill centres also provide training opportunities for building trade apprentices. The SACON Skill Centre recently trained 12 'Out of Trade' apprentices from the building industry. The training course was for 36 weeks, SACON facilities were provided free of charge to industry

and Commonwealth support was also utilised. Access to skill centres is ongoing.

- As well as the provision of training in TAFE colleges, very significant resources to develop appropriate curriculum associated with building industry training are allocated by DETAFE through its Curriculum Services Division. Close liaison between this division and the Industry Training Council is maintained and ensures the relevance of TAFE courses to industry needs. As you would appreciate, this process requires a sustained effort and a high level of expertise, the cost of which is met solely by the State Government.

WORKCOVER

In reply to **Hon. PETER DUNN** (18 February).

The Hon. C.J. SUMNER: The Minister of Labour has provided the following response:

The purpose of this question relates not so much to the avoidance of an injury but to the avoidance of incurring a penalty under the WorkCover Bonus/Penalty Scheme.

Clearly, if an employer believes that the work being offered is likely to injure a worker, that worker should not be employed without appropriate prevention and education measures in place. The employer is able to seek a medical opinion as to whether the worker is capable of performing the duties without injury, and whether existing or prior injuries are likely to be aggravated.

If the worker is subsequently injured, WorkCover will need to examine the medical information to ascertain if it is an aggravation of a previous injury or pre-existing disability. If so, it would be excluded from bonus/penalty calculations.

RAILCAR VANDALISM

In reply to **Hon. DIANA LAIDLAW** (7 April).

The Hon. ANNE LEVY: My colleague the Minister of Transport has advised that a railcar was damaged whilst returning to Adelaide from Outer Harbor on the Saturday night, more specifically between 12.37 a.m. and 1.07 a.m. on Sunday 5 April 1992.

The damage was reported to Transit Police shortly after this time and investigations commenced. The damage consisted of smashed windows and validators and is estimated to cost between $20 000-$30 000 to repair. Two offenders have been arrested and enquiries are continuing in relation to a third.

The issue is not being 'covered up'. It is not the State Transport Authority's practice to publicise these events because of the tendency publicity has of contributing to the occurrence of further events.

WORKCOVER

In reply to **Hon. J.F. STEFANI** (1 April).

The Hon. C.J. SUMNER: The Minister of Labour has provided the following response:

	$
1. Cost of salary for two weeks of form development and consultation	2 000
Cost of stationery, printing and mailing	2 000
2. Total number of forms received since 16.7.91 to 25.3.92 was 5 285	
Total cost paid	264 250
3. The amount paid this financial year is as noted above for the same period	264 250
The amount of fees paid for this calendar year from 1.1.92 to 25.3.92 was	69 850

PRISONER EDUCATION

In reply to **Hon. R.I. LUCAS** (17 March).

The Hon. ANNE LEVY: The Minister of Education has provided the following response:

1. There is no deadlock. There are good and positive relationships between the Open Access College (OAC) and the Department of Correctional Services (DCS). Arrangements have been made for the OAC to enrol prison based students in courses whilst the Education Department determines the most appropriate way of cross charging organisations which use the services of the OAC.

2. There is no dispute. The Education Department has not charged DCS for services in the past year and will not charge this year whilst it is determining its mechanism for charging other organisations.

3. The cross charging fees have not yet been determined.

4. There are currently nine students studying with the OAC. These students are studying particularly in the Year 12 students area for matriculation. Other students who are involved in a range of literacy and numeracy programs by distance education are still catered for by DETAFE. There has been a slight increase in the number of prisoner students who are studying in 1992 at Year 12 level with the OAC over the numbers who were studying at Year 12 level with DETAFE in 1990.

5. There is no dispute. The OAC has shown considerable interest in providing education services to South Australian prisons. In the past year staff, including the Principal, from the college have visited institutions in the metropolitan area and have spoken with the DETAFE prisoner education staff and with prisoners involved in study programs.

POKER MACHINES

In reply to **Hon. M.J. ELLIOTT** (18 February).

The Hon. C.J. SUMNER: The Minister of Emergency Services has provided the following comments in response to the honourable member's question asked on 18 February 1992 concerning the Gaming Machines Bill.

The Commissioner of Police has provided comments on the Gaming Machines Bill and these have been tabled in Parliament.

MOTOR VEHICLES ACT

In reply to the **Hon. J.F. STEFANI** (17 March).

The Hon. ANNE LEVY: The Minister of Transport has provided the following responses:

1. The requirement that a driver pay an excess of a maximum of $200 on a third party insurance claim pursuant to section 124ab (1) of the Motor Vehicles Act has been in force since 1987. At the time of implementing the revised legislation, an extensive campaign was launched through radio, television and print media. Further, a message to the householder was delivered to every person receiving mail within this State.

In September of last year, the Minister of Transport asked the Registrar of Motor Vehicles to liaise with the State Government Insurance Commission in producing a further information booklet to be delivered to householders with registration renewal notices in 1992. The booklet is currently being produced and will be delivered with renewal notices, commencing soon.

Information concerning the requirements of drivers is also contained in the third party insurance schedule, available from the Department of Road Transport's Motor Registration offices.

2. The number of payments up to and including $200 received during the 1990/91 financial year was 6111. SGIC advised that it does not keep statistics on the number of demands made on motorists to pay the excess.

3. The number of payments up to and including $200 received during the current financial year (to 23 March 1992) is 4272.

STATE TRANSPORT AUTHORITY EMPLOYEES

The Hon. DIANA LAIDLAW: I have a number of questions to ask the Minister representing the Minister of Transport relating to rostering and crewing provisions. Will bus drivers be the only STA employees targeted for new rostering and crewing arrangements as part of the Minister's plan to retain some late night and fringe services, or are current rosters and crewing arrangements on trains and trams also up for negotiation? For example, it has been put to me that this may involve the removal of guards from trains and conductors from trams so that both become driver only operations.

The PRESIDENT: Order! The honourable member did not seek leave to make an explanation. Direct questions only are permitted.

The Hon. DIANA LAIDLAW: Yes, that was an example. Also, in relation to these services, is the Minister prepared to endorse the statement by a union spokesman that 'he did not believe operators would lose take home pay under the plan or that the STA would attack 12 hour shifts'? Is it correct that individual operators could lose up to $3 000 a year following implementation of the changes?

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

LOCAL GOVERNMENT (REFORM) AMENDMENT BILL

Adjourned debate in Committee (resumed on motion) on the House of Assembly's amendments.

(Continued from page 4695.)

Amendment 7:

The Hon. ANNE LEVY: I move:

That the House of Assembly's amendment No. 7 be agreed to.

This amendment is a tidying up of the Bill as it left this Chamber. It also deals with the consultation that must be undertaken regarding any proposal. As indicated when the Bill left this Chamber, mention was made of the Conservation Council of South Australia but not of any other organisation. The amendment inserted in the other place in no way diminishes the consultation required, but it is worded in a more embracing way, which covers any organisation or association with any relevant interest, be it officers or employees of a council or employers within the local community, associations of ratepayers, associations of residents, persons who are interested in the relevant environmental issues, or otherwise. It is felt that this achieves the same end without specifically mentioning one organisation, since that may lead to disappointment on the part of other organisations that may feel they have an equal right to be named in the section.

The Hon. I. GILFILLAN: I move:

That this amendment not be agreed to but that the following amendments be made in lieu thereof;

Clause 4, page 11—After line 39—Insert—

and

(e) consultation with any other organisation or association that represents persons who have a particular interest in the matter (whether as ratepayers or residents, persons who are interested in relevant environmental issues, or otherwise).

I recognise that the suggested new paragraph *(e)* adds a wider scope to the obligation to consult than the Bill originally provided for.

New section 20 (4) provides:

When the report has been prepared to the satisfaction of the panel, the representatives of the parties must, to the satisfaction of the panel, undertake or initiate a program of—

(a) public consultation;—

that is not in dispute; that is fixed in both proposals—

(b) consultation with the Conservation Council of South Australia Incorporated;

(c) consultation with any organisation that represents the interests of employers, or other persons involved in commerce or industry, within any area to which the proposal relates.

