LEGISLATIVE COUNCIL

Wednesday 17 February 1993

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

QUESTION TIME

SCHOOL VIOLENCE

The Hon. R.I. LUCAS: I seek leave to make an explanation before asking the Minister representing the Minister of Education, Employment and Training a question about violence in schools.

Leave granted.

The Hon. R.I. LUCAS: A number of teachers have drawn to my attention new measures that some schools, particularly in the northern suburbs, have had to take to provide extra security for teachers whilst on yard duty. One school has now provided a two-way radio for teachers while they are undertaking yard duty, and another school has told teachers to work in pairs while carrying out this function. Teacher concern about the incidence of violence shown by students towards departmental staff came to a head late last year at the annual conference of the South Australian Institute of Teachers. A motion was passed which said, in part:

> ...the incidence of verbal abuse of, and of physical violence/assault towards education employees by students is increasing at an alarming rate...

The State conference of the institute went on to demand that the Government agree to a series of measures, including: the reduction of class sizes where the risk of violence is identified, the establishment of staff referral agencies at a level sufficient to deal with all identified students, and the implementation of the provision of section 104 of the Education Act 1975, as amended, where such violence is found to be deliberate. My questions to the Minister are:

1. Does the Minister agree with the view expressed by the annual conference of SAIT that the incidence of physical violence and assault against teachers is increasing at an alarming rate?

2. What response, if any, has the Government made to the list of demands made by the Institute of Teachers?

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

WORKCOVER

The Hon. K.T. GRIFFIN: I seek leave to make an explanation before asking the Attorney-General, representing the Minister of Labour Relations and Occupational Health and Safety, a question about Government undertakings on WorkCover.

Leave granted.

The Hon. K.T. GRIFFIN: On 19 November 1992, the Legislative Council considered the Government's Bill to amend the WorkCover scheme. That Bill had been amended by the Speaker in the House of Assembly, among other things, to remove accrued rights of injured workers; that is, to act retrospectively to deny rights. Most members, if not all, will remember that I indicated that I had information that WorkCover was deliberately slowing down the consideration of claims which had been made by injured workers so that they could be dealt with under the new legislation and therefore receive less than the law allowed them to claim before the Bill was passed.

In the course of questioning in the Committee stage of the Bill, I asked the Minister who was then dealing with the Bill—and I think the Hon. Barbara Wiese had the misfortune to be dealing with it at that stage of the proceedings—how many claims presently in WorkCover had not been determined by the corporation.

I wanted to establish how many injured workers had not had their claims determined and therefore were prejudiced by the Government's retrospective legislation. The Hon. Barbara Wiese responded 'That is not information we have with us today but I undertake to provide it as soon as possible.' That was on 19 November 1992. It is now three months since the undertaking was given, but I have not received the information.

I have heard a suggestion that at least 1 500 claims were affected by the legislation which, I would suggest, is an extraordinary number of persons prejudiced by the Government's lack of concern for principle if, in fact, that was the number of claims affected. My questions to the Attorney-General are:

1. How long does it take for Government Ministers to honour undertakings?

2. Will the Attorney-General insist that WorkCover provides, through the appropriate Minister, the information requested before the new WorkCover Bill, which we received yesterday from the House of Assembly, to correct a foul-up is debated in this House, namely, the number of claims at 19 November 1992 made but not determined by WorkCover, and can he also ascertain why the delay in providing the information has occurred?

3. When providing the information will the Attorney-General also obtain from WorkCover, before the debate on the new Bill proceeds, the following information:

(a) the numbers of claims made between 19 November 1992 and the date the 1992 Act came into operation—claims not determined at the latter date other than common law claims for non-economic loss or solatium;

(b) The number of claims made after the date when the 1992 Act came into operation relating to injuries sustained before that date other than for common law claims for non-economic loss and solatium?

The Hon. C.J. SUMNER: I regret that the honourable member has not received the answer to his question. Obviously, this sort of delay to which he has referred is unacceptable, unless special circumstances have given rise to it. I will certainly ascertain from the officers responsible for this matter why a reply was not provided to the honourable member.

It would appear from what the honourable member is suggesting in his question that the Opposition is going to be reluctant to debate the Bill unless answers to those

questions are obtained. I would point out to honourable members that the case that has been taken under this legislation is before the Full Court of the Supreme Court in its sittings from 1 March to 11 March, meaning that if this error in the Bill is to be corrected, to put out of doubt any court challenge, then it will have to be dealt with today or tomorrow. I understand that the Minister of Labour Relations and Occupational Health and Safety has spoken to the Leader of the Opposition in this place about the matter. I hope that members can cooperate to facilitate the passage of the legislation—whatever their views of the Bill itself are—preferably today so it can go to the Executive Council tomorrow, but if not by the time we rise tomorrow for the week break.

I point out that the Bill before us does put beyond doubt the Act that was passed last year and is essentially a technical measure to overcome problems from a legal challenge, although the practice that was adopted in this case of correcting what is clearly a wrong reference which, had it been left in the Bill the way it was, would have made the Bill unintelligible. The reference was corrected to give effect to what was clearly the intention of Parliament and that process of correction has occurred on other occasions.

Members may want to express views about that, and that is fair enough. However, the point is that the Bill was corrected in this technical way and that has been challenged in court. It is incumbent on Parliament to fix up the matter. If we do not, the courts may do so for us, and that would be an undesirable situation. Obviously, what Parliament intended was passed and assented to by the Governor. It would be quite contrary to the procedures of Parliament in my view for the Parliament's intention to be thwarted by the sort of technical court challenge that is currently before the Supreme Court.

That does not mean that members cannot have different views about the substance of the legislation that was passed last year, or that they cannot have different views about the technical correction that was made to it, but I merely emphasise that in my view Parliament should clearly express its intention. If there is doubt as to whether it has done it in the past, we need to do that in the next two days.

However, I understand that the honourable member would like this information before the debate, because he was not provided with it last year. It is reasonable that I at least make an attempt to get the information, and I will do that immediately. However, if for some reason I cannot obtain it, I hope that does not mean that the debate will not proceed on the Bill.

The Hon. K.T. Griffin: WorkCover should surely have the information.

The Hon. C.J. SUMNER: I have made the necessary apologies to the honourable member. Three months is too long. It is unacceptable. Officers who were advising the Minister on her feet at the time should have followed it up, and, if they did not, they deserve to be condemned for it. If WorkCover did not follow it up and provide the information, they should be condemned for it, too. It is just not good enough for a public authority. I am quite happy to say that in the Chamber, and I am quite happy for the *Advertiser* to report it on the front page: that in my view it is not good enough for Ministers, through their staff, to give commitments to this Council that information will be provided, and for statutory authorities to have requests for that information—

The Hon. L.H. Davis: It happens all the time.

The Hon. C.J. SUMNER: Well, it should not happen. Statutory authorities should lift their game and, if WorkCover had not provided the information, they should lift their game as well.

SOUTH AUSTRALIAN FILM CORPORATION

The Hon. DIANA LAIDLAW: I seek leave to make an explanation before asking the Minister for the Arts and Cultural Heritage a question on the subject of Government films and videos.

Leave granted.

The Hon. DIANA LAIDLAW: I have been contacted by Mr Russell Stiggants, Communications Director of Message Management Pry Ltd, who is angry about the abuse of taxpayers' funds following intervention by the South Australian Film Corporation in negotiations by a Government agency to produce a documentary video. On 15 December last year the General Manager of Northfield Laboratories, a division of the Department of Agriculture, contacted three film makers in South Australia calling for tenders for the production of a video to promote their rota virus project. The 10 minute video was required urgently, by mid February at the latest, and was to be used to target both managers of major drug companies and potential investors.

Seven days later, on 22 December, Mr Stiggants lodged his tender, including a script treatment, quoting an all up production cost of $11 000 or $1 100 per finished minute. However, two days later he received from Northfield a fax stating:

> Our attempts to make a quick decision on the production of a video for Northfield have been thwarted by certain Government rules and regulations being brought to our notice only this morning. The position now is that the SA Film Corporation consultant (by name Mike Piper) will put this job out to tender in early January 1993 as a rush situation and he will apparently control certain aspects of the decision making process and monitoring. You will obviously be invited to quote against a script which will also be commissioned initially.

Northfield management went on to apologise for this state of affairs and thanked Mr Stiggants 'for his help and hopefully his understanding'.

A month later Mr Piper, as Executive Director, Government Film Fund Documentaries, released a notice to producers on the Film Corporation's selected tender list seeking—

An honourable member interjecting:

The Hon. DIANA LAIDLAW: Yes, he may be, but I have more control, I think—by 4 p.m. on Monday 1 February, tenders for the rota virus project promotional video. This notice, of which I have a copy, states that the duration of the video is to be five to 10 minutes and that the production budget limit is $34 000—$23 000 above the quote submitted to Northfield Laboratories one month earlier by Mr Stiggants. In fact, the difference in price is more likely to be $29 000, because the film corporation had already let a separate contract for development of the script, believed to be in the order of $6 000.

It may be of interest to honourable members to note not only that South Australian taxpayers are now paying something like $29 000 more for the rota virus video, following the interference of the film corporation in the tendering process, but also that, because it has now been determined that the video will be funded on a 50-50 basis by the Government film fund and the Northfield Laboratories, Northfield is now paying about $20 000 for its half share—almost double the original quote received from Mr Stiggants' company.

In summary, the price deemed acceptable by the film corporation for the production of this rota virus video is $4 000 per finished minute compared to Mr Stiggants' company's quote of $1 100 per finished minute.

The Minister will be aware that this expensive experience for Northfield laboratories has stemmed from section 11 a of the South Australian Film Corporation Act which states that the corporation has—

> the sole and exclusive right to produce, or arrange for the production of, film for or on behalf of the Government of the State or for or on behalf of any instrumentality or agency of the State or the Government of the State.

So, I ask the Minister what is the justification for retaining section 11a of the South Australian Film Corporation Act when it can be demonstrated by this Northfield charade that Government agencies—and taxpayers generally—could save tens of thousands of dollars if the film corporation did not interfere in the production of a film or video deemed to be required by a Government agency?

Also, why should section 11a retained when Government agencies have no similar restriction placed on them if they wish to engage a public relations consultant or to produce a corporate brochure?

Finally, why does the film corporation adopt the novel practice of advising prospective tenderers of the budget limit for a proposed film or video production, rather than releasing a brief of the project and then awaiting quotes, as is the normal practice when an agency or company is seeking a quality production at the best possible price?

The Hon. ANNE LEVY: I think that to a large extent the honourable member has answered her own question. The law is as she stated: that production of Government videos are managed and authorised through the South Australian Film Corporation. This was decided many years ago, and I am sure, without having read the original documents, it would trace back to a desire to ensure that all documentaries produced were of a sufficient standard and that there was a quality and professionalism about them which cannot always be guaranteed unless there is involvement of a professional body such as the film corporation in making these documentaries.

The Hon. Diana Laidlaw: You are not suggesting—

The PRESIDENT: Order!

The Hon. ANNE LEVY: I am very surprised that Northfield laboratories was unaware of this law. I am also surprised that it was not aware that it is currently policy that the agency commissioning a film should provide 50 per cent of the resources required.

All Government agencies were informed of this quite some time ago, and other Government agencies have certainly followed the normal rules. I am very sorry if Mr Stiggants has been inconvenienced as a result of this, but it seems to me that the inconvenience that has been caused to Mr Stiggants has been caused by Northfield Laboratories, who have not been aware, as they should have been or, if they were aware, have not followed the rules that have been clearly set out and, as far as I am aware, followed by every other Government agency with any interest in producing documentary films.

Some very fine documentary films have been produced in the past few months by following the established procedures, documentary films of extremely high quality, as I am sure everyone who has seen them will agree. Government documentaries in this State are renowned throughout Australia, and some of them internationally, for the quality and value of the documentaries we produce under our scheme. As far as the presence of the particular section in the Film Corporation Act is concerned, I am quite happy to search back through the records to determine the arguments that were used at the time it was incorporated and whether there was any opposition to its incorporation from members of the Opposition at that time.

Since the legislation has been in existence for, I presume, close on 20 years, I do not have such information at my fingertips. I should add that the legislation of the Film Corporation, along with a great deal of other legislation, is currently being reviewed and this clause, amongst many others will, I am sure, be considered under that review. In the meantime, it is important that all sections of Government be aware of the law and of the rules that relate to the making of documentaries, as they are expected to be.

The Hon. DIANA LAIDLAW: As a supplementary question, will the Minister deign to answer my last question or, at least, seek the information as to why the corporation adopts the novel practice of putting a figure of a budget limit on tender documents prior to seeking quotes for projects?

The Hon. ANNE LEVY: I will ask the Film Corporation the reasons for this practice. I can think immediately of at least half a dozen but, as I am not aware of the particular decisions in this regard, I will be happy to ask the corporation to indicate the reasons in this case.

POLICE COMPLAINTS AUTHORITY

The Hon. I. GILFILLAN: I seek leave to make an explanation before asking the Attorney-General, either in his own right or representing the Minister of Emergency Services, a question about the Police Complaints Authority.

Leave granted.

The Hon. I. GILFILLAN: When the Police Complaints and Disciplinary Proceedings Bill was passed in 1985 setting up the PCA, there was a requirement that a comprehensive review and report be undertaken within two years. That Report on the Operation of the Police (Complaints and Disciplinary Proceedings) Act 1985, R.K. Ritchie, August 1992 was not completed until seven years later. The PCA was billed as being the public's answer to any uncertainty about police investigating police, and as providing reliable and thorough measures for investigating complaints from the public against

police in a prompt, efficient and open manner. The report, which is an extremely informative document, also illustrates quite clearly that there is a large backlog, and I will seek to identify those figures for the Chamber in a moment.

I also refer to some observations in the report about how satisfactory the Police Complaints Authority has been and how it is regarded by those people for whom it was set up, in particular the Council for Civil Liberties and the Aboriginal community, and I quote:

The President of the Council for Civil Liberties SA, Mr A. Perry, noted that few complaints are sustained. His opinion is that it defies credibility that in excess of 85 per cent of complaints, six out of seven on the average, are found to be non-meritorious, and therefore strong inferences must be drawn that the current system is strongly biased towards the police. The Director and legal staff of the Aboriginal Legal Rights Movement were of the view that some unjust decisions have been made, particularly in regard to cases in which charges had been made against the complainant.