As I more or less identified during the second reading debate, that covered such organisations as the Chamber of Commerce, Employers Federation or other organisations but, because there is no peak body, there was no possibility to specify a peak body name. New section 20 (4) concludes:

(d) consultation with any employee association that represents any officer or employee of any council affected by the proposals . . .

That, of course, was broad enough to embrace any particular union, and it would have quite happily involved the UTLC, had it wanted to be involved. The paragraph proposed in the House of Assembly's amendment reads:

consultation with any organisation or association that represents persons who have a particular interest in the matter (whether as ratepayers or residents, officers or employees of a council, employers within the local community, persons who are interested in relevant environmental issues, or otherwise).

That wording is quite comprehensive, but it is not specific, and that is what I believe is the value of my amendment to the schedule—that the three prescribed entities will remain, so that there will be a clear obligation that three major areas of concern will be consulted specifically. My amendment would insert a further provision that picks up the intention of the House of Assembly's amendment, as follows:

consultation with any other organisation or association that represents persons who have a particular interest in the matter (whether as ratepayers or residents, persons who are interested in relevant environmental issues, or otherwise).

I argue that my amended wording is the best, in that it is specific in pointing to important entities that would, if this measure is adopted, have an opportunity to be consulted on any proposed boundary changes. Although the House of Assembly's amendment provides for this possibility, it is not so instructive; it is a much looser, less specific request of the panel. From that point of view, I argue most strongly that it should be the Conservation Council (being, as everyone recognises, the peak and embracing body of all the organisations that represent environmental concerns), then the employer and employee organisations and, finally, there would be the catch-all, which I accept comes from the initiative of the House of Assembly. So, I urge the Council to accept my amendment to the House of Assembly's amendment.

The Hon. J.C. IRWIN: I indicate that I do not support the Hon. Mr Gilfillan's amendment and therefore support amendment No. 7 on the schedule. After consideration of this matter for some time, I believe that the House of Assembly's amendments covers all possibilities, and that matter has been alluded to by the Minister and the Hon. Mr Gilfillan. I do not think we need an exhaustive list, because I can think of a number of peak bodies in the rural areas as well as in the metropolitan area which we could go on adding to this list. With that said, and not trying to draw out a long debate on this, I indicate that we support the scheduled amendment.

Motion carried.

Amendment No. 8:

The Hon. ANNE LEVY: I move:

That the House of Assembly's amendment No. 8 be agreed to.

The Hon. I. GILFILLAN: I will not go over the same ground. I credit members of this Chamber with remembering what I said five minutes ago, although there may be days when I would not be so sure. I seek advice on the procedure as to my moving my amendment to the amendment.

The CHAIRMAN: We take it that yours is an alternative amendment. Amendment No. 7 came from the House of Assembly and it has been accepted, thus rejecting your alternative amendment. Had we disagreed with the House of Assembly's amendment, your amendment would have been put next. The Council saw fit to reject your amendment by accepting the amendment of the House of Assembly.

The Hon. I. GILFILLAN: I foreshadow that, in the event of amendment No. 8 not being agreed to, I will move an

alternative amendment to it. I oppose amendment No. 8. as outlined in the schedule and, if I am successful and that amendment is opposed, I foreshadow that I have a brilliant amendment on file which I will then move.

Motion carried.

Amendments Nos. 9 to 16:

The Hon. ANNE LEVY: I move:

That the House of Assembly's amendments Nos. 9 to 16 be agreed to.

The amendments relate to different aspects of the same issue and one either accepts or rejects them *in toto*. To do otherwise would be ludicrous. These relate to a poll of electors which can be held after a panel has made a recommendation. It ensures that where the original proposal came from electors and the panel has recommended that it not proceed, or has recommended not the original but an alternative proposal, and furthermore that either of those two is not agreed to by a representative of the group that put forward the original proposal, at that stage an electors' poll, if requested, will allow electors at large to have a three-way choice: that is, between their original proposal, the alternative, if any, recommended by the panel, or no change at all. In that case their voting will be on a preferential basis. Where there are only two options the procedure is as in council elections to vote with an 'X'.

The rationale for this is that, where a proposal initially comes from the electors, it is felt that if they still wish that to be considered by the electorate at large, that option should be available. However, in all other cases, where a proposal starts with a council, it will be the recommendation from the panel which is put to the poll seeing that the council must be in favour of that not to have vetoed it at an earlier stage. While it covers many pages, that is what that group of amendments achieves. I move that all eight amendments be accepted.

The Hon. J.C. IRWIN: I indicate the Liberal Party's support for the block of amendments moved by the Minister. I should like to make two brief comments. One relates to the whole thing, but I guess it is pointed out in the schedule at the top of page 3, subparagraphs (iv) and (v). I cannot help but comment that the whole exercise is getting very messy. I would certainly have had a preference for a simpler question being put to the community—do you like this proposal, yes or no—rather than what can be three proposals as in subparagraph (iv) or two proposals as in subparagraph (v). It is getting not only messy but very complicated for the community to understand. They will need to know the arguments for and against all the proposals. If there are three proposals, the arguments for and against each of those proposals will have to be well known by the community. Whether it is well understood or not is another matter.

The Hon. Anne Levy: There are two proposals. The third one is no change.

The Hon. J.C. IRWIN: Yes. It is two proposals or one proposal. They will have to be prepared. My hope is that people generally will understand what they are voting on and that they will have the common sense to make a good decision on that. Inherent in this is a question relating to subsection (20a) *(c)*. When I started to read that I thought about the way that the ballot paper will be filled out. Is a vote invalid if only one square is marked? Somewhere it refers to when a vote is valid.

The Hon. Anne Levy: Preferential voting, but not optional preferential voting.

The Hon. J.C. IRWIN: There is mention somewhere about the ballot paper, that if the intention is clearly marked, it is not invalid. I cannot find that now.

The Hon. Anne Levy: That is on page 5 of the schedule about half way down at (20c).

The Hon. J.C. IRWIN: Yes. In fact, it provides:

A ballot paper is not informal by reason of non-compliance with subsection (20a) or (20b), if the voter's intention is clearly indicated on the ballot paper.

If there was an 'X' in one box, is it a valid vote or, if there is a '1' in one box, without making a full preferential vote, is that sufficient to indicate the voter's intention?

The Hon. ANNE LEVY: I understand what the honourable member is querying. The procedure that is set out is a preferential system, not an optional preferential system, and I would presume in that case that, if there are three boxes and the instruction is to vote '1', '2' and '3', at least two of the boxes would have to be filled in with a '1' and a '2'. If the third box were left blank it could be presumed that it was equivalent to the three. The same method applies in Federal and State elections, where preferences must be indicated, where the last box can be left blank and the vote is regarded as valid, because it is taken that that is the last number. But, quite clearly, a paper in which two boxes had a '1' in them would have to be informal, because the voter's intention would not be clear.

Amendments carried.

Amendment No. 17:

The Hon. ANNE LEVY: I move:

That the House of Assembly's amendment No. 17 be agreed to.

Amendment No. 17 relates to the proportion of electors who must take part in a poll for the results of that poll to be binding rather than indicative. The Council decided to make it 50 per cent. The House of Assembly has changed that to 25 per cent and, while 25 per cent is not a very large proportion of an electorate, it is nevertheless quite a substantial proportion, particularly in the metropolitan area, relative to the number of people who have voted in recent local government elections.

We discussed this at considerable length when the Bill was previously in the Chamber, and I am sure that we all agreed that whatever figure was chosen was to be an arbitrary one and that there was no theoretical reason to take any particular figure. All the provisions are to be reviewed, and in five years a thorough look at the results of implementation will be undertaken. It seems to me that such a review can well look at the practice, and we will then have some valuable data which can be used to consider whether the 25 per cent figure should be increased. It seems to me that at that time a more reasoned approach can be taken rather than just picking a figure out of the air, which is all we are doing at the moment.

The Hon. J.C. IRWIN: I support the amendment. I am delighted that it has come off the 50 per cent, and I think that I argued quite strongly for something lower than 50 per cent when the Bill was last here. I still believe that it is an arbitrary figure, and I am not even sure whether it is now correct, but I think it is sufficiently high to be above the average of the last council elections. I also understand that elections are a different matter to a community of interest poll for a particular area which will be affected by a proposal. If the community is on the ball I would expect there to be a good turnout. I agree with the Minister that this will be reviewed in several years, and hopefully at that time there will be better information to go on. I think that the 25 per cent figure is much better than the 50 per cent figure.

Motion carried.

Amendments Nos 18, 19 and 20:

The Hon. ANNE LEVY: I move:

That the House of Assembly's amendments Nos 18, 19 and 20 be agreed to.

While the amendments do not relate to the same matter, they are consequential on amendments that we have already carried.

The Hon. J.C. IRWIN: I indicate the Opposition's support for this but would ask the Minister to explain what '(disregarding the area or areas in which the electors are voting)' means in amendment No. 18.

The Hon. ANNE LEVY: I take it to mean that the result of the poll is taken over the total area. We do not say that in this area the vote was so much, in that area the vote was so much and in the next area the vote was so much. We are taking the total result, not subdividing it.

The Hon. I. GILFILLAN: I think that bunching together the three amendments is not consistent, because it seems to me that amendment No. 19 deals with the consequences of there being less than 25 per cent of the electors for the relevant area or areas voting at the poll, and the consequence of that is that the result of the poll is not binding and is like an instruction to the panel. I do not believe that this amendment is consequential on a previous amendment; to me it seems to be a new amendment, but that is beside the point and I may or may not be right.

The question is, I think, important in so far as it relates to the percentage above which the poll is binding; but more critical is the effect the poll has if it is under that percentage. If it is under 25 per cent it could quite easily have no effect at all, yet the amendment spells out quite clearly that the result of the poll, even if less than 25 per cent indicate opposition to a recommendation of the panel, has the following consequences:

(a) the panel must reconsider the recommendation in consultation with the representatives of the parties (and may, if it thinks fit, alter its report);

and

(b) if the panel decides to maintain its recommendation in any event, the panel must set out its reasons for the decision in its report.

So, it does assure those people who take part in a poll that the decision of the poll, and the energy of putting it up and participating in it, is not just dead wood; that there is something in the Act—and they have the authority to revert to the Act—to ensure that the panel does take into consideration the decision of the poll even if it is under 25 per cent. I indicate support for it and the other amendments.

The Hon. ANNE LEVY: I thank the honourable member for his comments, but a clause very similar to that was in the Bill that originally came into this Council. That Bill has never provided for polls being binding. In making polls binding in certain circumstances, and considering varieties of circumstances and what happened then, we amended the Bill. As a result, the provisions similar to those now before us were dropped. The amendments made in the House of Assembly relating to a preferential poll in certain circumstances have considerably simplified the wording regarding what happens if more than 25 per cent vote. However, it is then consequential that one must restore to the Bill some indication of what happens when fewer than 25 per cent vote.

The Hon. I. Gilfillan: A lost poll is a lost poll. If the election is lost, there cannot be a second class consideration. Or can there? I think it is more than consequential to analyse what actually happens if it is under 25 per cent.

The Hon. ANNE LEVY: It depends on what it is more than consequential to. It is more than consequential to what we have just accepted this afternoon, but it relates to what was in the Bill when it originally came into this place; it was dropped as a result of amendments made in this Council and, as a result of amendments made in the other place, it needs to go back in. It is not something new that the other place has dreamt up in that virtually the same words were in the original Bill that came into this Council. I do not wish to labour the point as to its origins, and I am very glad indeed that the honourable member feels that it is a valuable addition to the Bill.

Motion carried.

Amendment No. 21:

The Hon. ANNE LEVY: I move:

That the House of Assembly's amendment No. 21 be agreed to.

This amendment deals with the provision of reports on the workings of the panels and the review after a specified time of experience of it, which must lead either to legislative change or reaffirmation of the system we are setting up. I urge members to accept the amendment.

Motion carried.

Amendment No. 22:

The Hon. ANNE LEVY: I move:

That the House of Assembly's amendment No. 22 be agreed to.

This amendment will remove from the principal Act the ability to postpone elections while amalgamation proposals are being considered. Under the new system being proposed far more consensus applies and it is felt that this previous postponement would be unnecessary given a much less adversarial system and a greater system of consensus.

The Hon. J.C. IRWIN: I am delighted with this amendment and I support it.

Motion carried.

Amendment No. 23:

The Hon. ANNE LEVY: I move:

That the House of Assembly's amendment No. 23 be agreed to.

This is just a qualifier. In some specific circumstances, it may be desirable to continue differential rates following amalgamation for a period of more than five years, but the cases would obviously have to be considered on their merits in the specific circumstances.

The Hon. J.C. IRWIN: I reluctantly agree with this amendment, because I argued against the five year provision. It is intolerable that differential rates apply after an amalgamation for more than a couple of years. I have argued previously that the provision is not only to realign rates but, presumably, to pay off debts. It smacks of separate accounting procedures being adopted for each old area for a period which, if we adopt this measure—and we will—can go on forever, rhetorically speaking. When we get two, three and four years away from when the proclamation was made, who will oversee the terms of the proclamation so that this addition may be brought into force? It refers to a five year period or longer as may be specified by the proclamation. Who will oversee it and judge whether the original proclamation is still relevant?

The Hon. ANNE LEVY: Of course, the proclamation would arise from the recommendations of the panel which is accepted by the councils involved. When a proclamation is made, it will obviously be made by the Governor, as are all proclamations, and, presumably, the councils concerned would be fully conversant with and abide by it.

The Hon. J.C. IRWIN: Let us say that the Woodville/Port Adelaide/Hindmarsh council amalgamation is effected and those three councils become one; after five years, that new council may decide that it still needs some more years in which to realign the rates. Who will judge how many more years it will have? The proclamation might provide for from five to 10 years, or it might provide for five years,

and that period can be extended if someone decides that it needs more time. Is the original panel reconstituted?

The Hon. ANNE LEVY: I would read it to mean that it would be part of the proclamation that makes the amalgamation occur. So, if council A and council B are to be amalgamated, a proclamation will specify that that amalgamation will occur, and that same proclamation will indicate whether there are to be more than five years of differential rating. It will not be a question of, after five years, the councils deciding they would like more time. The determination as to the time to achieve or to remove differential rating will be in the original proclamation which sets up the amalgamation, so it will be known from day one, and the new council will obviously work towards it.

Motion carried.

Amendments Nos 24, 25 and 26:

The Hon. ANNE LEVY: I move:

That the House of Assembly's amendments Nos 24, 25 and 26 be agreed to.

These amendments relate to the setting of fees. They will result in a situation whereby the legislation establishes the principle that local government is competent to determine its own fees for services which it provides and for which fees are collected by it. It will not indicate which fees still need to be identified in whatever Act establishes the existence thereof, but it is stating the principle that, where the particular instances are indicated, local government will be able to set its own fees which it collects for the services it provides. It is made quite clear that the LGA can prepare guidelines relating to the fixing of fees and charges. That is desirable as a guide to councils that may not be experienced in these matters, and also to encourage uniformity for particular fees.

Motion carried.

Amendment No. 27:

The Hon. ANNE LEVY: I move:

That the House of Assembly's amendment No. 27 be agreed to.

This amendment relates to the procedures by which councils make by-laws.

The Hon. J.C. IRWIN: I support this amendment, but I raise the question I have raised before. This matter relates to the fact that two-thirds of the members of the council are present. I do not have to highlight again to the Minister—she knows it well—that there is a difference between a council with a mayor and a council with a chair.