I think it is significant to point out that senior officers of the Police Association and senior officers of the Police Department have said that, generally speaking, the Act is working well. The inference obviously is that they have not found it too uncomfortable a procedure as far as complaints against the police are concerned. The major concern that anyone reading this report would have is the inordinate number of complaints which have not been dealt with. At 6.2 on page 43 of the report we are given detailed data of the complaints brought forward, complaints registered and complaints completed, from 1986 to 1993. I seek leave to have this table incorporated in *Hansard* without my reading it.

Leave granted.

COMPLAINTS UNDER REVIEW

Year ending 30 June	brought forward	complaints registered	complaints completed
1986	0	334	163(10 months)
1987	173	486	477
1988	188	641	319
1989	510	810	590
1990	730	858	601
1991	987	889	1 096
1992	780	933	870
1993	843		

The Hon. I. GILFILLAN: The report further states:

The numbers of complaints brought forward represent the backlog at the end of each financial year, including the number of cases awaiting the outcome of charges laid. At 30 June 1992, the number of complaints in process was 843; 63 more than at 1 July 1991.

The LePeair report analysed the age of the 826 cases under investigation or awaiting assessment or determination and reported as follows: complaints registered in 1990-91, 374; registered in 1989-90, 355; registered in 1988-89, 107; and registered in 1987-88, 17. Some 17 charges from that time are still awaiting investigation and some determination, and the backlog is increasing.

Certain recommendations were made in the report, and it is on this basis that I am asking these questions of the Attorney. At page 4 the executive summary of the report makes the following statement:

One of the more significant problems is delay in the processing of complaints and although this matter has already received attention greater effort is required to clear the backlog.

I ask: what action, if any, has been taken by the Minister responsible to clear this totally unacceptable backlog? The executive summary continues:

There is scope for much greater use of conciliation for minor matters, reducing the investigation effort in these cases and as a consequence reducing the delays.

This is the option of avoiding the formal confrontation and investigation and to in fact put parties together for discussion. My advice is that, although this has been proposed, there has been no endorsement of this as a procedure and no action on it. I ask: what is the Minister's intention as far as speedily introducing conciliation into the PCA? Thirdly, the report states:

Concerns expressed by some members of the Aboriginal community are significant and require special consideration and action, including the appointment of a suitable Aboriginal person to the staff of the Police Complaints Authority.

What action, if any, has been taken to appoint a suitable Aboriginal person, and does the Minister intend to appoint a suitable Aboriginal person to the PCA? Fourthly, the report states:

Overlap of work done by the Internal Investigation Branch of the Police Department and by the office of the Police Complaints Authority is a source of inefficiency in the system.

What action, if any, has the Minister taken or does he intend to take to address this problem? Finally, the report states:

Changes to the financial penalties for breaches of discipline are recommended. A 10-fold increase in the maximum financial penalty is recommended together with power to suspend penalties conditionally upon specified conditions being met.

I understand that the maximum penalty at this stage is $120—hardly an awesome or daunting penalty for offences in this area of these complaints. When does the Government intend to follow this recommendation to put a realistic and significant penalty in place in the PCA; and, if that is not the Government's intention, why not?

The Hon. C.J. SUMNER: The honourable member asks a number of specific questions requesting, in effect, a Government response to a report on the Police Complaints Authority. I will have to refer those questions to the responsible Minister to enable him to consider them and bring back a reply. It is true to say that at some point—and I am not sure whether it is still the case—the delays in dealing with complaints by the Police Complaints Authority were unacceptable. However, the honourable member is no doubt aware that a new Police Complaints Authority has been appointed.

The Hon. I. Gilfillan: It took a long time.

The Hon. C.J. SUMNER: It did not take a long time; the officer concerned was appointed a few months ago, although I do not know the precise date. I have no doubt that he is reviewing the operations of the authority, looking at dealing with the backlog and that he will also offer comments on the recommendations in the report to which the honourable member refers. So, I hope that some action is being taken already on the backlog. Certainly a new person has been appointed as the authority. Regarding the other specific questions, I will obtain a reply for the honourable member.

The Hon. I. GILFILLAN: I ask a supplementary question by way of clarification. Is the Attorney

indicating that he will report back to the Council personally the situation regarding my questions or will he leave it to the Minister of Emergency Services?

The Hon. C.J. SUMNER: The honourable member has asked several questions. I intend to follow the usual practice which is to refer those questions to the Minister responsible for the matters raised by the honourable member, and that Minister will provide me with a reply, which I will give to the honourable member in the Council in accordance with the usual procedure. Is that what the honourable member is suggesting should happen?

The Hon. I. Gilfillan: I thought that you might have responded on your own behalf as Attorney-General.

The Hon. C.J. SUMNER: It would be extremely difficult for me to respond on my own behalf, because I am not the Minister responsible for the Police Complaints Authority. If I did that across the whole range of Government activities, I probably would not be the Attorney-General for very long.

STATE GOVERNMENT INSURANCE COMMISSION

The Hon. L.H. DAVIS: I seek leave to make an explanation before asking the Minister of Public Sector Reform a question about SGIC. I believe this is the first question that the Attorney has been asked as Minister of Public Sector Reform.

Leave granted.

The Hon. L.H. DAVIS: The 1991-92 SGIC annual report reveals that total income received or receivable by directors and non-executive directors of companies in SGIC or related bodies totals $299 072 for the period 1991-92. This is $110 001 more or a massive 58.2 per cent increase on the amount paid by SGIC in directors' fees in 1989-90. In that year, they totalled $189 071. The 1991-92 figure is also 15 per cent higher than the $260 670 paid in directors' fees in 1990-91. The 1991-92 annual report also reveals that amounts were paid into superannuation funds for directors totalling $36 046, up from just $12 046 in 1990-91, although curiously the 1990-91 report contains no reference whatsoever to the fact that superannuation fund payments totalling $12 046 were made.

The Minister of Public Sector Reform would be well aware of the continuing and justified criticism of the salary paid to the recently retired General Manager of SGIC, Mr Denis Gerschwitz. In 1990-91, Mr Gerschwitz received a $60 000 increase in his salary package from $170 000 to $230 000, a blistering increase of 35.2 per cent in the same year in which SGIC recorded a staggering $81 million loss. My questions to the Minister are:

1. Is the Leader in his newfound position of Minister of Public Sector Reform aware of this significant increase in SGIC's directors' fees?

2. Does the Government have a policy on directors' fees of statutory authorities?

3. Will the Minister of Public Sector Reform establish as soon as possible the reason for this 58.2 per cent increase in SGIC's directors' fees over just two years, and will he, within six parliamentary sitting days, provide a full schedule of fees paid or payable during 1991-92 to SGIC directors and non-executive directors of companies in SGIC or related bodies?

4. Will the Minister detail amounts paid to superannuation funds on behalf of directors during 1991-92?

5. Have any financial benefits been paid to directors retiring from SGIC or related bodies during 1991-92 until the present time and, if so, will the Minister seek that information and provide details?

The Hon. C.J. SUMNER: The Minister responsible for the SGIC is the Treasurer, and these questions, as far as they relate to the SGIC, are obviously matters for the Treasurer to respond to. I will refer those questions to him and bring back a reply. I cannot guarantee that the reply will be received by the honourable member within six sitting days, but I will draw the honourable member's request in that respect to the attention of my colleague for whatever action he considers appropriate.

The Hon. L.H. Davis: I thought in view of what you said earlier that you might be on my side.

The Hon. C.J. SUMNER: I am in general terms; however, I am not in a position to give undertakings on behalf of other Ministers—it is a bit risky.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: I am not aware of the particular circumstances of fees paid to directors in the SGIC, but I will get that information. However, the question of fees paid to directors of statutory corporations is an important issue and one that does have to be addressed by Government and possibly by the Parliament. The honourable member may like to comment on that topic in the context of the Public Corporations Bill, which is currently before the Council, but it is also true that generally fees paid to non-executive directors of Government boards are lower than those paid in the private sector, and the Government, the Parliament and the community have to be cognisant of the fact that, if they want people who are competent to serve on these boards, the fees at least have to be related to some extent to those paid in the private sector. If not, regrettably, in this day and age one does not get people to serve on these boards.

The Hon. L.H. Davis: You are talking mainly about Harry Krantz and Vin Kean and people like that.

The Hon. C.J. SUMNER: As I understand it, Mr Kean did not take any director's fees for his position with SGIC, so I do not find that interjection particularly tasteful.

The Hon. L.H. Davis: He was a director.

The Hon. C.J. SUMNER: Sure, he was a director, but he got no fees, he did not take fees, and that is a fact that the honourable member does not usually point out when he launches into one of his attacks on Mr Kean. As I understand it, the fact is that Mr Kean did not take director's fees. I think that in the past on some of these boards and on other tasks that were sometimes undertaken, that were done for Government, royal commissions even, there was some notion of public service involved in doing those tasks and perhaps the fees would be waived or less than those available in the private sector, or people would take it on out of a sense of duty. I think those attitudes these days have gone and the Parliament and the community have to come to grips

with the fact that, if you are going to get people to serve on these boards, then it seems that you have to pay fees which are commensurate with the responsibilities, but also fees that are related to some extent, at least, with those that are paid in the private sector. That is an issue that in the context of the Public Corporations Bill the Government will have to address.

I think it is a bit of a cheap shot for the honourable member to come in here and say that the directors of boards of statutory corporations are being paid certain fees which he then says are excessive without making any comparison between the fees paid to members of the boards of statutory authorities and those paid in the boards of private sector organisations. If you have a large statutory corporation, particularly one that is operating in the private sector and supposed to be operating commercially, then I think these days you probably have to pay those people fees which are comparable to fees paid in the private sector. For the honourable member to make the comments that he does without making that comparison with the private sector, I think is unreasonable.

However, that is a policy issue that has to be addressed and if the honourable member wants to come into the Council and say that the fees for directors of public corporations should be only 15 per cent of those that apply in the private sector, let him say it. He has the opportunity to do it in the debate on the Public Corporations Bill. I would be interested to hear what his and the Opposition's policy is on the topic because it is an important issue that we will have to address in the context of the Public Corporations Bill and we will be doing that. I will refer the specific questions to my colleague for a reply.

ODR REPORT

The Hon. PETER DUNN: I seek leave to make a brief explanation before asking the Minister of Primary Industries a question on funding to primary industry.

Leave granted.

The Hon. PETER DUNN: Primary industry in this State brings in about 50 per cent of the exports and that varies from year to year depending on the seasons. Secondary industry in the past few years has been increasing at only a relatively slow rate and the big growth, of course, has been with tertiary services—industries which make the big turnover and the GDP and they are really users of money and I refer particularly to Government departments and the enormous amount of money that they turn over. They do not produce any money but they certainly turn it around. Transport is another one that is very similar to that but, of course, you cannot not refer to tourism when, particularly overseas, that does bring in money.

The expenditure on agriculture is, as I pointed out, 50 per cent of our export income (and that raises the standard of living of all of us), yet the Government in this State spends less on it per head of population than any other State in Australia. It not only spends less per head of population but it spends less per dollar earned in primary industry than any other State in Australia and yet it prefixed its request to McKinsey, who produced the ODR report, by saying there would be a $13 million cut in expenditure on primary industry. I am told this is given a slanted approach by the ODR report. My questions are:

1. Why did the Government instruct the McKinsey company, which produced the ODR report, that $13 million would have to be cut from the Primary Industries Department?

2. Can the Government justify the cuts to primary industry in the light of the already low support it offers primary producers from South Australia?

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

STATE CHEMISTRY LABORATORIES

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister representing the Minister of Primary Industries a question about the State Chemistry Laboratories.

Leave granted.

The Hon. M.J. ELLIOTT: A recent organisation development review (in fact, the same one referred to by the Hon. Mr Dunn) of the Department of Agriculture, now part of the Department of Primary Industries, suggested that the work currently done by the State Chemistry Laboratories should be handed over to the private sector as many of the functions do not fit within the department's core business.

The SCL provides analytical chemistry services in the areas of agriculture, trace elements, cereals, food and pesticides and it is a source of high quality independent technical advice not just to the State Government but to local government, industry and the general public. I have had quite a few letters and phone calls not only from people within the Public Service, but also from private individuals concerned that the SCL could be closed. I am particularly going to refer to the Public Service Association in a submission to the organisation development review and some comments it made on the need to retain the SCL and my following comments are a paraphrase of what it has submitted to me.

The first was that the review looked at the SCL only in its relevance to the one department in which it is currently located and decided that it was not within that department's core business. It did not take into account the value of the service to other areas of Government, including environmental protection and the wider community, or the option that it could be located within a different agency.

Another assumption was that the only way to reduce the cost to the client agencies was to close the SCL and use private laboratories for the work. This, too, is simplistic because commercial laboratories are not necessarily cheaper and will have less incentive to be so if competition from SCL is removed. Alternatives for restructuring SCL's management and administration, reducing overheads and reviewing funding arrangements as ways of improving SCL's cost effectiveness are not canvassed. The Public Service Association makes the comment that the responsibility for the future of the SCL rests with the Government as a whole and not just with

the Department of Primary Industries as the value of the service goes beyond that one agency. My questions to the Minister are:

1. What consideration has been given to the future of SCL?

2. Will the Government continue to support the independent services SCL provides to all areas of Government? If not, why not?

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

ARTS STATISTICS

The Hon. CAROLYN PICKLES: My question is to the Minister for Arts and Cultural Heritage. As I understand it figures have been published by the Australian Bureau of Statistics showing the number of performances and attendances at music and performing arts events.

The Hon. Diana Laidlaw: Did you not read the *Advertiser* this morning?

The Hon. CAROLYN PICKLES: Yes, I did. Can the Minister tell the Council what figures are available for local bodies? You are now about to get the true story.

The Hon. ANNE LEVY: I am delighted to give information on this matter to the honourable member. There was a report in the *Advertiser* this morning which ignored some very important facts and which I thought gave an unfair emphasis in many regards. It is certainly true that the figures which were commissioned by the Cultural Ministers Council from the Australian Bureau of Statistics show that, in Adelaide, there was a total of almost 1.37 million visits to performing arts events in the 1990-91 year.

This figure equates fairly well with one visit per head of population for this State. No other State capital city can claim a figure so closely allied to its total population. This is a remarkable figure and certainly merits being noted by members of this Council.