The Hon. Anne Levy interjecting:

The Hon. J.C. IRWIN: I am not talking about the vote. It is harder to achieve the two-thirds majority of those present in a situation of a council with a mayor where the mayor cannot vote. Even though the mayor is present, the mayor cannot vote, and that number is counted in the two-thirds majority being present. It is different for a district council which has a chairperson who has a deliberative vote. It seems to me to be unfair where different rules apply for what is a very important matter of the two-thirds majority in the different situations. In the continuing discussions about what are council majorities and whether mayors or chairs have casting votes or deliberative votes, I just hope that that is taken into consideration. I still believe that in this respect there should not be a difference between a district council with a chair and a municipal council with a mayor.

The Hon. ANNE LEVY: I appreciate the point that the honourable member is raising. There is no ambiguity in this wording as there is in section 60 of the principal Act, where one is talking about a majority of the votes and as to whether or not the mayor is counted. I am sure there is no ambiguity whatsoever that the relevant resolution is supported by an absolute majority of the members of the council. I agree with him that, where there is a mayor, it will be harder to achieve than where there is a chair. The voting power (or non-voting power) of mayors is one of the matters for which the LGA has requested further time to consider. Obviously there are different opinions amongst the members of the LGA as to what is the appropriate line to take. If that matter is resolved in the not too distant future, that will solve the problem seen here by the honourable member. There is no question of ambiguity in this amendment.

The Hon. J.C. IRWIN: I appreciate that there is a difficulty. In the limited time that I had I tried to do some mathematical calculations using the two-thirds and a theoretical size of a council and tried to get a situation where the mayor would actually get a casting vote. However, it would be very rare, if not impossible, to get an equality of votes.

The Hon. Anne Levy: Because there is an uneven number in a council.

The Hon. J.C. IRWIN: I know, but I suggest to the Minister that she sit down later with a pad and have a go at getting the two-thirds.

The Hon. Anne Levy: Yes, I see: the mayor would have to be the difference between 50 per cent and 66 per cent.

The Hon. J.C. IRWIN: The position where the mayor can actually come into the act and have a casting vote would be very rare I would think.

The Hon. Anne Levy: Yes, I agree.

Motion carried.

Amendments Nos 28 and 29:

The Hon. ANNE LEVY: I move:

That the House of Assembly's amendments Nos 28 and 29 be agreed to.

These amendments are placing the same restrictions as to time of enactment as apply for regulations now under the Subordinate Legislation (Expiry) Amendment Bill. This is making by-laws similar to regulations, which is entirely appropriate, as they also go through the Legislative Review Committee.

The Hon. J.C. IRWIN: I signal some little difficulty in coming to the barrier on this point. It is part of the to-ing and fro-ing of amendments to the Subordinate Legislation (Expiry) Amendment Bill and to the principles that may be embodied in that. However, they are not in there yet. I understand from Mr Evans in the other place that he has attempted to make both Bills consistent. From that point of view, I certainly support the amendments.

The Hon. I. GILFILLAN: I want to make two comments. First, I applaud the introduction of the delayed implementation of by-laws until a later date, and four months is stipulated here. I think we have suffered from the fact that regulations have become effective before Parliament has had a chance to consider them. So I welcome that measure. Secondly, I refer to proposed new section 672 (1), concerning the expiry and reactivation of by-laws on a seven year cycle. I commend that as well. There is a lot of merit in that. Much of this process will be perfunctory and it may be tedious and time consuming, but I am convinced that the argument is sustainable and I accept it. It provides that all subsequent by-laws will expire as follows:

A by-law will, unless it has already expired or been revoked, expire as follows:

(a) a by-law made before the commencement of this section, and all subsequent by-laws varying that by-law, will expire on 1 January 1996.

Human nature being what it is I am apprehensive that if expiry and reactivation is continually put off there could

well be an enormous log-jam in the run up to 1 January 1996. I am not sure whether one can do more than just hope that that does not occur and that there will be some staged planning and scheduling so that it does not occur. I mention this matter because it concerns me. There certainly will be a problem if 1 000 by-laws have to be passed through this place in a matter of a month or so.

The Hon. ANNE LEVY: I appreciate the points made by the honourable member. However, in this regard I note new clause 26a on page 9 of the schedule which refers to the LGA preparing model by-laws with a view to their adoption. So, while there might be 1 000, there may in fact be 119 replications of 10 by-laws. So, at the extreme, while it might appear that there are 1 000 by-laws, that will not be so with the application of a model prepared by the LGA which would not need to be accepted by councils, although I imagine that, in respect of matters such as caravans, trees etc., they may choose to have the same by-law. I hope that this will simplify the load of the Legislative Review Committee of which I am glad to say I am not a member.

Motion carried.

Amendments Nos 30 and 31:

The Hon. ANNE LEVY: I move:

That the House of Assembly's amendments Nos 30 and 31 be agreed to.

These amendments refer to the by-law making power and the ability of the LGA to prepare model by-laws as a guideline to councils so that each one of the 119 councils in South Australia does not have to reinvent the wheel. The original Bill as it left the Council contained more responsibility for producing model by-laws. The Government had some concerns about the amendments moved in the other place on the basis that they would result in thousands of pieces of paper arriving at the Legislative Review Committee. The model by-law procedure which was originally in the Bill would have cut that down considerably. Once a by-law had been accepted by the Legislative Review Committee in respect of one council, it could be adopted by any other council without that council having to come back to the committee.

While the amendment moved in the other place will mean that all council by-laws from all councils will have to go before the Legislative Review Committee, it will at least simplify the committee's job because the LGA will be able to prepare model by-laws, and if councils adopt them the workload for both the councils and the Legislative Review Committee will be simplified. It does not go as far as the original proposal suggested, but at least it will be an improvement on the current situation.

Motion carried.

Amendments Nos. 32, 33 and 34:

The Hon. ANNE LEVY: I move:

That the House of Assembly's amendments Nos. 32, 33 and 34 be agreed to.

These amendments relate to the fee making power. The Bill as it stands gives local government the power to determine fees where that has been referred to in the principal Act. But the schedule is being amended so that consideration can be given within each principal Act as to whether local government should have that power. These are matters such as the Building Act, the Planning Act and the Strata Titles Act, many of which are about to be amended, anyway, with proposals for a Development Act that we can expect in the budget session this year. These matters will be dealt with at that time. This Bill establishes the principle and it will be fleshed out in a later session.

Motion carried.

Amendment No. 1:

The Hon. ANNE LEVY: I move:

That the House of Assembly's amendment No. 1 be agreed to.

This is a consequential amendment to the title of the Bill.

Motion carried.

The Hon. ANNE LEVY (Minister for the Arts and Local Government Relations): I move:

That the Committee's report be adopted.

The Hon. J.C. IRWIN: I do not want to take up the time of the Council unduly, but much has changed since the Bill left this Council not all that long ago and I am still shaking my head in disbelief about what happens in the process. I do not want to say much because I am fairly weary and I guess most members are weary at this stage of the session, but I am also weary from a fairly intensive concentration on the issues in this Local Government (Reform) Amendment Bill.

I believe that the Opposition has displayed much courage in the stance it eventually took in this Council and in a sense the select committee option, although lost in this place, has been vindicated by the amendments which leave this Parliament to become part of the Local Government Act. I can assure those people interested in practising in local government that the Opposition does not decide a certain course of action lightly, knowing that it will bring down the wrath of some key sections of local government on any move which dares to question what local government wants itself.

I do not question the consultation processes conducted by the Government and the Local Government Association between themselves and with individual councils, but I have no doubt that it was not as long or provided as much anguish as we had here. I refer again to the consultation process by the association, a body claiming to be non-political and bipartisan with the Opposition Parties (I stress 'Parties'), who have been expected to understand the context of the Bill at fairly short notice. I am not saying the process is unusual for us here—far from it—because it is the usual process. However, if local government wants the Opposition to be on side or comfortable with the course that local government wants to take, then I suggest that we all learn from the experience of the past month or so.

I will certainly take it on myself to brief local government on the parliamentary process, not to be patronising but in a genuine effort to avoid any further acrimony, as was evident from the field only a few weeks ago. I do not mind being called names or being accused of being arrogant or out of touch. That is for others to decide, and it is all part of the game so far as we are concerned, but I do object to being ignored, and I object to that when I am representing the Opposition, whether I am liked or not. I do object to being called dishonest, as some have done publicly in the local government field, and I am sorry about that.

The situation is compounded when the criticism is itself inaccurate and when it is clearly based on matters aired publicly. This unfortunately shows that the people making the criticisms were not accurately informed even about what was in the Bill. I refer to the Bill before this Council, which is the only Bill of which I take notice. People who live in glasshouses should not throw stones.

The Bill leaves this Parliament having gone through the long established democratic process which has no peer, despite its faults. About 57 amendments have been made to the original Bill and one would sincerely hope that it is a better piece of legislation than that presented on 18 March. The new panel system to replace the LGAC has had a number of amendments applied to it. No-one will know how it will work until a number of years have passed. However, I have to say that a select committee process,

albeit holding up the implementation of the panel system, would have been a far better and more thorough method than the (dare I say) cobbled up system amended on the run that we pass on for testing in the field of local government after today's resolutions.

The ward restructuring process is now tied to the Electoral Commission with absolutely no idea of how the costs will be allocated and not adopted as ideal by local government itself. This is something that I regret we were unable to amend to a more predictable process for all South Australian councils, large or small, metropolitan or rural. This matter may well come up before us again some time in the future.

I indicate an admiration for the power, skill and local government knowledge of the independent member for Elizabeth, Mr Martyn Evans. I am not sure what his consultation process was and I have to wonder whether the wrath of local government is on him as it was and is on me and the Opposition, because he obviously read the Legislative Council's debate and achieved in the Assembly about 30 amendments to the Legislative Council's Bill.

Some of his amendments were significant and they include major amendments to the fee and charge setting arrangements for local councils and the by-law making power. These powers are now, in a sense, with individual councils. This reflects their autonomy, which we acknowledge in this place and this is a far more pure form than the Opposition was able to achieve, by simply opposing the clauses until the Local Government Constitution Act was considered. Mr Evans's amendments are what we want philosophically. In other words, the power should be with individual councils and we do not care much more for uniformity. We believe that individuality and competition are far more desirable goals.

The body of local government will not take long to notice that there was no move in the Assembly to reintroduce three-year terms of office and I indicate again, as I have previously, that the Opposition is far more inclined to the principle of half in half out than it is towards the all in all out principle. There will be another day soon when this matter will be before us again. I conclude by paying tribute to the Minister and her advisers for their help and advice during the passage of the Bill right up to today. It is perhaps funny to say that the contents of the Bill which leave us for better or worse are a team effort. We have to take collective responsibility for it, for all members and all parties in one way or another have contributed to what leaves us here. I know that the LGA is mature and responsible enough to knuckle down to the job of making the legislation work. If it needs fine tuning or major surgery, we will do it when its advice is known in due course.

As I said in a previous debate, supported by the Hon. Mr Gilfillan, the association must now pay serious attention to what has been termed as a Local Government Constitution Act and the Opposition is prepared and willing to cooperate in any way it can to design an Act that will be in the best interests of councils and, more importantly, in the best interests of the people they serve. My humble suggestion is that any constitution Bill must come before this Parliament having had extensive and detailed exposure prior to its introduction, with no hint of a rush in the last minutes of a session.

We should not forget that, whatever we or the elected members of local government perceive our importance as being, the interests of the people we serve and those who elect us are far more important and significant. At this late stage, after much toing-and-froing of this legislation between the Houses, the Opposition supports the amended Bill.

The Hon. ANNE LEVY: In closing the debate, I had not intended to sum up but, in light of the comments made by the Hon. Mr Irwin, I should like to say that I regard this Bill as only the first in the complete reform of the relationship between State and local government, which this Government has embarked upon with the full cooperation of the Local Government Association. It is the first step only on the road we are proceeding down.

This has been watched with great interest throughout Australia and its results, quite obviously, will serve as a model for several other States in this country. The Hon. Mr Irwin made the comment that the question of three year terms was not reintroduced in the other place. This was a deliberate decision on my part, as it seemed to me that, if this were inserted in the other place, it would result in a deadlock between the two Houses that could ultimately lead to a conference, and it is rather hard to find a compromise between two and three, since two and a half is, obviously, nonsensical in this situation.

I do not resile at all from the fact that I feel that three year terms are appropriate for local government, and I regret that the Opposition and the Democrats in this place have combined to prevent that change, which I feel would be of benefit to the local government community. Perhaps at another time there will be an opportunity to reconsider the matter, when it becomes apparent to everyone that South Australia will be the only State left in Australia with terms of less than three years, which situation will be reached in the very near future.

I support the Bill as it now leaves the Parliament to become an Act. While it may not achieve everything that was expected of it, the political reality is that one can rarely achieve all that one sets out to do. However, a step on the way is very much to be welcomed. I hope that local government will welcome this reform, will be able to work with it satisfactorily and will regard it as the first step only in the reform process we intend to continue.

Motion carried.

STATE GOVERNMENT INSURANCE COMMISSION BILL

Adjourned debate on second reading.

(Continued from 30 April. Page 4631.)

The Hon. M.J. ELLIOTT: I rise to support the second reading of the Bill and note that this Bill is before us because of the difficulties SGIC has had in recent times. Many allegations have been raised in recent years in relation to SGIC's operations. The allegations have focused on interfund transfers and loans of money, a lack of direction and standards in respect of investments, reporting and accountability and hints at questionable relationships between directors and investments of the commission. Following a series of such allegations over the past few years in the Parliament and the media, and following the revelation that the State Bank was carrying significant losses, the Government Management Board undertook a review of SGIC. This review identified shortcomings in the operation of the commission, and this has led to the redrafting of the SGIC Act. The three major areas needing attention were identified as the nature and level of interfund transactions, the need for procedures to ensure accountability of the commission and its directors through the Minister to the Parliament and curbs on the investment practices of the commission.

I am supportive of most of the measures in the redrafted SGIC Act. However, I am concerned that, while efforts

have been made to ensure that any perceived shortcomings in SGIC's operations are solved for the future, we still do not know the full effects of past poor decisions. Although many allegations have been raised and often vehemently denied by SGIC officials, we do not know the full picture. How much more 'investment', to use the Premier's imaginative turn of phrase, will the State have to make to keep the commission's head above water? Why have we had to make these donations? Will this new SGIC Act prevent the same situation from recurring? Some concern has been expressed in the area of interfund transactions and loans, and the answer may well be 'No'. I need to be convinced that the new Act will not prevent the moneys of one fund being used to prop up another. I know they are not meant to, but that is something I will pursue in Committee.

The Government Management Board inquiry found that SGIC was engaging in interfund loans to the extent that the compulsory third party vehicle insurance fund was in effect subsidising the life fund. The legality of those transactions has been questioned but the issue has not been clarified. SGIC required a $36 million donation from State Treasury recently to compensate the CTP fund for what have been described in the media as 'unauthorised multimillion-dollar transactions'. SGIC has also allegedly dumped 5.3 million devalued Adsteam shares into the CTP fund from another fund, leading to a $21 million shortfall for the CTP fund.

The Government Management Board inquiry recommended that each fund have its own investment strategy, and conform with reserve requirements specified in legislation covering private insurers. This is partly because private health insurers were outraged that SGIC Health was able to undermine them by undercutting insurance costs while running at a loss and covering the fact through interfund subsidies. The Bill for the new SGIC Act specifically provides for this sort of practice to continue occurring. Section 25 (9) provides:

> This section does not prevent the commission—
>
> *(a)* from managing the investment of a fund by combining the money or investments of the fund with other money or investments of the commission;
>
> *(b)* from keeping money of a fund in a single bank account together with other money of the commission and, in the course of operation of such an account—
>
> (i) from allowing the fund to be in temporary deficit;
>
> (ii) from allowing the fund to be temporarily debited to meet payments required to be made for business of the commission other than the business for which the fund is established.