The 1.37 million visits are in respect of a total of 1 680 different performances, and it is worth noting that the number of performances per head of population was much greater for Adelaide than for comparable cities. For instance, Brisbane, which has a larger population than that of Adelaide, had only 1.07 million visits and only 1 350 performances. Perth, which now has a population slightly greater than that of Adelaide, had only 970 000 visits, well below that of South Australia (approximately 60 to 70 per cent of the South Australian attendance record), despite having 2 130 performances. That is a much lower figure of attendances, showing that not only are there more people attending performances in Adelaide, but also that there is a better attendance per performance in this State than in Western Australia.

These figures are real evidence of the commitment which Adelaide residents have to the arts. I should also point out that these figures were for the 1990-91 financial year. I stress that because it was a time that did not include an Adelaide Festival. We all know that attendances at performing arts events increase markedly during an Adelaide Festival, but these figures are a non-Festival year as far as we are concerned.

I was disappointed that the *Advertiser* in its report chose to highlight that the highest attendances were at pop, rock, folk and jazz concerts, and it then suggests that this gives the lie to South Australia's supposed love of culture.

This Government, and I am sure members opposite, would welcome the success of events such as pop, rock, folk and jazz. I certainly regard that as part of our cultural activities. They are part of the arts in this State and, as evidence that we regard them as such, this Government has for the first time funded a contemporary music officer for the South Australian Music Industry Association, and we provide grants programs for contemporary musicians to prepare demo tapes which can assist them in developing their careers.

That program has been most enthusiastically welcomed by the section of the arts industry concerned who are very pleased to have such a program. That program is highly regarded interstate. Many people in the contemporary music area in other States are asking their Governments to provide similar programs to assist contemporary music. To suggest that such forms of music are not part of the arts and are not part of our culture here is a most unfortunate interpretation of arts and certainly not one which I would endorse.

EAST END MARKET

The Hon. J.F. STEFANI: I seek leave to make an explanation before asking the Minister for the Arts and Cultural Heritage, representing the Minister of Housing, Urban Development and Local Government Relations, a question about the East End Market property.

Leave granted.

The Hon. J.F. STEFANI: Much publicity has been given to the never ending saga of the East End Market development and the numerous proposals about this city property, which has now become the subject of further speculation. Members would be aware that the Bannon/Arnold Governments have been involved in considering various proposals, providing finance and making certain decisions about this property. My questions to the Minister are as follows:

1. Will the Minister advise Parliament why the State Government decided on or about 8 July 1992 to transfer the East End Market development property from the East End Market Company Pry Ltd (a company which was formerly owned by Beneficial Finance and now the State Bank) to the Minister of Public Works?

2. Was any stamp duty applicable to the transaction? If so, how much was paid and by whom?

3. Can the Minister advise why the State Government did not leave the East End Market development property in the name of the East End Market Company Pty Ltd to enable it, or the State Bank, which was the owner, to sell the company to any prospective developer?

The Hon. ANNE LEVY: I will refer those questions to my colleague in another place. Considerable publicity was given to these matters at the time, so I suggest that public knowledge is available on a number of the matters referred to by the honourable member. I will seek a report from my colleague in another place to reinforce the already available public information.

NURSING HOMES

The Hon. BERNICE PFITZNER: I seek leave to make an explanation before asking the Minister of Transport Development, representing the Minister of Health, Family and Community Services, a question on the subject of the monitoring of nursing homes.

Leave granted.

The Hon. BERNICE PFITZNER: It has been reported that two nursing homes in the eastern suburbs have had their licence under critical review. One of the nursing homes was censured for not providing adequate laundry facilities and the other for not providing sufficient food supplies. These nursing homes are subsidised by the Commonwealth and, therefore, under the new Supported Residential Facilities Act 1992 are exempted from local government monitoring and are under Commonwealth monitors. It is most fortunate that the Supported Residential Facilities Act was amended so that such nursing homes can now be visited by local government authorities to determine whether or not the exemption should continue.

I understand that, were it not for the visits by officers of the local health authority, these problems in the two nursing homes would have been overlooked. My questions are as follows:

1. Will the Minister investigate whether these nursing homes have been visited by the Commonwealth officers and, if not, why not?

2. Have the Commonwealth officers visited the two nursing homes and, if not, would those officers have identified these problems?

3. Does the Minister still feel confident that there are sufficient Commonwealth officers to monitor all the Commonwealth subsidised nursing homes—approximately 95 per cent of all nursing homes—adequately, including the country nursing homes?

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

WORKERS REHABILITATION AND COMPENSATION (DECLARATION OF VALIDITY) BILL

The PRESIDENT: Before I call on business of the day, I refer to the following statement made by a member in the other House during the passage of the Workers Rehabilitation and Compensation (Declaration of Validity) Bill:

> We want to make clear that we believe the whole process was manipulated. I refer to the drawing up of the Bill and those who were involved in it—the whole Parliamentary process of the clerks in both Houses—because we believe there was an awareness that the change had to be made, yet it was not pointed out to the Parliament.

I want to make it quite clear that at no stage—

The Hon. C.J. Sumner: Who said that?

The PRESIDENT: It was one of the members in the other House.

The Hon. C.J. Sumner: Who?

The PRESIDENT: It was a member. You can look it up. I want to make it quite clear that at no stage were the clerks of the Legislative Council involved in any collusion, nor were they privy to this correction that was made to the legislation before the Bill was assented to. I view this statement with deep concern in that it was made about clerks of this Council, who have no right of reply to such accusations.

SENIOR SECONDARY ASSESSMENT BOARD

The Hon. R.I. LUCAS (Leader of the Opposition: I move:

> That the regulations made under the Freedom of Information Act 1991 concerning exempt agency—Senior Secondary Assessment Board—revocation and replacement, made on 21 January 1993 and laid on the table of this Council on 9 February 1993, be disallowed.

It was not one day but two days before Christmas of last year that the Arnold Government, at the instigation of the Minister of Education, issued a regulation to exempt completely the Senior Secondary Assessment Board of South Australia from the operations of the freedom of information legislation, an action that was completely against the spirit of that legislation and completely against the avowed and supposed claims made by the Attorney-General in this Chamber as to the advantages of freedom of information legislation for South Australians.

There was much debate during the passage of that legislation about the provisions in the Act for exempt agencies, and varying views were expressed by members in relation to that provision. As a result, the majority in this Chamber agreed that the exempt agencies provisions of the freedom of information legislation ought to be restricted to a small number of agencies or to as small a number of agencies as was possible. So, it related to agencies such as the State Bank of South Australia, the SGIC, the Police Complaints Authority and others that were exempt for varying reasons from the provisions of the freedom of information legislation.

All other agencies and departments in South Australia were then decided by the Government, by the Liberal Party and by the Democrats to be under the purview of the freedom of information legislation.

There has been some criticism of the Freedom of Information Act, and I am one of those who has been critical that perhaps the loopholes for some agencies were too wide in a number of sections. Nevertheless, all agencies other than that small number of restricted, exempt agencies were to be under the purview of the freedom of information legislation, and certainly it was the intention of the Parliament that the Senior Secondary Assessment Board of South Australia ought to be an agency that was covered by freedom of information legislation here in South Australia.

As I indicated, just two days before Christmas, the Government, at the instigation of the Minister of Education, snuck through this regulation when everybody's mind was turned to other matters, as they normally are just before Christmas. I believe that the

behaviour of the Minister of Education in this matter, and I would suggest that of others as well, was disgraceful, in that she sought deliberately, at a time of her convenience, to get this matter through the various procedures of Government when, of course, the attention of the media and others would not have been directed towards this issue.

The Hon. K.T. Griffin: Even the Attorney-General was away.

The Hon. R.I. LUCAS: The Minister of Education also deliberately chose to have this matter discussed at a Cabinet meeting when she knew that the Attorney-General, a potential opponent of what she was attempting to do, would not be present. The Attorney-General, last week in this Chamber, made quite clear that he was not a party to the decision in Cabinet—that he was not there. The only defence he was prepared to give in this Chamber was that Opposition members must know that, under the doctrine of collective responsibility, whatever the Cabinet decides, irrespective of his personal views, he is bound to support. That was the only defence that the Attorney-General would offer in relation to this matter.

The Minister of Education deliberately chose to have this matter considered by the Cabinet at a Cabinet meeting when she knew that the Attorney-General would not be present. My sources within Government tell me that when the Attorney-General became aware of this matter early in January he expressed, in not so subtle terms, his personal opposition to the Minister of Education and to others regarding the approach that had been adopted by the Minister and the rest of the Government in endorsing this proposition and getting it through Cabinet.

So, there is clearly a split within the Arnold Government, between the Minister of Education and the Attorney-General, on this matter. The only defence we have had and will get from the Attorney-General on this matter is that, because the decision was taken under the doctrine of collective responsibility, he is bound to support that proposition. If the Attorney-General wants to come into this debate at another stage and put a different point of view, I would challenge him to do so. I would listen with much interest to his stated views at a later stage of this debate. The behaviour of the Minister of Education was also contemptible when, under intense questioning on this issue from Mr Keith Conlon on 5AN morning radio, her only response after a series of questions was that she was only responding to a request from SSABSA.

That is a nonsense defence, as all members would know. The Minister of Education does not have to respond to any request from an agency within her portfolio such as SSABSA. If SSABSA was to suggest something with which the Minister did not agree, she ought to have the gumption to stand up to SSABSA and say so. Quite clearly, that was not the case, because the Minister of Education agreed with the views of SSABSA (I know that for a fact) and with alacrity jumped on board the 'Let's hide everything' doctrine of exempting SSABSA from the FOI legislation and, as I said, got this matter through Cabinet, and two days before Christmas the regulation was issued.

The history of this issue goes back to around the middle of 1992, at which time Channel 7 issued a request to SSABSA under the freedom of information legislation for the top 250 students in South Australia in accordance with the 1991 year 12 results, and a list of the schools attended by those students. At the same time I had issued a series of freedom of information requests to SSABSA on subjects such as cheating under the South Australian Certificate of Education or the old year 12, and problems that had been experienced by teachers and schools as a result of the rushed implementation of the new South Australian Certificate of Education.

It is clear that the Minister of Education and SSABSA guessed—and guessed correctly, I might add—that this use of freedom of information by Channel 7 and by me was likely to continue into 1993. This was the case, because Channel 7 was interested in the 1992 year 12 results and because in January of this year, together with some 50 other freedom of information requests that I issued in January, I had intended to issue a further series of requests to SSABSA on subjects such as cheating, the South Australian certificate, problems with verification and the moderation procedures within the South Australian certificate, as well as minutes of various committee meetings of the board and various other committees that operated under the SSABSA umbrella.

We must note that we are not talking here about a partial exemption from the freedom of information legislation just to stop the issuing of the results of the top students in South Australia's year 12 examination and the schools that they attended. What we are seeing is action by the Government for a total exemption of SSABSA from the freedom of information legislation.

Not only would we be stopping the issuing of the schools attended by the top students in the year 12 examination but we would also be preventing legitimate requests from members of Parliament on issues such as the South Australian certificate, cheating, verification of procedures and minutes of various committee meetings. Whilst I have outlined that this is a total exemption covering all those issues, during my contribution this afternoon I want to concentrate only on the particular aspect that has gained some publicity, that is, the release of information as to the schools attended by the top students as measured by the year 12 assessment.

It is interesting to note that the Ombudsman directed SSABSA to release to Channel 7, as a result of its original request, the 1991 results of the top 250 students and the schools they attended. SSABSA did that in the least informative manner possible: it listed 75 schools alphabetically, with no indication of whether one school had 10 students in the top 250, for example, or only one. Channel 7 subsequently used that information in a media story and showed all 75 schools.

One realises that we are probably talking of only some 200 to 300 high schools in South Australia, both Government and non-Government. The issuing of 75 schools in alphabetical order does not really provide much in the way of additional information to parents and students on which they can make their decisions.

The Hon. T.G. Roberts: What decisions?

The Hon. R.I. LUCAS: We will turn to that in a moment: decisions as to which school you might or might not like to attend.

The Hon. T.G. Roberts: What is the relevance of the top 20 schools?

The Hon. R.I. LUCAS: We will talk about that. What are the Government's and the Minister's reasons for preventing the release of this information? We turn to the first defence, which the Hon. Terry Roberts, in good Left wing convenor fashion, has just trotted out, that parents will attempt to move their children to better schools, or so the Minister says. What a terrible thing, that parents might want to shift their children to better schools! Why should parents not make choices about where their children should go to school? Why should they be locked in to a particular school because of either geography or a lack of information about the relative performance of those schools?

It is a typical Labor attitude to education, to competition and to the release of information which is being demonstrated by the Minister of Education, Employment and Training who, as all members will know, is a member of the Hon. Terry Roberts's far Left faction in the Labor Caucus. There are not many of them left, but the Hon. Mr Roberts is the convenor and the Minister of Education, Employment and Training, as an avowed Left wing member of the Labor Party, is a member of that faction. So, it is a consistent view of members of the Left and members of the Labor Party that this sort of information should never be released; that parents should not be provided with that information in order to choose which schools they wish their children to attend.

What about students such as we now see increasingly, at the age of 17 to 20 but also, in many cases, with adult re-entry schools in metropolitan Adelaide in particular, students of all ages? The oldest merit student in the 1992 SSABSA examination was a 69-year-old student who, I think, achieved the merit certificate score of 20 out of 20 for Spanish. Why should all these adult students together with the others not be provided with information from which they can choose whether they go to one school or to another?

They are adults. In some cases they are spending much of their own money, so why should they not be able to make a judgment as to whether they go to Elizabeth West re-entry or to Hamilton College re-entry or to any other if they want to? Of course, the response from the Minister of Education, Employment and Training, the Hon. Mr Roberts and others is that one reason why we must conceal this information is that parents might attempt to move their children to a better school, or that an adult might want to move to a better school.

The other reasons offered by the Minister include, for example, that ranking of schools will destroy public confidence in the provision of educational services. That might be the case under the current policies of this Government, because this and previous Ministers have been doing all they can to destroy the public education system in South Australia. I do not intend on this occasion to go through all the ills of the Government school system as a result of the Government's school policies implemented by this and previous Ministers, but there is no earthly reason why Government schools and students cannot perform at the very highest level as measured either by top students or by the largest number of merit certificates.

Indeed, a good number of students within the Government system are awarded the merit certificate in a ceremony in February or March of each year at Government House, so it is not necessary that any ranking of the system should destroy public confidence in the provision of educational services. That is only the case if the Government or a Minister lack so much confidence in the Government school system that it is believed that that will be the case.

The other defence from the Minister and others is that the best schools are not necessarily those with the top results as measured by year 12 but are those that take the students the farthest, if I can quote exactly the phrase being used by the Minister and by SSABSA. What about the school in the northern suburbs to which I have previously referred, from where a teacher was dumped in 1991 under the Government's crazy limited tenure placement policy?

The physics teacher in that school for year 12 had five merit students, that is, students achieving 20 out of 20 in physics, in his class for 1991. We often highlight problems expressed by teachers about violence and disciplinary problems in northern suburban schools, but there in the middle of those schools is a school from which the teacher was dumped in 1991 whilst having amongst his class five merit students in physics.

Why should that information not be made known to potential students and to parents in the northern suburbs? Why should the Minister of Education and the Hon. Terry Roberts subscribe to a view that parents, teachers and students in that area should not know that that school in the northern suburbs has a teacher with a magnificent teaching record, and in the case referred to it is physics? If there is a student in the working class northern suburbs area that wants to be a scientist and go to the university and do physics, why should not the parents in Salisbury, Paralowie, Pooraka, or wherever, send their child to that northern suburbs school, even if meant catching a couple of buses or the parents dropping the student off on the way to work? Why should not the parents and the student have that information so that they can make that decision?

The Hon. T.G. Roberts: What class size level would you put on it?

The Hon. R.I. LUCAS: It does not matter about class size limits. The Hon. Terry Roberts throws in a red herring whenever he has no other defence. Irrespective of the class size at that school that teacher and the students achieved those results. It does not matter whether the teacher had 15, 20 or 25 students in his class—they got those results.

The Hon. T.G. Roberts: What about next year?

The Hon. R.I. LUCAS: Well, this is under your policies. Does the honourable member want to criticise the Minister of Education by asking what she is going to have this year? They are your policies. It is your Minister of Education; she is a member of your faction; have a word to her at the next faction meeting.

The Hon. T.G. Roberts: I am asking you: under your scheme, how many would you have in that same class the next year?

The Hon. R.I. LUCAS: It would be no worse than your lot. Teachers are saying to us: 'We don't know about the Liberal Party, but certainly you can't be any

worse than this Government and this Minister of Education. At least you are prepared to acknowledge that we have a problem in the system.' Certainly that red herring from the Hon. Terry Roberts has nothing to do with this issue. If the Hon. Terry Roberts wants to talk about his Government's record of getting rid of over 1 200 teachers from the system and closing 50 schools in recent years, if he wants to talk about the respective education records of State Governments, I will meet him here, there or anywhere and discuss the record of his Labor Government and his Minister of Education in relation to the closure of schools and the sacking or getting rid of teacher numbers here in the education system in South Australia. I will not back off from debate—

The Hon. Anne Levy: How about Jeff Kennett, closing schools and sacking teachers?

The Hon. R.I. LUCAS: I will not back off from debate about Jeff Kennett at all, because the Minister for the Arts and Cultural Heritage supports the policies of her Government, which has already closed over 50 schools in recent years here in South Australia. So don't talk to me about Jeff Kennett closing 50 schools in Victoria. Your Government, your policies, your Minister have all closed over 50 schools in recent years in South Australia and got rid of over 1 200 teachers. So don't talk to me about the policies of the Victorian Liberal Government.

The Hon. J.C. Irwin: And how many broken promises were there?

The Hon. R.I. LUCAS: Exactly. There was the commitment made by 'honest John Bannon' that, irrespective of declining student enrolments, the Government would retain teacher numbers here in South Australia. There it was; full page advertisements in the *News* and leaflets that were distributed in marginal seats. There it was on television, with 'honest John' saying, 'Despite declining enrolments we will maintain teacher numbers.' Of course, after that 1 200 teachers were cut from the education system. So members should not talk to me about other Governments in other States. The only reason they want to do that is because they are ashamed of their own record in relation to education and schools here in South Australia and they know very well that teachers, parents and students are going to throw them out on their ear whenever they get the opportunity, sometime later this year, to vote in a State election.

The Hon. T.G. Roberts: Nobody will buy a pig in a poke.

The Hon. R.I. LUCAS: If you want to talk about pigs in a poke you want to talk about the Prime Minister.

The Hon. Anne Levy: Jeff Kennett is a pig in a poke.

The PRESIDENT: Order! I do not think this is relevant to the debate. The honourable Mr Lucas.

The Hon. R.I. LUCAS: Thank you, Mr President. I am being provoked by the Hon. Terry Roberts, the Hon. Ron Roberts and the Minister, who in fact is always complaining about interjections. However, I will not complain about interjections. I am not a squealer.

The Hon. Anne Levy: I don't repeat them endlessly.

The Hon. R.I. LUCAS: I do not stand in the Council every day and read out articles from the *Advertiser,* as the Minister has been doing for the past week.

The Hon. Anne Levy: As Legh Davis does constantly.

The PRESIDENT: Order! The debate will come back to the substance of the motion.

The Hon. R.I. LUCAS: I have talked about the physics teacher in the northern suburbs school. I now want to talk about the situation in New South Wales, where information is publicly released, and I am advised that in the middle of the western suburbs of Sydney, an area very similar to the northern suburbs of Adelaide, when these results were released the results of one western suburbs school in particular stood out like a beacon in a number of important subject areas, and they were able to identify teachers with excellent teaching practice and with excellent results, as measured by year 12 results, something which had not been known by the majority of western suburbs residents who were sending their students to schools nearby. There are also other defences from the Minister of Education that these sorts of measures do not take into account the socioeconomic factors that might pertain to the students attending the school. I certainly acknowledge that. When I talk about the policy options that the Liberal Party will be implementing, I will address that matter.

In New South Wales, the Liberal Government initially released details of the top 500 students and the schools that they attended, but now, under the new Minister of Education, the Hon. Virginia Chadwick, it issues details of the top 1 000 students. Certainly there was inequity or a gender issue involved in that, I am advised. The Minister of Education took the view that there was a small number of female students in the top 500 but that when one took the top 1 000 students, that is, also including students from 501 to 1 000, there was a significant increase in the number of female students in that measure, and that was one of the reasons why the Minister of Education took the decision to increase to 1 000 the results of top students in New South Wales.

So in New South Wales every January we see on the front page of the *Sydney Morning Herald,* and in other papers, the results of the top schools in New South Wales listed, and then on page 4 and 5 we see details of the top schools according to the regions in New South Wales. So it is not just the top schools in the State, but one sees for the western suburbs, for example, details of the results for the top schools and the top performance for year 12, and this applies also for all the other regions throughout New South Wales. Then there are some colour piece stories, which the *Advertiser* does here as well, on students who have done very well, as measured by the year 12 results.

If New South Wales parents and students can be trusted with that sort of information, why does the Minister of Education in South Australia believe that South Australian parents and students—and, as I have said, there are increasing numbers of adult students—cannot be trusted with similar information in South Australia? SSABSA releases in the *Advertiser* the names of the top 800 or so merit certificate students in South Australia. So, one is provided with the names of 40 or 50 students who might have attained a perfect score (20/20) in, say, year 12 accounting and all the other subjects ranging from the traditional academic subjects such as physics, maths 1, maths 2 and chemistry

through to the newer subjects such as woodworking, electronics, engineering and a whole range of subjects, some with a TAFE interface that schools now offer. So, information is not just provided on students who do well in mathematics, physics and chemistry.

With respect to the information concerning the 800 merit certificate students, if a section of the media had the time and the inclination to put in the effort, it could identify all the students and the schools they attended through a process of telephoning and elimination. That has been done in a number of cases: media outlets have been able, particularly in respect of unusual names, to identify them from the telephone directory, contact them and find out which school they attended. Invariably, a student that is contacted knows another half a dozen students from the same school who have also achieved 20/20 in other subjects. So, through a process of admittedly hard work, a media outlet could, from publicly available information, identify the schools attended by most of those 800 students who have been publicly identified already by SSABSA.

So, it really is a silly and juvenile attitude by the Minister of Education, who says, 'I refuse to allow names of schools attended even by the top 800 merit certificate students to be issued.' That information, as I have said, could be gathered if someone wanted to do the hard work. So, it is a childish and juvenile attitude for the Minister to prevent the release of that information. That information ought to be released and, equally, so should information on the top 250, 500 or 1 000 students—we would have to make a judgment about how far we can go, but in respect of the top, say, 500 students—relating to their total score. The release of information on the top 800 merit certificate students will not favour only academic students because it will provide names of schools, perhaps on the West Coast or in the northern suburbs, that have churned out three or four merit certificate students in, say, tech studies, home economics, engineering, etc.

The Hon. T.G. Roberts: I will shift my kids over next year.

The Hon. R.I. LUCAS: The honourable member may want his children to study tech studies or engineering; the smart information would be to get your children into trades in the future. That information should be available and he could do that, but at the moment if the Hon. Terry Roberts wanted to shift his children to that particular school he could not do it because the Minister of Education says, 'That information should not be made available because you cannot be trusted to make sound, rational and reasonable judgments about where you should send your child for the benefit of the child and its future.' That information should be made available in relation to the top 500 or 1 000 merit certificate students and the schools they attended.

As I have said, I have already had discussions with the Chairperson and senior officers of the SSABSA Board and indicated that under a Liberal Government, irrespective of what happens in relation to this disallowance regulation, that information will be released publicly to identify the output in the public education system after 13 years of expenditure. We are spending $1 billion a year on education in South Australia. After 13 years, the public, the community and the Parliament are entitled to some measure of accountability from the Government, the Minister of Education and SSABSA about the performance of our Government school education system.

In my discussions with SSABSA I have indicated the intentions of an incoming Liberal Administration, and I have mentioned those two areas of accountability. However, I will have discussions with SSABSA and others about whether or not we can release the whole package of information on performance. Perhaps to counter this problem that SSABSA and the Minister talk about, that it is not necessarily the best schools that take the children the furthest rather than those with the top students, we can look at the percentage performance of schools—and there is discussion about that already in education circles. There may well be a range of other measures that could be publicly released to provide a greater range of information for parents, from which they can decide where they should not should not send their children.

As I have said, we should not be closeting and protecting non-performing schools and teachers in our education system. What we ought to be doing is highlighting the output of our education system, and we ought to be accountable for the $1 billion a year in public taxation and expenditure that we put into our Government school system. The debate through the 1990s will be about accountability, measurement, assessment and output. Time has passed by the educational troglodytes such as the Minister of Education and others from within the educational lobby group, such as the South Australian Institute of Teachers, who oppose any form of public accountability or any form of measurement or release of information on schools attended by our top year 12 students, who oppose, consistently with their philosophy, any measure of standardised skills testing or basic skills testing to measure the number of students with literacy problems in our primary schools. Time has passed by that sort of thinking.

The 1990s will be about accountability measurement and output, and we will not just be talking about input, student:teacher ratios and things like that. They will always be there as one measure, but we need more from our accountability measures now. We need to be talking about the relative performance of our education system and the value that we get for the educational dollar that we put into our schools. If we want to argue for more resources for education from whatever sized economic cake that exists in Australia—and I am certainly one who subscribes to that view—first, we must justify the dollars that we have and then we can ask for an increase in expenditure on education from the national economic cake.

I conclude by saying that I am delighted to see already on the public record an indication from the Leader of the Australian Democrats in South Australia (Hon. Ian Gilfillan) that he intends to support this disallowance motion. An article in the *Advertiser* of 15 January states:

> The Democrats South Australian Parliamentary Leader, Mr Ian Gilfillan, said he would support moves to block the exemption when Parliament resumed next month.

The Hon. T.G. Roberts: It was a quiet day.

The Hon. R.I. LUCAS: I am just reminding the Hon. Mr Gilfillan of his public statement. As the Hon. Terry Roberts would argue, I am sure, the Hon. Mr Gilfillan, once he makes up his mind, sticks to it. The article continues:

Mr Gilfillan said that the Democrats had consistently resented the escape avenue that the Government allowed itself to shift the awkward disclosure of information out of the freedom of information scope, and he called for a review of the Government's powers.

I welcome that public statement of support from the Leader of the Australian Democrats (Hon. Ian Gilfillan) for this disallowance motion. I hope that the shadow Minister of Education and Deputy Leader and Whip of the Australian Democrats (Hon. Mike Elliott) will also, even though he has a teaching background, see the wisdom of this disallowance motion and that he will support his parliamentary Leader and disallow this regulation.

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

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

A quorum having been formed:

HINDMARSH ISLAND BRIDGE

Adjourned debate on motion of Hon. Diana Laidlaw.

(For wording of motion, see page 1174.)

(Continued from 10 February. Page 1177.)

The Hon. M.J. ELLIOTT: I support the basic thrust of the motion—and there is a very distinct possibility that my colleague may, when next we sit on a Wednesday, move some minor amendments.

The sequence of events and developments in relation to the bridge between Goolwa and Hindmarsh Island are worth looking at. There have always been mumblings about the need for a better transport link to Hindmarsh Island. That is an issue we have debated in this place on a previous occasion in relation to the ferry which is at the same position as the bridge is currently proposed. This Council insisted that residents of the island have priority use of the ferry. But despite those problems the delays occur only at peak times, for example, on a Sunday evening at 6 p.m. when holiday makers want to leave the island to go home. Even then the delays are not so great since the ferry was upgraded to one that can carry 12 vehicles.

Then we had the marina proposal for Hindmarsh Island. The environmental impact statement on the second stage which took it to 800 blocks said that better access would be needed to the island. The developer and the council approached the Highways Department which said 'No' to a bridge. The developer then offered to pay and the Highways Department agreed, not surprisingly. I think the Highways Department would always be delighted if a developer, or some local community would put in a bridge for them. Naturally, the developer wanted the cheapest, quickest bridge possible. The early option for location was considered to be the existing crossing site as infrastructure at either end already existed.

Another possibility was at the barrages. It is worth noting that the barrages themselves will need to be upgraded in the next five or 10 years and there is already the existing interruption to the waterway, but that was rejected after the Environment Department objected to the increased traffic flow that would be created on the road along the base of the sand dunes leading to the barrage.