The Life Insurance Federation has expressed concerns about allowing the commission to combine the money and investments of separate funds. It says these provisions are much more flexible and out of step with the prudential requirements for statutory funds under the Life Insurance Act. I ask the Attorney for a detailed explanation of 25 (9) and ask him to clarify whether it will prevent funds being used to prop up other funds, as has apparently been the case in SGIC's operations in the past.

Allegations involving directors and transactions between SGIC and companies associated with commission executives and directors have also been raised. It has been revealed that there was non-disclosure in the SGIC Annual Report of more than 80 directorships, 49 of which belong to the Chairman, Mr Vin Kean. In March 1991 it was revealed that a United Motors (Holdings) Ltd subsidiary, United Landholdings Pty Ltd, in which Mr Kean has a 45 per cent interest, bought No. 1 Anzac Highway and obtained a $20 million mortgage loan from SGIC at a fixed rate of 14.5 per cent. The building stood empty from the time it was completed until very recently when it was announced that ETSA was to take it over. A review by accountants Arthur Anderson and Co. revealed that until April 1991 no written guidelines existed governing personal investment activities and disclosure of interests in SGIC investments. It recommended that comprehensive procedures be followed when employees of the commission own shares in companies in which SGIC is contemplating investment.

The Bill appears to deal with the interests of directors by requiring disclosure, but I would ask for clarification of what will be the case in relation to investments of executives, given that some of the allegations raised in the media have focused on executives. In September 1991 it was revealed that Brian Jones, SGIC manager of administrative accounting for corporate investments, had set up a baby clothing manufacturing firm, Brileen Industries Pty Ltd, one month after being employed by SGIC. Approximately six months later, SGIC bought 66 600 shares in the company, costing $99 000. At the time of the article, the shares had a market value below $10 000.

An article published earlier this year states that SGIC gave a three month rent guarantee to a Health Start club, which is owned by a former executive of one of SGIC's subsidiaries. I note that clause 12 of the Bill deals with disclosures of interest in relation to directors. Subclause (2) provides a defence against a charge of non-disclosure that the director was unaware of his or her interest in the matter at the time of the alleged offence. As an extra safeguard, I propose that part of the defence be that, immediately becoming aware of the interest, the director notified the board. I ask the Attorney also: in the event of a director not disclosing an interest, of which that director was aware, in respect of a contract or proposed contract, could the contract be avoided by the commission? The question follows from the MFP Development Act, which was recently debated in this place, in which it was specifically stated that the MFP Corporation could not avoid a contract undertaken when a director had failed to give notice of an interest.

The third major problem identified in relation to SGIC, and possibly the most significant in its impact on the State, is the investment practices of the commission and the profitability of that portfolio. Doubts had been raised about SGIC's financial position and calls for inquiries had been made repeatedly in Parliament before the Government Management Board review was ordered. SGIC has accumulated a high level of non-performing assets, particularly property investments, which have affected the overall performance of the commission and led to the interfund transactions mentioned earlier and the need for injections of capital from Treasury. I will run through some of the investments just to remind ourselves what has brought about this redrafted SGIC Bill.

With regard to 333 Collins Street, Melbourne, SGIC was forced to buy this building after granting a put option of $520 million. The commission paid $465 million for the premises, which at last reports was valued at between $395 million and $275 million. Media reports have stated that, after 1995, the building's income is expected to be approximately $34 million per annum, with interest payments of $113 million per annum to be met. The commission has offered rent-free terms in order to get tenants for the building, which is still largely unoccupied and is believed to be losing about $50 million per year. It was alleged in July last year that the commission rejected an offer in March last year of $480 million cash from an overseas firm to purchase the building.

In fact, a report in April last year revealed that SGIC used a $2 subsidiary company, SGIC Pty Ltd, to write up

to $1.4 billion in risky put options. These were reportedly ones other insurers refused to touch and which the commission was prohibited under the existing SGIC Act from taking because it restricted SGIC from undertaking insurance business outside the State. Most of the insurance policies underwritten by the subsidiary involved interstate and overseas companies.

The Centrepoint Building, Adelaide: SGIC bought Centrepoint for $43.1 million. The building had been purchased by the Remm group in 1987 for only $8.5 million. The price paid by the commission was allegedly $13 million more than a valuation of the building by a Government valuer. It was alleged that the commission bought the building as a favour for the State Bank. There are currently no tenants in the lower floors of the building since Myer moved out and King's Parking went into liquidation.

The Remm-Myer Centre: The State Bank is reported to have refused to lend the Remm group the funds for the development without the support of SGIC. The commission agreed to underpin $200 million of the loan, and charged only $50 000 for this service. It has been alleged that this was a hasty decision based on verbal assurances from State Bank officials that the building would benefit from certain tax concessions from the State Government. These assurances proved to be inaccurate. The agreement to finance the centre was also made against the advice of SGIC's own property managers who believed such a risk was 'ill-advised'.

Titan Pty Ltd: Since taking over this gym equipment company, the commission has forgiven loans to the company resulting in a $1.3 million loss. The Terrace Hotel: SGIC has invested in the hotel to the tune of $100.2 million. A report in August last year said that interest was not being paid on the loan, and that SGIC had at that time lost some $1.28 million. Health Development Australia: This SGIC-owned company has lost about $499 521 and through its subsidised activities in the fitness industry has threatened the viability of some private operators. Scrimber: A joint venture between SGIC and the South Australian Timber Corporation to develop wood fibre beams failed. Although nominated start-up dates were set, no production ever began. A total loss of $60 million is reported to have been made—half of that borne by SGIC.

First Radio Pty Ltd: SGIC bought $2.8 million worth of shares in First Radio, owner of 102FM, and lent a further $8 million. A media report in August last year said that interest on that loan was either forgiven or written off. The commission also apparently provided a further free loan of $250 000 in the form of pre-paid advertising. Other property investments include 50 Pirie Street, which was bought by SGIC in December 1985 for $8.5 million and has had its top 12 floors empty since the Health Commission moved out in November 1988. No. 9 Gouger Street, bought in 1987 for $1.75 million, has not been developed at all. It remains a hole in the ground. The Victor Harbor Shopping Centre, which SGIC was forced to buy for $9.45 million when a put option was exercised, is half empty.

The Government Management Board inquiry found that senior management and the SGIC board shared the responsibility for the commission's ambitious growth and diversification program without proper systems to control these operations. Decisions were made without adequate documentation, there were inconsistencies in decision-making, inadequate reporting to management and a general lack of control of operations. The lack of guidelines for SGIC's investment and the level of autonomy allowed the board was also an issue raised by witnesses to the House of Assembly select committee looking at this Bill.

To address the issue of accountability and responsibility in investment practices, for the future at least, this Bill proposes more regular and structured dialogue between Treasury and the commission and the establishment of a charter to guide the commission in exercising its powers and functions. This charter, the Premier tells us, will:

> . . . deal with the objectives of the commission and the nature and scope of its activities including in particular its investment activities, activities conducted outside the State and activities undertaken through subsidiaries. The charter must also deal with the reporting obligations of the commission, the form and content of its accounts and financial statements and the accounting practices to be observed by the commission.

The concept of a charter is supported; however, it and the new Act must not be seen as ending the controversy over SGIC's operations in recent years. In relation to the charter, it appears that many of the controls on SGIC and its functioning are to be contained within this charter rather than within the legislation itself.

At this stage it is proposed that the charter will be produced by the board in consultation with the Minister. That really seems to be the wrong way around, and to some extent we are being asked to again give something of a blank cheque to SGIC. It seems to me far more sensible that the Minister should produce something in consultation with the board, as the Hon. Mr Griffin has suggested and to go a step further whereby, having produced the charter, it should be laid before both Houses of Parliament and approved by a motion of both Houses. I believe that is the proper way to go. The charter will talk about the practices that the company can carry out, and I think that such practices should be approved by the Parliament and that, if the charter is to be amended, similarly, that should be approved by the Parliament.