Costing for a larger or additional ferry was done by the Highways Department and, because there was a bias against this option, the figures looked unfavourable when compared to a bridge the developer would pay for. The Highways Department is notorious at being able to produce figures to get the desired result. There was some local opposition to the bridge proposal but actual response was slow and there was not much representation to or on council.

That is not unusual: the public is always slow to respond until there is some immediacy to the situation. The public seems always to wait until something actually happens. Now it is closer to becoming a reality, it is beginning to heat up, although many in the public still feel that it may not happen.

Then the developer got into some strife, perhaps largely because the economy slowed down, and could no longer pay for the bridge. The Highways Department decided it was willing to put in the money which would be saved from not operating the ferry, and I have been told that there was some political pressure around the time Westpac got involved with some of the financing of the project.

Previously, finance had been through Beneficial/State Bank. There are allegations that people in the Government talked to Westpac to ensure that the development survived and in relation to the possibility that it might put in half of the bridge funding. It is hard to ascertain exactly what is happening, but there seems to have been a commitment somewhere in the Government for the bridge to go ahead. It has now turned into an exclusively Government project, having started out as the developer's. The Government is now planning to pay for the whole thing and will try to get some reimbursement not only from the marina developer but also from every other future developer on the island.

It was hard to challenge a privately funded bridge but, now that it is a Government cost, many things can be raised. The figures in the EIS for the ferry savings do not add up with what the Highways Department has been saying about the cost of running ferries.

Also, on page 23 of the summary document, there are some alarming comments about possible environmental impacts. The impact of the bridge will not just be aesthetic on the historic wharf. The most concerning impact will be that resulting from easier access for boat owners to the island, the shore line, neighbouring wetlands and the Murray mouth.

The potential impact is acknowledged but not quantified at all. Public opposition is growing. There has been no access to plans, what the bridge possibly will look like or what target starting dates there now are. The Murray mouth is increasingly under stress from boating activity. Larger boats are beginning to have difficulty navigating the narrow channel because of the number of smaller boats which anchor after having been put in the

water at the 19th beacon on the mainland or at Sugar's Beach on the island.

Also, I am told that there is also a significant upsurge in jet ski activity which destroys the tranquillity of the area. Because they are small, it increases the risk of riders damaging nesting areas in shallow reedy parts of the shore. Even without good access, they are getting into quite sensitive areas.

There are no attempts to manage access to the area, but distance itself so far is playing a significant role. Once a boat is launched, the travelling time to and from the launch site means that the actual time spent in the target zone is minimised. The bridge will make access easier; it will be a notional difference, but it will matter. There are people who enjoy the ferry. It is a legitimate part of the tourist experience at Goolwa, so a lot of work needs to be done on what the impact of a bridge will be to that experience. It is quite possible that people may go to the island more frequently but have a lower value experience. Because there will be more people there, they have lost the ferry experience, etc.

The developer has been saying that the bridge must be built for the marina to survive, but so far this is proving to be a nonsense. The blocks of land have been selling because, although the market is down, the price is now right. It is the price which is the selling factor for the blocks, not whether or not a bridge exists. The development will not stop now, so any delay in bridge construction will not hurt it. The Government can allow the developer to release more blocks before the bridge is fully considered by altering the consent.

The alternatives need to be considered, including the benefits or otherwise of locating it at the barrage or possibly putting in another ferry. As the present problem is only one of peak hour traffic, there should be costings on having another ferry on standby to be manned only when needed. That would preserve the status quo.

When the potential for a bridge being constructed was first announced, my primary concern was certainly in relation to location. I found it so hard to believe that a bridge, particularly of the likely design, could be built in a heritage area directly adjacent to the historic wharf. We have had a Signal Point development in the area which has been relatively sensitive to the development.

The central part of Goolwa so far has not been destroyed too much by development in the same way that Victor Harbor has suffered. Now we are looking at putting in a major bridge which would also have significant impacts probably on traffic flows through that central area. Goolwa council and the State Government need to consider very carefully whether our long-term interests in heritage preservation are best served by a bridge, particularly by a bridge in that location.

If a final decision is made that there should be a bridge, we should be looking at other locations, and I believe it is worth considering whether or not a bridge at the location of the barrages in the long term might not only make more economic sense, because the upgrading work can be done in conjunction with construction, and they may in fact be complementary, but might also take the development out of the heritage area, although there will still be the problem of traffic flow within it.

We also need to give some consideration to whether or not upgraded ferries, whilst they may be notionally expensive, give other tourism benefits that are worth further consideration.

Nevertheless, it is not really my intention in this contribution to say that I am for or against a bridge, or that the right decision has or has not been made. Rather, I want to say that I will support the motion because I believe that significant questions need to be asked about whether the bridge should be constructed, whether the Government should be paying for it, and why the current situation has arisen.

I believe that the answers to those questions are best left to the committee to decide. Since I am a member of that committee, I must ensure that I enter that process with a mind that is as open as possible. So, the Democrats support the general thrust of the motion. We may, on the next Wednesday of sitting, suggest some minor changes, largely on the basis that I am concerned about the level of financial detail that the committee is being asked to pursue.

I am not saying that we should not look at the broad aspects of finance, but I am not sure that it is the role and function of the Environment, Resources and Development Committee to consider the finer detail. That is possibly more properly the function of the Economic and Finance Committee. However, questions as to bridge location and where we direct our development certainly are properly answered by the Environment, Resources and Development Committee. As such, I will support the motion, but probably in an amended form.

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

ECONOMIC DEVELOPMENT BILL

Second reading.

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

The South Australian Government is committed to major changes to transform the State's economy. The need for action to rebuild our economy was highlighted in the Arthur D Little report released by the Government on 21 August.

The report recognised that there are significant changes occurring in the international economy and that while our industry base had served us well in the past, we needed to make significant changes if we are to maintain our standard and quality of life in the future.

The Government has moved swiftly to implement a program of reforms outlined in the report. This included a $40 million package of programs to modernise manufacturing, create new economic infrastructure and develop new industries of the future. The establishment

of an Economic Development Board (EDB) is a key recommendation of the Arthur D Little report.

The recommendation was founded on the need for a strong partnership between the private and public sectors, and recognised that while the Government will continue to exercise leadership in some areas, the private sector must ultimately be the driver of the economy with the Government taking a broader, facilitatory and coordinative role.

The Economic Development Bill 1992 provides for the establishment of the EDB as the State's primary agency for coordinating and overseeing economic development. It recognises the need to draw the public and private sectors closely together in planning our economic future. The concept of the EDB has been drawn from successful international models.

The EDB will be supported by the Economic Development Authority which will be formed from some of the existing functions and staff of the Department of Industry, Trade & Technology. The Department will be abolished following the establishment of the EDB.

Some staff and functions from the Department have been transferred to the Centre for Manufacturing which will play a major role in the revitalisation of manufacturing industry. Other staff and functions have been transferred to agencies such as the Department of Mines & Energy and Department of Primary Industries.

The Government has appointed interim members to the EDB pending passage of this Bill to allow the Board's important work to begin. Members have been drawn from business, Government and the trade unions, and been selected for their ability to make a major contribution to the development of the State. The Government appreciates the bipartisan support given to those appointments.

The EDB will oversee the development of strategies and plans for economic development, encourage and facilitate investment, and develop collaborative arrangements between the public and private sectors. Were the EDB to raise money, it would do so under provisions of the Public Finance and Audit Act. Strong provisions will ensure its public accountability.

While the EDB will play a vital role in restructuring our economy, we must all recognise that the challenges we face are also for the community as a whole. In a rapidly changing world it is important for us all to move forward positively and to recognise our strengths so that the business climate in South Australia is conducive to and supportive of increased investment. We need to become more outward looking and recognise that our future depends on international linkages and a healthy manufacturing and tradeable services sector.

I foreshadow that some amendments will be moved in the Committee Stage to cover matters that were raised in debate in another place.

The Bill was amended in the course of its passage through another place to reflect experience obtained overseas.

Those amendments—

* Confirm that the consolidation and growth of sustainable employment in the state is a required function of the Board.
* Make more explicit the manner by which the EDB could assist the regional development Boards develop and implement Regional Development strategies.
* Provide the opportunity for the EDB, following determination of the Cabinet and by proclamation, to fast track proposals for the expansion or development of industry, by the exercise of statutory powers. The EDB will, of course, act within the spirit and the letter of the law and not as a body that is above or outside the law.

What that may mean in practice is that if the Government or the EDB were to approach a company overseas seeking to have them invest in the State e.g. by establishing their manufacturing plant for the Asian market in SA, then the Government/EDB would be able to offer as a competitive advantage for SA that the EDB would be able to facilitate all the required approvals, that the EDB would act as the single point of contact for the company with SA government agencies. This claim would be supported by the existence of clause 16(3a) in the legislation. It would be recognised as a statement of intent by the Government not to place unnecessary delays in the way of industry development simply because of the way the Government must organise its processes of approvals.

The Arthur D. Little report recognised that speed can provide a basis for competition and so if SA is to capitalise on an advantage that it can have, as a State with government agencies of a scale to be able to cooperate effectively, then this amendment warrants the endorsement of the Council.

I therefore commend the *Economic Development Bill* to the Council.

Clauses 1 and 2 are formal.

Clause 3 sets out the objects of the proposed new Act.

Clause 4 contains definitions required for the purposes of the new Act.

Clause 5 provides that the Board, the CEO and the other staff may be collectively referred to as the *Economic Development Authority.*

Clause 6 establishes the *Economic Development Board.*

Clause 7 deals with Ministerial control of the Board. Any Ministerial direction to the Board and the annual performance agreements with the Board must be published in the Board's annual report.

Clause 8 establishes the office of Chief Executive of the Board and deals with the CEO's responsibilities.

Clause 9 deals with the composition of the Board.

Clause 10 sets out the conditions of membership of the Board.

Clause 11 provides for the remuneration of the members of the Board.

Clause 12 requires members of the Board to disclose direct or indirect financial interests that may conflict with the proper discharge of their official functions.

Clause 13 sets out the members' duties of honesty, care and diligence.

Clause 14 exempts members of the Board from civil liability for honest acts done in the performance or purported performance of official functions.

Clause 15 deals with the procedures of the Board.

Clauses 16 and 17 set out the functions and powers of the Board.

Clause 18 provides for the making of an annual report and deals with the contents of the report.

Clause 19 provides the control of expenditure by the Board through a system of approved budgets.

Clause 20 deals with banking and investment.

Clause 21 deals with accounts and audit.

Clause 22 is a regulation making power.

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

MINING (PRECIOUS STONES FIELD BALLOTS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 16 February. Page 1231.)

The Hon. PETER DUNN: This Bill has come about because the area of Mintabie which was excised off the Pitjantjatjara lands in 1982, when the lands were proclaimed, has been worked for some time now, and a lot of very good opal has come out of the Mintabie mine. However, it is very nearly worked out, and the area that may contain opal is in the middle of the lands which have been excised, and that is near the airport. A fairly large area was left to enable the airstrip to be put in. Being a very remote area it was essential that they have an airstrip primarily for evacuation in the case of accidents; and, of course, where you have mining there are always accidents.

For that reason, a fairly large area was left in order to put in an airstrip. It was wider than was necessary, and mining was not allowed in the area. However, it has since been realised that the strip is wider than necessary and can be narrowed down, and it is this area that the Bill predominantly addresses. By allowing mining on the southern side of the airstrip I suspect (although I do not know) that we are allowing the miners to obtain a reasonable amount of opal in that area. This Bill is suitably brought to the Parliament to allow that area to be mined.

There is a considerable amount of opal in many places in that area. It is not just at Mintabie, Coober Pedy or Andamooka, the areas that we very well know contain opal, but it is in all the broken country up there. The road to Alice Springs runs roughly up the centre of the Stuart Range, which runs north and south, and opal can be found in many places in that range. There are considered to be opals extending beyond the Mintabie field, and for some time there has been pressure from the mining fraternity in Mintabie to extend the mine to some of the areas west and south.

That has been resisted by the Pitjantjatjara Land Council, but I think that there is a change in attitude and we may see some mining in other areas. The Aborigines themselves have increasingly noodled for opal in that area, and that has been quite productive for them. Noodling really only means going through the material that has been pushed up by the bulldozers. The operation at Mintabie has been by the use of the biggest bulldozers generally available, and there is a large number of them. Several years ago Mintabie was the biggest user of diesel fuel of any one area in the State. That shows how big the bulldozers are and how many of them there are.

That operation pushes up a lot of material. It is not carefully hand picked, unlike the operation that takes place generally at Coober Pedy, where people mine underground using picks, shovels and explosives. In those conditions the area of opal is very accurately and carefully mined, although a considerable amount gets away from the miners and there are operations at Coober Pedy for renoodling the mounds of dirt that have been pushed out of the mines, but because the material at Mintabie has been pushed up by bulldozers, the Aborigines come in and noodle that and find considerable amounts of opal. They want to continue doing that. I think they are looking, possibly, at other areas for mining.

I must say that when you fly over the area, Mintabie stands out like a beacon. Cooper Pedy does also, but for a different reason. Coober Pedy is a bit like a moonscape because of the many thousands of little mounds and holes there. It looks like a gopher field when you fly over it, because of all the holes. However, Mintabie is different again. Because the earth has been pushed around by bulldozers, it is like a large escarpment, but it is not a pretty sight.

I suspect that, in future, the community will request the miners put those areas back into a similar condition to the one they were in before they started mining. I know that Roxby Downs is an underground mine, but if you fly over Roxby Downs you can almost miss it because it is not obvious on the horizon. Roxby Downs is very well planned, and much of the native vegetation has not been disturbed. People have done an extremely good job, particularly at the mine site. The town is more obvious, but the mine site itself is quite inconspicuous. Where precious and semi-precious stones are being mined in places such as Mintabie, perhaps in future there will be restrictions on people using bulldozers unless they put back what they have disturbed.

The Hon. T. Crothers: Is Mintabie not an open cut?

The Hon. PETER DUNN: Yes, it is, using bulldozers, and it varies in depth from 25 feet to cuts that I have seen of over 70 feet down to the layer of opal.

The Hon. T. Crothers: Down to the old river bed?

The Hon. PETER DUNN: Down to the layer of opal that is only eight to 10 inches thick. Sometimes they do not find any, but sometimes they find considerable amounts.