A member of the Premier's select committee which looked at the Bill expressed his concern in another place that, although the committee looked at the Bill, it was curtailed in its desire to lay bare the facts surrounding each of the poor investments made by SGIC, despite the belief that many were the result of human error and incompetence, and that the people responsible should be made accountable. This State cannot afford another fiasco like the State Bank or SGIC, which the Labor Government has given us. We were assured for months that all was well within the bank until out of the blue the Premier found it had lost $2 billion. That is now the subject of an inquiry. With SGIC we still do not know the true extent of its problems and the individuals involved in the poor management which led to those problems are still running the show. These people must be held accountable for what they have done in the past with the money of State taxpayers. We must give them a new Act and charter under which to operate, but it cannot instil confidence in the organisation, and nor will ignorance about the solvency of the operation. The Democrats support the second reading of the Bill.

Bill read a second time.

The Hon. K.T. GRIFFIN: Mr President, I draw your attention to the state of the Council.

A quorum having been formed:

WILDERNESS PROTECTION BILL

Adjourned debate on second reading.

(Continued from 30 April. Page 4626.)

The Hon. BERNICE PFITZNER: I support the second reading of the Bill. Coming from an almost fully urbanised island city, as is Singapore, with almost every inch developed in one way or another, with high rise blocks of flats,

man-made parks, lakes, shopping complexes and so on, it is a shock to the system when one considers such a phenomenon as wilderness. I have not been into a very high quality wilderness area, but I have experienced, I suppose, a moderately high quality wilderness such as is found in the Flinders Ranges.

I must say that I found the experience quite unlike anything I had experienced before. There was a feeling of remoteness and isolation, of harsh and bold colours, and of a brooding silence, somehow, in an area of untamed peace. With this minimal experience of wilderness and with this particular Bill before us I was curious to understand fully what constitutes 'wilderness'. I found that there was very little firm description, classification and definition of 'wilderness'. I understand that this is largely due to the great diversity of our wilderness area from Kangaroo Island's coastal plains, which are well watered, to the Simpson Desert system with great red sand-dunes, the Flinders Ranges with its rugged gorges and age-old fossils, the Great Victorian Desert with its marble gum country, and to the Lake Eyre and the Lake Gairdner areas with their immense salt lakes.

I have only seen pictures of these scenic varieties and can only wonder at their natural beauty. Coming from a scientific background, I therefore sought to find a definition for 'wilderness'. Not surprisingly there are many definitions, and some are as follows:

An area predominantly natural and unmodified and one where human impact is still minimal.

A large tract of land with native plant and animal communities, not substantially modified by humans and their works, of sufficient area to make practicable its preservation and appropriate use in an unimpaired condition and giving opportunities for solitude and recreation.

Spacious natural areas essentially free from man-made developments, including roads, in which the aim of management is to preserve wilderness conditions and to provide for use for hardy recreation, scientific observation, wildlife conservation and maintenance of genetic diversity.

A wilderness area is a large tract of land remote at its core from access and settlement, substantially unmodified by modern technological society or capable of being restored to that state, and of sufficient size to make practical the long-term protection of its natural systems.

Or, more succinctly:

Land largely unaffected by modern technological society and able to sustain complete ecosystems.

In the Bill before us wilderness is not defined *per se*; rather, criteria are given in what I feel is a rather negative form to determine whether land should be regarded as wilderness. Such criteria are:

The land and its ecosystems must not have been affected or must have been affected to only a minor extent by modern technology.

The land and its ecosystems must not have been seriously affected by exotic animal or plants or other exotic organisms.

So, from the attempt to define wilderness we can now note two major issues of interest. First, running through the definition is the theme of primitiveness undisturbed by man, with indigenous flora and fauna and the ability to sustain complete ecosystems. As a corollary to that, these areas are also remote and inviting man to be vacationers rather than conquerors. The second issue to note in the construct of the definition is the care taken, especially in the Bill before us, that wilderness does not include the vast bulk of pastoral land with its attendant implications of restriction of land use—a political definition.

However, it is right and correct that we must be aware of these other deep and, at times, conflicting issues. We must try to find a balance between the preservation, conservation, protection and promotion of wilderness areas and man's development of these areas, which not infrequently are resource rich. Just very briefly, to identify these wilderness areas in South Australia, the latest studies (1983)—nearly 10 years ago—showed only 12 per cent of South Australia as high quality wilderness. Most of this is said to be outside pastoral land. It is said that the concept and recognition of wilderness in South Australia has lagged behind other States. In the Eastern States the concept has generally been applied to rugged inaccessible mountain regions and to temperate tropical forests. It is only lately that the concept of low-relief, and arid lands has been related and connected to the perception of wilderness. Such perceptions are extremely relevant to the development of the wilderness concept in South Australia.

An inventory compiled by Lesslie and Taylor (1983) described areas in South Australia as having wilderness qualities. They are the following national and conservation parks: Lake Eyre and Elliot Price, Simpson Desert, Unnamed, Yumbarra, Hambidge, Hincks, Bascombe Well, Corrobinnie, Lake Gilles, Flinders Ranges, Gammon Ranges, Ngarkat, Scorpion Springs, Mount Shaugh, Danggali, Billiat, Coffin Bay Peninsula, Lincoln, Flinders Chase, Cape Gantheaume, Kelly Hill (Kangaroo Island), Deep Creek and the Coorong.

Other areas on the register of the national estate are the Arckaringa Hills, the Gawler Ranges and Lake Frome. Further, other areas are Cooper Creek, the Great Victoria Desert, Lakes Blanche, Torrens and Gairdner, the 10 ridge systems in the Flinders Ranges, an area encompassing the Simpson Desert and Lake Eyre, Rolling Downs, Jellabinna and the Musgrave Ranges.

I must admit that, although I have looked these areas upon maps, I know very few of these places. They are far and remote from Adelaide. However, I note that it is recommended that four areas be urgently designated as wilderness areas, and they are the Gammon Ranges, a magnificent ancient mountain range; the Unnamed Conservation Park—a most intriguing label—which is said to be one of the world's largest and most remote nature reserves; Danggali Conservation Park; and Jellabinna, which has extensive mallee covered dunefields. They are said to have areas of high wilderness value.

I come back to the spectre that these lands or areas are also potenital for rich resource development. Such lands are used as pastoral land where the raising of sheep and cattle is the major land use. It is said that this industry currently contributes 50 per cent of the total State output. There is mineral, petroleum and gas exploration and productions operations. This is another land use. I have visited Santos at Moomba and was impressed by its attention to the environment, the replenishment of the areas with trees and the seismic exploration with modern equipment, which now causes very little environmental destruction. Then there is tourism, which is another land use that, if observed with respect to the environment, will provide enjoyment to the user yet will not degrade the area.

The Aboriginal lands, under the Aboriginal Lands Trust Act 1966, were established for the purpose of ensuring freehold title in existing Aboriginal reserves to the Aboriginal people. The issue of the trust and its functions has to be dealt with carefully, justly and sensitively. It is encouraging that this Bill, under the regulation section (clause 41), provides that, conditionally or unconditionally, Aboriginal people generally, or Aboriginal people of a specified class, are exempt from all or any of the provisions of this Act in relation to the wilderness protection areas or the wilderness protection zones specified in this regulation. All these competing land uses must be considered sensitively and fairly. Again, we can find a way between conservation and development. We must find a way. This is a phenomenon of the

Western centralised society, where undeveloped land is a diminishing resource. Pressure is being placed for development of these natural resources. This Bill attempts to address the issue of our diminishing wilderness—diminishing in area and in quality. We do need to recognise this decrease as, once gone, it is no more.