The Hon. T. Crothers: But Cooper Pedy is different: it is shaft mining and it would cost hundreds of millions—

The Hon. PETER DUNN: Yes, it would, but I do not think that is possible with Coober Pedy. It extends over an area of 20 by 30 miles, and it would be impossible to do it. The Bill looks at that point and also contains several other factors, including the methods by which these new areas will be allocated. I should like to address that at another time, and I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

HARBORS AND NAVIGATION BILL

Adjourned debate on second reading.

(Continued from 16 February. Page 1235.)

The Hon. DIANA LAIDLAW: When I commenced my contribution to this Bill yesterday I indicated that the Liberal Party would support the second reading but that we were not keen to move beyond that stage for two principal reasons: first, because we want to see the regulations that are to be introduced to accompany this Bill and, secondly, we believe that it is imperative for the Government to release a copy of the GME subcommittee report that last year investigated the operations of the Department of Marine and Harbors.

As outlined yesterday, the Liberal Party has a number of concerns with this Bill. We are concerned about the all embracing definition of 'vessels', which can incorporate anything from an ocean going liner or container ship to water wings or a life jacket. We are also concerned about the provisions in respect of certificates of competency, particularly in relation to a boat operator's licence. We are concerned about the provisions relating to blood alcohol and drug testing measures and about the possible imposition of a levy on owners of recreational and commercial motor boats for the purposes of establishing marine facilities.

We are further concerned about the possible establishment of a committee to be called the South Australia Commercial and Recreational Marine Facilities Management Committee. I shall address all these matters in considerable detail. I have one further question about the proposed levy and the proposed Commercial and Recreational Marine Facilities Management Committee. I seek to determine from the Minister what the relationship will be with the boating fund, which is provided in clause 89 of the Bill. Certainly it is not clear.

I have other concerns that I wish to address this afternoon. For instance, the Bill does not propose to bind the Crown. I note that the current Boating Act does bind the Crown. The Boating Act is the most recent, 1974, of the three Acts that the Government is seeking to repeal by this measure, with the Harbours Act having been introduced in 1936 as well as the Marine Act. So, it was seen in 1974 to be important to have a provision to bind the Crown, and today I consider that there is even more reason for such a provision.

In the new Bill the Government is proposing, in clause 3(e), to provide for the safe navigation of vessels in South Australian waters. The Bill also discharges very heavy responsibilities upon the Minister, the chief executive officer and authorised persons to realise the safe navigation of vessels in South Australian waters. Yet, anyone who has an interest in any form of boating activity in this State would appreciate that in recent years there has been a rapid decline in the condition and standard of navigational aids, beacons, buoys, lights and signals, all of which are critical to ensure safe navigation in our waters.

We have also seen a deterioration in facilities which the Department of Marine and Harbors owns and for which it is responsible. It is also responsible, through statutory provisions, to maintain things such as ramps, slipways, wharves and jetties. We have all been given many reasons, over quite a number of years, for the sad state of these navigational aids and marine facilities. A lack of funds is repeatedly given as a reason why there is no concerted effort to maintain these services to a standard that is appropriate not only for marine safety but also for the State to capitalise on, in terms of tourism initiatives. There is also a marked disinterest by the Department of Marine and Harbors in relation to anything that does not have a commercial focus. One sees that time and time again when local communities and commercial fishermen, for instance, seek to get something done about the quality of slipways or the dredging of harbours, whether that be at Port MacDonnell or Streaky Bay. The department is simply not interested unless there is a dollar that it can make from it or, more particularly, the prospect of it making a profit overall from such activities.

This is difficult for the department and for the community, because the department continues to maintain a statutory responsibility for these facilities and it is not discharging its responsibilities or its duties to the community at large. I believe very strongly that the department should be freed from many of these community service functions. It should not be the department that is making a decision whether or not it will fund these important safety and community services and facilities. It is the Cabinet and the Government through Treasury that should be making such decisions on whether a proposal should be supported, for instance, whether wharves and jetties are to be supported and if navigational lights and other aids are to be maintained. If such decisions are made then the money should come from Treasury, through community service obligations.

The money should not come from people trading through the ports, South Australian businesses and importers and exporters, because their responsibility is to get on and trade, to generate funds for this State and they should not have to also subsidise other community activities. But such a desirable approach is not happening at present. The department is simply wiping its hands of these important services and facilities for which it is responsible under the Acts at present. It is critically important for those who are interested in boating in this State and also for tourism in the long term that we upgrade, maintain and establish new facilities all around our coastline.

I note that a lot of work has been undertaken by the South Australian Boating Industry Association in proposing coastal marina developments. I refer to an article in the *Advertiser* of 12 December 1991, where Mr Hay, President of the association, called for safe havens at Wirrina, American River on Kangaroo Island and at destinations on upper and lower eastern Yorke Peninsula. The issue of havens is related to the issue of levies that we addressed last night. Mr Hay's call is equally related to the department undertaking its statutory responsibilities to provide safe conditions for navigation.

In terns of tourism and general boating practice, I also refer to the beacons near the mouth of the Murray River, and indeed down the Coorong. This is an area with which I am familiar. I have enjoyed holidays and weekends in the area for as long as I can remember. Again, the department has statutory responsibility for these beacons, but I do not recall any of the many port and starboard beacons that are located near the Murray mouth and down at the Coorong being relocated, over the past 30 or 35 years, although, as any person who enjoys this area would recognise, on an annual basis the channels change. Those who know and love the area,

such as myself, are familiar with the fact that the beacons are almost irrelevant today for marking safe passage. We do not rely on the beacons, although that should not and would not be the case for newcomers to the area. There will be many newcomers to the area with the further development in the Goolwa—Hindmarsh area, and it is important that the department address this matter of the relevance of beacons as a matter of urgency. The only time one sees a beacon move is when it actually topples over, because no one has bothered to maintain it.

The story is little different in St Vincent Gulf. The port and starboard maintenance lights are also falling over and the ramps are falling apart. Not only are the people who are using the waters in this area receiving no value for their registration fees and other Government charges such as fuel excise fees, but the Department of Marine and Harbors is not exercising its statutory responsibilities. The deterioration in the areas that I have identified and the general lack of care is occurring even though the Boating Act today provides that the Crown is bound. One can justifiably question how much worse the situation would be if the Crown was not bound and if the Department of Marine and Harbors was not held responsible if and when it fails to exercise its statutory responsibilities.

To emphasise this point, I note that under clause 22 of the Bill, which addresses the establishment of navigational aids, it is simply proposed:

> The Minister may establish and maintain such navigational aids as the Minister considers necessary or desirable for the safe navigation of vessels within the jurisdiction.

In my view that provision should read, '...may establish and will maintain such navigational aids'. I believe very strongly that if the Minister has established such aids, as provided for in this clause, he or she has a responsibility to maintain the aids and not simply have this as a discretionary responsibility.

I also address sections 53 and 54 of the Bill, relating to registration of vessels. The application is left to regulation, and I have indicated yesterday and earlier today that, sadly, this is a common practice and an all too frequent practice throughout this whole Bill. In respect of registration of vessels, the provision under 'Application of Division' reads:

> This Division applies to (a) a recreational vessel fitted with an engine of a capacity or power exceeding a limit prescribed by regulation; and (b) a vessel of a class declared by regulation to be a class of vessels to which this Division applies.

So, essentially nobody is any the wiser, after reading this provision, about what type of vessels the Minister will require in future to be registered. I think that is a pity and it should not be the case that everything of substance and importance for boat owners and hirers is outside the ambit of this Act.

I have another concern regarding the registration of vessels, and that is the fact that the Government has made no move as part of the major revision of these three Acts to improve the current procedures for the registration of a boat. During the Estimates Committee last September, a number of questions were asked of the former Minister of Marine (Mr Gregory) about why the Government continues to allow the Department of Marine and Harbors to register non-existent boats. The Hon. Peter Dunn, on behalf of the Liberal Party, cited an instance where a bogus boat was registered in one month and in the following month a claim was made to the department that the boat had been stolen. However, it was soon discovered that the boat had a bogus registration, and that the initial registration and the subsequent claim that it had been stolen were simply perpetrated for the purpose of gaining money through insurance claims.

That is one case that was discovered, and a stop was put to that incident. I have spoken to a number of people in the Recreational Boating Association, and they are increasingly concerned about the theft of boats. They would like something done about what they term lax practices within the department in terms of registering boats. It is fair to ask why the Government does not insist on the identification of boats when they are to be registered and why, for instance, it does not look at establishing the same standards as those required under the Registration of Motor Vehicles Act when registering a car.

Last September, the Minister in the other place indicated that he was aware that this matter was being looked at on a national level. That is a good thing and a most necessary move, but I cannot understand why something is not being done right now in South Australia to improve the integrity of the system of registering boats. Just last week we addressed in this Parliament the issue of wrecked and written off vehicles in relation to professional car theft. This measure has followed many Bills over the past two or three years that dealt with the issue of car theft and changes to the registration of motor vehicles in general in order to tighten up restrictions on bogus entry, fraud and so on. I ask the Minister why the same energy and commitment that has been directed by this Government to the area of motor vehicle theft has not been applied to theft and bogus registration of boats.

The very least that the Government could do at this time would be to establish a boat theft committee similar to the motor vehicle theft committee which has been looking for some time at how to improve problems with the theft of motor vehicles. If the Government applied the same energy to boat theft through a committee, as I suggest, we may make progress in this area.

I raise a number of concerns regarding clause 14 of the Bill, which addresses the vesting of Crown property, and division 4, clause 17, which addresses the care, control and management of property. These clauses, particularly division 4, derive from section 44 of the Harbors Act, which is headed 'Care, control and management of foreshore, etc.' That section is important and provides, in part:

> (1) Subject to subsection (2) and subsection (3) of this section—
>
> (a) the foreshore of the sea;
>
> (b) any water or other reserve, wharf or breakwater situated within any harbor, in the sea, or upon the foreshore of the sea,
>
> shall be under the care, control and management of the Minister.

Subsection (3) provides:

> Notwithstanding the provisions of subsection (1) and subsection (2) of this section, the Governor may, by proclamation, place—
>
> (a) any part of the foreshore of the sea;

or

(b) any water or other reserve, wharf or breakwater situated within any harbor, in the sea, or upon the foreshore of the sea,

under the care, control and management of—

(c) any Minister of the Crown;

(d) a council;

or

(e) the Coast Protection Board.

Over some time, I have received many representations from people in the South-East who are most concerned about the way in which the Government has dealt with section 44 of the Harbors Act when it has come to giving away land in the South-East, particularly along the Coorong, to the National Parks and Wildlife Service.

Subsequently, a number of people have been prosecuted for fishing from the beach because the department claims that it now has claim to everything below the high water mark. So, there have been prosecutions where once one could enjoy fishing on a recreational and amateur basis from the shore on the seaward side of the Coorong.

Many people in the South-East, and people in the Amateur Fishing Association itself, believe widely that the Government has acted illegally in this matter and they cite clause 44 of the legislation. I therefore find it of great concern, when all these challenges and concerns are discussed in the South-East in relation to the Minister and the department giving away the foreshore to the national parks, that conveniently in this new Harbors and Navigation Bill there is no specific reference to the foreshore of the sea being under the care, control and management of the Minister. It is also, perhaps deliberately because of the pending trouble in the South-East, interesting to know that the new Bill in clause 14(3)*(b)* specifically states that the reference to property of the Crown does not apply to 'land that forms part of a reserve under the National Parks and Wildlife Act 1972'. It would appear in respect of the land that I have been talking about that while the Minister may have acted illegally and passed this foreshore land over to the National Parks and Wildlife Department, she has, in this current Bill, almost seemed to be circumventing legal action by making no reference at all to the foreshore of the sea when it cones to care, control and management of property in division 4. Division 1 specifically confirms that land on the foreshore that forms part of a reserve under the National Parks and Wildlife Act 1972 would not be deemed as the property of the Crown that is vested with the Minister of Marine or Minister of Transport Development, as she is now known. I view those aspects of the Bill with great concern.

I want to deal briefly with the Court of Marine Inquiry which is addressed in part 12 of the Bill, clauses 76 to 81. There is no reference in the Bill before us as there is in the Marine Act at present to the powers of the court, and I believe that that is a deficiency in this Bill, although before taking that issue further I would like confirmation from the Minister to determine whether or not the Commonwealth Act provides all the powers for the Court of Marine Inquiry. It is certainly not clear from this clause.

Mr Acting President, I have dealt yesterday and today with a range of general, albeit important, issues arising from this Bill. There are many more that I would like to canvass at some length, but I will not do so. However, before concluding I want to address the administration, development and management of harbors and marine facilities, which is one of the primary focuses of this Bill. According to the Minister in her second reading explanation the maximisation of harbor facilities is seen as critical to the Government's agenda for economic revitalisation of this State and for promoting trade in general. I would certainly endorse those views, that it is critically important that we do get our game together in respect to harbor activities and that we operate a far more competitive and efficient environment in this State to attract business through our port.

At present only about 40 000 containers or TEUs pass through the port annually, and it is known that an excess of 57 000 TEUs are required in any year to break even. The company, Sealand, has been encouraged by various practices, fair or foul, depending on one's own perspective on this issue, to take over the stevedoring activities at Outer Harbor. Certainly, I have objected to the process adopted by the Government in getting rid of Conaust and TOT as the past operators and I have objected and still will object to the amount of money that the Government was prepared to pay out, in secret, in this State to get rid of that operator before its contract was due. But that decision has been made, as much as I deplore the manner in which the Government moved in this matter and I wish Sealand well, both as a company and in the interests of the State, and I hope it proves successful in meeting its new goals for trade through the Port of Adelaide, in particular, Outer Harbor, although, again, the Government has not provided us with the details of any such management plan with Sealand for the management of the port.

The department has, however, been responsible for many reforms that I applaud and they are outlined at some considerable length in the annual report. I will not refer to them on this occasion, but the department has been diligent in seeking to implement a number of reforms that have been taking place across Australia. In fact, I understand that in some areas the union and workforce have agreed to reforms that are more wide ranging than those in other ports, because the employees have realised how critical it is for us to maintain a competitive environment if we are to keep our ports open and they are to maintain their jobs.

There are a number of problems confronting the Department of Marine and Harbors in the management of its ports. The debt is certainly the major problem for the Department of Marine and Harbors and, in turn, for taxpayers generally. I believe that the competitive position, particularly the charging policies, is a difficulty for the Department of Marine and Harbors because of the current way in which it manages some aspects of the port, and perhaps it is better to say the way in which it is confined in seeking to manage some aspects of the port.

In New South Wales there have been some stunning successes in attracting new businesses and in adopting new pricing and fee structures and, in turn, feeding the Government of that State with enormous revenues. I am also concerned about the Government's transport hub concept and the fact that the Department of Marine and

Harbors is to have an integral role in such an arrangement, but that is a subject for another day.

In conclusion, I refer to a number of problems that traders and business in this State are encountering with Government policy with respect to the ports. In particular, I refer to a submission to the Industries Commission inquiry into Port Authority services and activities by South Australian Cooperative Bulk Handling Ltd on 22 July 1992. The submission notes the range of work undertaken by the SACBH both in receiving grain direct from growers and in coordinating the loading of grain for export shipment to market specification. On page 2 of the submission it states:

> However, because of the interposition of the Department of Marine and Harbors (DMH) in the ship loading process between the SACBH port terminal storage facilities and the actual ship loading operation SACBH does not have exclusive control over the export loading of vessels. The DMH owns and operates the shiploading belts which link the SACBH export shipping terminal to the shiploading.

It refers to the interface between SACBH and the Department of Marine and Harbors, and says:

> The DMH is the port and marine authority in South Australia and is responsible for the management of ports, the maintenance of marine safety and the provision of marine port community services in South Australia.
>
> SACBH considers that DMH does not have a role in the handling of grain and considers that the direct involvement of DMH in this activity reduces the efficiency and competitive advantage of export of grain.
>
> SACBH believes that DMH has a valid role in the provision of port and maritime services.

It describes the interface between the two organisations as follows:

> The first of these is through SACBH occupancy and use of land secured on leasehold from DMH for the construction and operation of SACBH port grain storage and handling facilities at Port Adelaide, Ardrossan, Port Pirie, Port Lincoln and Thevenard.
>
> Negotiations are currently under way between DMH and SACBH for SACBH to obtain freehold title over such land currently being leased by the company. The objective of SACBH in seeking to secure freehold title to such land is to ensure that the company's very substantial investments (over $900 million replacement value) in these facilities are properly protected and secured in the interests of the grain growers of South Australia. The securing of such freehold title will also enable SACBH, should it so need in the future, to use its existing investments as collateral for borrowings to enhance its future operations. DMH has to date been positive in responding to the SACBH requests for freehold title to the land occupied by SACBH. However, it is anticipated that due to the location of the SACBH facilities at some sites freehold title may be difficult to secure.

Further in the submission, the SACBH reflects on the fact that this freehold title may be difficult to secure, not only because of the location of such facilities but also because of Government policy. The submission further states:

> The second area of interface between SACBH and DMH is in the operation of the actual ship loading plants.

This is most important for all members to note:

> South Australia is unique in Australia in having the port authority, DMH, responsible for the ownership and operation of the final ship loading plant, that is, the conveyor link between the grain storage and handling facility owned and operated by SACBH and the actual ship. In all other States in Australia this final grain loading linkage is owned and operated as an integral part of the grain storage and handling system by the grain bulk handling organisation in the respective States.

This is an important submission, because it goes on to identify a number of areas where there could be considerable savings for grain producers in this State by reducing unnecessary duplication of both labour and management resources, and in the inefficient use of labour at various ship loading plants around the State. It also looks at the operational inefficiencies in relation to the plant maintenance activities and argues that action should be taken now to redress these inefficiencies so that grain growers would be the beneficiaries of such reforms. Of course, if grain growers are prospering, all of us in this State are prospering, and certainly the Government generates more funds for a whole range of social activities that are deemed to be desirable from time to time.

So, it seems that other than the restriction of Government policy, many of the matters identified by South Australian Cooperative Bulk Handling Ltd in its submission to the Industries Commission could be addressed now, and could have been addressed many months ago if the Government had the will. It is important that the Government does have the will to undertake such reforms because our future in this State depends on business thriving, whether that be manufacturing or in the private sector. In this State we must look to see how we can encourage business to prosper.

There does not seem to me to be a great deal in this Act that will necessarily maximise that goal, although I concede that the Government has been responsible for getting rid of many archaic provisions in current legislation. I reiterate that, in the Government's zeal for deregulation, it has gone overboard, and it is inappropriate in my view that so much of the important matter that arises from this Bill is left to regulation, and that we have not seen those regulations to date. The Government should, as a matter of urgency in respect of the debate on this Bill, release the GME subcommittee report on the Department of Marine and Harbors, as it chose to release last year or late the year before the GME subcommittee report on the SGIC.

I support the second reading but it is important, I believe, that we do not proceed further with the debate until the Government has provided us with the critical information relevant to this Bill.

The Hon. K.T. GRIFFIN: I seek to do no more than to add weight to the call by my colleague the Hon. Diana Laidlaw for the draft regulations to be made available before we deal with the substance of this Bill. If one thumbs through the Bill, one sees that there are numerous places where matters are to be attended to by regulation. Some of them may be quite appropriate, but others are not. One of the concerns I have expressed on many occasions is that in some areas Government relies too heavily upon making the law, substantive law at that, by regulation rather than focusing upon the Bill which should contain the substantive law and be the subject of debate in both Houses of Parliament.

I think that sometimes those who give the instructions for legislation in Government departments have some idea as to what they want, give the instructions in very broad terms, and pad it out at a later stage when they come to sit down and work through the regulations. I think the desirable course is for legislation to contain the bulk of a regulatory scheme and for only administrative matters to be dealt with in regulations, and that has been the traditional way in which regulations have been viewed.

However, it has not always been the way in which Governments have approached particular legislative matters. One can think of the Fishing Act, for example, where schemes of management and a whole range of issues are dealt with by regulation, including the imposition of quite hefty penalties. I am pleased to see that in respect of this particular Bill the maximum penalty that can be imposed is a division 6 fine, which is as I recollect a maximum fine of $4 000. I think probably even that is somewhat high for what should be essentially matters of an administrative nature.

There is legislation which this Government has put before us and where we have made the criticism that imprisonment has been provided for in the regulations. The Controlled Substances Act, for example, is a notorious example where the level at which penalties are imposed is determined by regulation. That determination is made in accordance with the quantity of a prohibited substance which might be in a person's possession or which might be grown or produced, and that determines whether there is a hefty penalty or a somewhat lighter penalty. I do not believe that regulations ought to be used for that purpose.

The community is entitled to know, and to have confidence in the fact, that those issues of substance are dealt with in the Acts which are considered by both Houses of Parliament, and purely mechanical or administrative matters dealt with by the regulations.

In the interpretation clause of this Bill there are numerous areas where regulations will determine, for example, what is a commercial vessel, who is to be a person acting in a position of responsibility and what is to be an expiable offence. As I understood the amendments to the expiation of offences legislation that we made last year the focus was on providing in the Acts of Parliament those offences which were to be expiable so that we knew what we were dealing with rather than leaving expiation offences to regulation. So I am disappointed to see that in clause 4.

The definition of 'harbor' depends upon the harbors mentioned in schedule 1, unless declared by regulation not to be a harbor. We have the definition of 'jurisdiction' as:

> any other navigable waters declared by regulation to be within the jurisdiction.

The Hon. Diana Laidlaw interjecting:

The Hon. K.T. GRIFFIN: The earlier part, as my colleague the Hon. Diana Laidlaw notes, is as follows:

> "jurisdiction" means—
>
> the State (and, in particular, the navigable waters within its limits);
>
> so much of the territorial sea of Australia as is adjacent to the State;
>
> and
>
> any other navigable waters declared by regulation to be within the jurisdiction, and does not include navigable waters declared by regulation not to be within the jurisdiction.

So, they have got a bob each way, but the jurisdictional issue is the very essence of the application of this legislation, and it appals me that we will have the jurisdiction defined by regulation.

Members interjecting:

The Hon. K.T. GRIFFIN: I think it is wrong in principle to deal with issues like the jurisdiction in regulations. The Bill provides:

> "key position", in relation to the crew of a vessel, means—
>
> (a) the position of master or operator of the vessel; or
>
> (b) a position of a class declared by regulation to be one in relation to which a certificate of competency is required.

That tells us nothing but it does seek again to define other issues akin to jurisdictional matters by reference to regulation. The definitions continue as follows:

> "recreational vessel" means a vessel used for purposes that are not solely industrial, commercial or scientific purposes and includes a vessel of a class declared by regulation to be a class of recreational vessels.

Then if one looks at the definition of vessel one sees that it says:

> "vessel" means—
>
> (a) a ship, boat or vessel used in navigation;
>
> (b) an air-cushion vehicle, or other similar craft, used wholly or primarily in transporting passengers or goods by water;
>
> (c) a device such as a surf board (including a wind surf board) or water skis—on which a person rides through water or is supported in water;
>
> or
>
> (d) a structure that is designed to float in water and is used for commercial, industrial or scientific purposes.

One should note the words 'such as' in paragraph (c). So, are we to have wind surfers, skimmer boards, boogie boards, or a whole range of other devices declared by regulation to be vessels, and thus subject to the regulatory regime of this legislation? Even for the purpose of the Act the length of a vessel is to be determined in accordance with the regulations.

If one thumbs through the Bill one sees that there are many other areas. Let us look at clause 14, relating to the property of the Crown. It provides that this section does not apply after seeking to define the property vested in the Minister. This section does not apply to certain property and real or personal property excluded by regulations from the ambit of this section.

I would have thought that we should know what property is to be property of the Crown, particularly, as my colleague, the Hon. Diana Laidlaw, has said, this Bill does not bind the Crown; and that is relevant in relation to the property of the Crown as well.

Even restricted areas in clause 26 are determined by regulation. Fees and charges are not to be fixed by regulation where they can be subject to disallowance—worse in clause 30 they are to be fixed by the Minister. Maybe in some instances that is not unreasonable, but in others one could see that certain charges ought to be the subject of scrutiny by the Parliament.

I refer to the licensing of pilots in clause 32 and the pilotage exemption certificate. The CEO may issue a

pilotage exemption certificate to the master of a vessel in accordance with the regulations. It may be that that is not so bad, but at least we ought to have some idea as to what sort of issues the Government is proposing to encompass within those regulations.

There is the obligation to have an adequate crew in clause 37 and the exemptions clause, clause 38. So, we go on and on. Clause 45 deals with certificates of competency, and part 7 applies to a recreational vessel fitted with an engine of a capacity or power exceeding a limit prescribed by regulation, and a vessel (other than a recreational vessel) of a class declared by regulation to be a class of vessels to which this part applies.

The Hon. Diana Laidlaw: What does that mean?

The Hon. K.T. GRIFFIN: You have got to go back to the definition of 'recreational vessel' because 'recreational vessel' includes:

> A vessel of a class declared by regulation to be a class of recreational vessels.

So, one must refer backwards and forwards, and that is not satisfactory where one is looking at all the territorial waters of South Australia and dealing with thousands and thousands of vessels or devices, some used for commerce, some for industry and many thousands for pleasure, all of whose owners and users are entitled to a very clear indication as to what the Government proposes in respect of the law. I can go on identifying those areas where regulations are to be available. I do not intend to do that but to draw attention again to clause 90, which identifies in some 32 different categories the areas where regulations may be made. I suspect that it is one of the most comprehensive areas, apart from local government, where regulations are made.

I now want to refer briefly to two other matters. The first is an issue to which my colleague the Hon. Ms Laidlaw has already referred and which relates to the Court of Marine Inquiry. I hope that the Minister will give some further details as to what the powers of that court may be. They ought to be set out quite clearly for someone who is reading the legislation so that he or she does not need to go back and look at the Commonwealth legislation or at any other legislation that might address the powers and scope of the jurisdiction of the Court of Marine Inquiry.

The other issue is clause 75, which requires assistance to be rendered. During the Committee stage, if we reach that, I should like to explore through questions the scope of clause 75 although, hopefully, the Minister can give some explanation in her reply as to the scope of the liability upon a person, particularly in light of the penalty that is imposed. As my colleague the Hon. Ms Laidlaw has said, we believe very strongly that, before we can give any consideration to the detailed provisions of the Bill during the Committee stage, draft regulations ought to be available for scrutiny, because of the comprehensive nature of the regulations that are obviously envisaged in this legislation.

My support for my colleague's call is very wholehearted, and I support her in endeavouring to establish the principle to which we have already referred on many previous occasions, that the substantive areas of the law ought to be made by Act of Parliament and not by regulation.

The Hon. M.J. ELLIOTT: I rise to support the Bill. The legislation itself, from talks I have had with most interested parties, has not really produced significant controversy, and all the Bill is doing, essentially, is repealing three Acts: the Harbors Act, the Marine Act and the Boating Act. It then replaces them with the new Act and, as such, is not breaking new ground. It has been alluded to by several of the Liberal Party speakers that if there is to be contention much of it will come by way of regulations. My experience over the past seven years in relation to the Acts that this Bill plans to replace has been that from time to time there has been some contention and we have had debate in this place in relation to some regulations.

However, I have not had any particular concerns raised with me about the previous legislation, nor am I having concerns raised about this legislation—with one exception. I believe that this matter will be addressed by the Government by way of amendment but, nevertheless, I put on record the matter that has been raised with me. SAFIC and the recreational boating industry have proposed the establishment of a management committee with a finance focus. It would look at assets and expenditure and, hopefully, also would be involved in the setting of fees.

The professional and recreational fishers would be represented on this. It comes from the concern that the drive for the department to be cost neutral (from a position of being broke) will see fees increase for fishing to subsidise freight activities. What they are looking for is a committee overseeing what happens to their fees. I understand, as I say, that the Government will be addressing that matter by way of amendments. If it does not do so, I will pick up the matter myself, although that does not appear to be necessary at this stage.

I raise another matter, which the legislation does not address but which causes me concern. I have become aware of it through my role on the Environment, Resources and Development Committee. We have recently been looking at some difficulties being experienced at Port MacDonnell, and that raises some issues to which I would ask the Minister to respond at the end of the second reading stage. The Bill does not address the lack of communication between the harbors administration and the Fisheries Department. Of course, that will now be the Department of Primary Industry.

This lack of communication has led in the past to situations where decisions made purely from a harbors administration viewpoint have been or have had the potential to be detrimental to sectors of the fishing industry. If I might look at Port MacDonnell as an example, we have there an efficient and viable local fishing industry. That industry and the town can be put under threat by decisions of another department, in this case, the Department of Marine and Harbors.