The Bill differentiates two types of wilderness. First, there is the wilderness protection area, which is land identified as having wilderness quality and not under lease to a mining company. These areas will be fully protected from all types of destructive commercial exploration. Secondly, there is the wilderness protection zone. This is land identified as having wilderness quality and under an existing lease to a mining company. In this circumstance, the mining company will be given the right to operate to the conclusion of its lease. However, no new leases will be permitted in a wilderness protection zone and, once the existing lease has concluded, the area will be upgraded to a wilderness protection zone. This strategy is an attempt to deal with sensitivity with some of the conflicting issues of development and conservation. It is important to remember that, when we talk about wilderness, we are talking only about a small percentage of South Australia, and the majority of it is currently in the national parks and reserves system.

Two further minor factors have perhaps been overlooked. First, in relation to interim protection, the Bill does not include a mechanism for protecting an area while it is being assessed for its wilderness potential. Therefore, an area unencumbered by mining activities, nominated for wilderness assessment, could be leased to a mining company during the assessment process. Obviously, this would negate the purpose of the legislation. An interim measure to protect an area from the time of nomination is, therefore, necessary.

The other minor factor is Aboriginal consultation. The Wilderness Advisory Committee should be required to consult with traditional owners who do not have freehold title when their area is being considered for wilderness protection. If these factors are not addressed now, I hope that perhaps they will be recognised in the near future. For the time being, I am encouraged by this piece of legislation which looks to the future—a vision for our next generation—and a place where we may be physically and mentally rejuvenated. I support the second reading of this Bill.

Bill read a second time.

SUMMARY OFFENCES (PREVENTION OF GRAFFITI VANDALISM) AMENDMENT BILL

Second reading debate adjourned on motion.

(Continued from 30 April page 4607.)

Bill read a second time.

MINISTER OF TOURISM

Adjourned debate on motion of Hon. I. Gilfillan:

1. That a select committee of the Legislative Council be established to inquire into and report on—
   - *(a)* whether the Minister of Tourism has or had a conflict of interest in relation to gaming machine legislation in South Australia, the Tandanya tourism development on Kangaroo Island, the Glenelg ferry/foreshore redevelopment and any other related project;
   - *(b)* the role played by Mr Jim Stitt in relation to activities undertaken by Tourism SA and his involvement in the proposed introduction of gaming machines into hotels and clubs in South Australia;
   - *(c)* whether any impropriety exists on the part of the Minister of Tourism and Mr Jim Stitt in relation to tourism projects and proposals in South Australia in particular, but not exclusively, the Tandanya tourism development on Kangaroo Island and the Glenelg ferry/foreshore redevelopment;
   - *(d)* the activities of companies Nadine Pty Ltd, Geographic Holdings, Paradise Developments Pty Ltd, International Casino Services Pty Ltd, Customs Construction Pty Ltd (formerly Ausea Pty Ltd), International Business Development Pty Ltd, IBD Public Relations Pty Ltd and any other companies involved with the Minister of Tourism, Tourism SA and/or Mr Jim Stitt in relation to terms of reference *(a)*, *(b)* and *(c)*;
   - *(e)* whether the Minister contravened generally recognised standards of ministerial propriety by continuing as Minister of Tourism while Mr Stitt, friends and associates were engaged in lobbying and other business activities with projects concerned with the Minister and Tourism SA.

2. That Standing Order 389 be so far suspended to enable the Chairperson of the committee to have a deliberative vote.

3. That this Council permits the select committee to authorise the disclosure or publication, as it thinks fit, of any evidence presented to the committee prior to such evidence being reported to the Council.

(Continued from 29 April. Page 4500.)

The Hon. K.T. GRIFFIN: When the controversy over the Minister of Tourism and allegations of conflicts of interest first arose, the Liberal Party proposed that there be an independent inquiry. Members will note from the Notice Paper that the Hon. Robert Lucas in fact moved a motion urging the Government to establish that independent inquiry. The day before Easter, the Attorney-General announced that Mr Terry Worthington QC had been appointed to undertake an independent inquiry into the facts surrounding the allegations made in Parliament of a conflict of interest of the Minister of Tourism and Minister of Consumer Affairs.

At the time the Attorney-General announced that, we were provided with a copy of the terms of reference, and we considered them. On the same day they were announced, we wrote to the Attorney-General indicating that we had a number of concerns with the terms of reference which, in our view, were narrow and could result in a number of matters not being investigated adequately or at all. Subsequently the Attorney-General replied, indicating that in his view all the allegations raised in Parliament could be investigated, and he responded specifically to the various matters raised in my letter to him.

When Parliament resumed this week, the Attorney-General made a ministerial statement. Some questions have been asked of him and of the Premier. As a result of some further correspondence between the Leader of the Opposition (Mr Baker) and the Premier, a letter was received indicating that, whilst the Government did not propose formally to amend the terms of reference, the matters about which we had expressed concern would in fact be covered. The Attorney-General confirmed that in answer to some questions this week. We have some disagreement with aspects of the way in which the inquiry is being undertaken, and to that extent I have raised questions about Crown privilege and the reason why Cabinet submissions were to be excluded.

The Hon. C.J. Sumner: It is not a problem.

The Hon. K.T. GRIFFIN: Let me just finish; don't react. We expressed some concern about that. The Attorney-General answered a question about Crown privilege for Cabinet submissions, which we believed were essential for Mr Worthington to scrutinise. The Attorney-General has responded by saying that there will be a schedule of material which will relate to Cabinet material going to Mr Worthington and, as I understand it, if there are still difficulties that Mr Worthington has, they will be examined—if Mr Worthington responds. The other area where there is a disa-

greement is as to the sequence of events in relation to identification of the principles relating to conflict of interest; but, again, that is a disagreement which is not sufficient to warrant us supporting a select committee.

What we have done is to examine all the matters and all the statements that have been made in Parliament, and the exchange of correspondence, and we have endeavoured to assess what areas could properly be covered by a select committee, which would not be covered by the inquiry. We have made a judgment that there would be several but that the difference is not so significant as to prompt us to support the select committee. So we have decided that at the present time we will not support the proposal for a Legislative Council select committee.

I said in a press release yesterday that it followed correspondence between the Government and the Liberal Party about the terms of reference and the statements that the Attorney-General has made in Parliament over the past few days. The Premier and the Attorney-General have given certain assurances, to which I have referred and which have been more than adequately explored in the Parliament. The Attorney-General has undertaken to forward to Mr Worthington all the correspondence, questions, answers and statements made in Parliament, including those made yesterday, and he has indicated that the terms will be construed in the light of the matters they raise; and, of course, there is the opportunity for Mr Worthington to come back to the Premier if he does not believe that that is adequate.

We note in the press release that the question of Crown privilege will be as much an issue for the select committee as it is for Mr Worthington and that therefore that is not an issue that finally determines the attitude that we take. We believe that at this stage an inquiry is likely to be dealt with by Mr Worthington and his support staff more quickly than by a select committee of five members of Parliament, with no or very few staff. We are prepared to allow him to undertake those inquiries and make our judgments about the outcome when his report is published and when the Government's response is published.

If we are dissatisfied with Mr Worthington's inquiry and the Government's response, we will still have the option of a select committee when the next session starts. There is some suggestion that the report will be published when the Parliament is not sitting. My reaction to that is that I do not think it matters, because although the Government has asked Mr Worthington to endeavour to complete his work within a month of commencement—we hope that will be achieved, but the timetable may be tight—after that the Government will have to develop its response. That will take several weeks or longer and by that time we will be within four weeks or so of the next sitting. So, we always retain that option.

We have said on a number of occasions that although the option of a select committee has not been our top priority we have always been prepared to consider it. On the basis of all the matters to which I have referred, I confirm that, at this stage, we will not support the Hon. Mr Gilfillan's proposition.

The Hon. DIANA LAIDLAW secured the adjournment of the debate.

ADJOURNMENT

At 5.12 p.m. the Council adjourned until Tuesday 5 May at 2.15 p.m.