If the Department of Marine and Harbors decides that the port has too many problems and that it really cannot afford to fix up the sand problems or to put in lifting equipment, etc, for the boats, it may decide that the port should be abandoned. It may not necessarily decide to do that up front: it might simply wind the port back by degrees. Closing the slipway may be the best thing from an economic perspective for the harbor administrators, but is it the best thing for the fishing industry?

Is it the best thing for the regional economy? Whilst it might have certain cost savings in terms of relocating the boats from Port MacDonnell to other ports, it raises the question of how much will it then cost the fishermen if they continue to work their traditional fishing grounds. How much more fuel will they use and, at the end of the day, will it actually be more expensive and lead to a less efficient working of the fishery?

The problem we have here is a lack of communication between the Fisheries Department, which looks after the fishing industry generally, and the department that is looking after harbors. Decision making should not be discrete. There needs to be a cross-pollination of ideas and a consideration of the impact of a decision beyond the immediate portfolio area. Although at this stage I have not had an amendment drafted, I have considered the need for perhaps another committee with a policy focus to ensure that this communication occurs. This would need representation from the industry, possibly also from the recreational fishermen and from the two departments involved, the Department of Primary Industry and the Department of Road Transport, which is in charge of harbors.

It could be something like a fisheries development authority, to look at where the industry is going and the impact of its decisions on the wider community. All I am doing at this stage is floating the notion, and certainly I would seek from the Minister some response on whether or not she acknowledges that there is a potential problem here and whether or not she sees some way that it might be addressed. During the second reading debate the Liberal Party members raised some smaller issues in relation to the legislation and I think it is best that I leave those until the Committee stage. I have some sympathy for their concern about the need to have regulations available for us before the passage of the legislation. That has happened in some other instances.

The Hon. Diana Laidlaw: It has in relation to the firearms Bill.

The Hon. M.J. ELLIOTT: It looks likely that even with the development Bill the regulations are being drafted concurrently with the legislation, although we have yet to see the final form of either. It does not seem to be an unreasonable thing to ask for. I do not see that there is any special haste for this legislation. After all, the legislation cannot become operable until the regulations are in place. So I seek the Minister's response in the first instance on when she expects the regulations to be prepared, and when she expects that the legislation itself, with the regulations, will be operable, and also on why she believes that the legislation cannot wait, at least towards the end of the Committee stage, until the regulations can be sighted by members of this Council, before proceeding to the third reading. Nevertheless, the legislation in general terms is not contentious and the Democrats support it.

The Hon. PETER DUNN secured the adjournment of the debate.

FIREARMS (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 16 February. Page 1236.)

The Hon. PETER DUNN: In speaking to the Bill I want to put forward some ideas of my own and also some points that people who have firearms wish me to put forward. First, I declare my interest. I do have some rifles and a shotgun, and that is purely from the business that I was in beforehand, namely, primary production. Therefore, I speak not as one who is madly fond of guns but as one who knows that they are a necessary part of life in some parts of the community. They are like motor cars: they will never be taken away and therefore we must be aware that it is from that position that this legislation is coming in. The Government has played around with this legislation, trying to get it right. Its intention was honourable but I do not think it has got it right.

This measure reflects what occurred in several very nasty instances in the Eastern States, where deranged people were in possession of fully automatic guns and slaughtered a number of people. The public reaction was as expected and, in response to that, the Ministers of all the States got together and came to the conclusion that they had to show the public that they were making an effort to stop this wanton slaughter caused by people using these powerful guns.

The legislation that we have come up with is not the best. I think it is very restrictive. I do not think it will work. If we do not have legislation which is clear and simple and which ordinary people can understand it will be abused and it will not have the effect that we as legislators want it to have. I note from an article in today's paper that Victoria is now proposing to raise the speed limit from 100 km/h to 110 km/h. This related originally to the response to the black spots program, whereby the Federal Minister hijacked the States and said that he would give the States some money if they lowered the speed limit to 100 km/h and if they spent the money under certain conditions. Most of the States reduced their speed limits to 100 km/h. But what happened was that people still kept driving at 110 km/h. In South Australia, for instance, one is not supposed to drive over 100 km/h—

The Hon. Anne Levy: Unless it is signposted.

The Hon. PETER DUNN: Right. If it is signposted at 110, such as the main highways are, that is fine, but every road that runs off such a highway should have a signpost on it. I can tell members that everybody drives at 110, whether they are on those roads or off them, if it is a good road and it is clear. That is bad legislation and silly legislation.

The Hon. Anne Levy: I don't drive at 110 when the limit is 100.

The Hon. PETER DUNN: No, because you are driven around in a white car. That is why you don't drive at 110. That is fairly obvious to anyone in this Chamber.

The Hon. Anne Levy: I do a lot of driving myself.

The Hon. PETER DUNN: Do you?

The Hon. Anne Levy: Of course I do—don't be silly.

The PRESIDENT: Order!

The Hon. PETER DUNN: The fact is that they have just increased the speed limit, and rightly so, for Port Road and Anzac Highway and such places to 70km/h because most people were breaking the speed limit. We do have to reflect what the public is requesting. In my opinion, this Bill goes the other way. It puts in restrictions that will never be able to be policed. The Police Department, which will have to administer it, will not be able to police it. Is anyone going to tell me that a policeman will be able to go to every house in South Australia and check up whether the gun is locked in a cupboard and whether the ammunition is locked away somewhere else separate from the gun? Will a policeman go to every shed and check whether rifles are locked in a safe place? I can tell members that I keep my rifles up in my bedroom. Are they going to come into my bedroom, looking under the bed to check whether the rifles are hidden away?

The Hon. T. Crothers: That would be a bit of a worry!

The Hon. PETER DUNN: It would be a worry, checking under my bed; you never know what you would find there. But as members would know, out in the station country, and particularly in relation to the larger farms, the utility usually has a rifle in the back or in the side, or somewhere. You might have that red Holden ute with the mag wheels because you have a lot of dogs, and you have to have a gun in the back, because there are genuine occasions, and I have had to do it myself, when you have to destroy stock, whether it be older stock or an animal that has broken a leg or that has become bogged, or whatever. However, on odd occasions one does have to use a rifle or a gun of some sort in order to be humane and to dispose of animals, and that is the most humane way of doing it.

Another reason for having them in those conditions is to destroy vermin, particularly rabbits. However, under this legislation, I am not sure that you would be able to carry a gun in your ute, leave it there and have it ready for when you want it, because it would have to be locked away and the ammunition would have to be separated from it. So it appears as though the Government seeks to apply a restriction that will not be observed. That, to me, is quite silly. I know there is enormous pressure from the city, in particular, to have a restriction on guns, but I have lived most of my life in the country and I believe there is a necessity to be reasonable about what happens with guns. I am not too sure of the current statistics, but I know that there is a lot of homicide and suicide in this State and that rifles are tended to be used, but if people want to commit suicide I suspect that they will take an overdose of sleeping tablets or use some other method. In the case of homicide, if they become that agitated they will use a knife or a bludgeon or something else.

An honourable member interjecting:

The Hon. PETER DUNN: What the honourable member says is right. If you can hold up the incident it may not happen. I am the first to agree with that, but we are very little different from the rest of the world. We do not have more people who use guns to destroy themselves or other people than any other part of the world.

The Hon. T.G. Roberts: We have a high rate of suicide.

The Hon. PETER DUNN: Yes, we have a high rate of suicide, but it is not all by using firearms. So, I do not think there is a great necessity to change this legislation. It is fairly obvious. We started playing with this legislation in 1988, and we still have not proclaimed the Bill. So, now we have a rather large Bill before the Council to try to correct the situation. I think the Bill contains two or three bad things, but the worst problem is that it will bring the Parliament into contempt, because a policeman cannot be on Commonwealth Hill or Mungerannie Station checking on everyone's rifle. They will not do it. The police up there understand that it is part and parcel of the tools and equipment required by people to operate their business.

The Hon. R.J. Ritson: It is really a work creation scheme.

The Hon. PETER DUNN: It could almost correct the whole of the unemployment situation. If you wanted to carry this legislation out to its fullest degree, you would need so many people that you would be able to correct unemployment in this State. To start with, the department does not seem to have records of about 3 000 firearms in this State—they appear to be lost. I do not blame anyone for that; that could happen anywhere. But I understand that 2 000 or 3 000 rifles are not accounted for. I suspect that the next thing will be a moratorium where you can register your gun. When this legislation comes in, people will not accept a moratorium. They will stick their guns away and say, 'Who knows?', and if they are checked up on they will say, 'I had it before the legislation came into effect, so you didn't have any record of it.' There will be plenty of guns to be hired or pinched by the villains, if that is what this legislation is trying to fix.

The Hon. T.G. Roberts: Name the villain.

The Hon. PETER DUNN: Yes, I suspect that that is what the legislation is trying to do: to stop access by the villain to firearms. I do not believe that that can be achieved. History says that if someone wants a gun they will get it. If they cannot get one, they will make one. Anyone can make a shotgun out of a piece of three-quarter water pipe. That would not be difficult; it would be very easy to make. Ordinary water pipe can be used. If people want to make hand guns, they will make them out of shotguns—and they are the dangerous things. They can make pistols or hand guns out of .22s by sawing the barrel off. There are a million ways in which people can access guns if they want them or they can have them made. As a farmer said to me a couple of weeks ago, 'If you gave me two days, I could make you a very accurate rifle.' I have no doubt that that could be done. So, the legislation will not preclude the deranged person—I guess that villains use guns, but it is the mentally unstable person who worries me—from getting a rifle.

Guns are considered to he undesirable for the general public to have, otherwise we would not have the reverse onus of proof that is to be found in this legislation. It is quite clear that this legislation contains a reverse onus of proof. One must prove that one needs a gun and has a use for it rather than saying, 'I've got it; you prove that I'm doing something wrong with it.' That reverse onus

of proof always implies to me that the Government thinks it knows better than the people and therefore it considers that people should not have something.

Under this Bill, the Minister or his committee will have quite strong powers. He will be able to determine what is a firearms club and whether it can be established. It might just be a social arm of a firearms club. After the war, rifle shooting was a very popular sport. We used to use the Lee-Enfield .303 rifle. It was considered to be a great afternoon's sport, and when you lived a few miles out of town and transport was not as easy as it is today—

The Hon. R.J. Ritson: We had a parliamentary team.

The Hon. PETER DUNN: In fact, we did. One only has to walk down the corridors of Parliament House to see photographs of teams. When I was receiving tertiary education at Roseworthy college I represented the college in one such team. I am not a very good shot but I did that. It was a common occurrence. I remember being at secondary school in Adelaide where I was a cadet and we were taught how to handle a rifle, how to fire a .22 target gun. All those things were part and parcel of what was accepted as normal activities for the public in those days. I can still recall walking up and down Rundle Street with a .303 rifle without the bolt, because they used to take the bolt away so that we could not get into mischief. There is nothing wrong with that but we had to hump this rifle around and, if we were on our way to the Dean Range for a day's firing, that was the normal procedure. They used to put us in the dog box (a semi-trailer) and cart us down there. We all had our .303 rifles without bolts in them. They were issued to us when we got to the range.

What I am trying to demonstrate is that it is not many years ago when it was an accepted practice. It was a normal public sport. Everyone had to do it. Therefore, there was education, and I will come to that later. Today, when we read this legislation, the only conclusion I can come to is that the Parliament is saying, 'It's not good for you. It's terrible. You shouldn't be able to do it, but the Minister is the be-all and end-all and the know-all in this situation. He'll determine whether or not you can have a gun.' So, we are taking away one of the freedoms that the normal citizen in this country used to have and we are giving power to the Minister or to his delegated committee or person. He has the right to determine what a firearms club is and whether it can have a social club attached to it, I presume, or he can determine what a paint ball operator is or the definition of a firearm. They are very strong powers that it is proposed to give the Minister. If we gave the Minister the right to determine what a motor car or a house was, I am sure that would be objected to very strongly by the public. He has the right to determine the definition of a hand gun. I assume that an amendment will be forthcoming on the definition of a hand gun because it is not correct in the Bill. I have quite a lot of evidence which I will read into *Hansard* shortly about the way in which a hand gun should be defined. The Minister can also define air rifles and so it goes on.

Another thing that worries me more than anything is the administration of this Act. The police, who are under great pressure at the moment, will be the administrative arm for this Act. It is my opinion that they are strained to the limit at the moment trying to handle runaway boys and high speed cars. That is just one of the things. I noticed today there is in Rundle Mall the police showing a rather battered Holden motor car which was a police car and that car is there with a sign on it saying, I think, that 'Police spend a quarter of a million dollars in deliberate acts that have been committed by the public against their motor vehicles.' I noticed also that they were having a bit of a public relations exercise in Hindmarsh Square.

I think the police do a marvellous job in this community and this is something I do not think they look forward to because it is another don't—don't do this. If you get a licence or register a gun you have to declare your heart and soul to them, and the public do not like that. It is like the police using radar guns and so on; they do not really like that much. The booze bus out on the road is not the most pleasant job, and this is another one where the public get a bit angry when they are being told what they can and cannot do. I am not sure that the police will be all that happy with the increase in duties that they will be obliged to perform when the Act is proclaimed. As I pointed out earlier, they cannot find about 3 000 firearms.

The Hon. T.G. Roberts: They are all under your bed.

The Hon. PETER DUNN: One to you. Who will check on all of these restrictions that are in this Bill? Will it be the local policeman? If so, he will be most unhappy about that, because when you are in the country the policeman is your friend. What he does is make sure that things are right. If people come in and disrupt the community he makes sure that those people are told that that is perhaps not the practice in the area and he is there as a figurehead. Part of his job is to look after young people, to check them for driving tests and so on—public relations exercises. When something does go wrong, such as a big fire or some other disaster, they are a very important part of the community. If a policeman in the community is not well liked it is very difficult.

I do not think police will appreciate having to check up on everybody, and that is what appears to me to be provided by this Bill. They will have to check our homes to see whether rifles are locked in the cupboard or shed. They will have to check whether the magazine on your rifle—if you have a centrefire rifle—holds only five bullets. You know, pernickety things, just plain pernickety, nothing more than pernickety. Just stupid little things. I worry that it will just put the police in a frame of mind where they cannot be bothered, and the legislation will become a farce.

If we pass this legislation, what is the cure? I think the legislation could be broader and the money that will be used to put into administration by the Police Force ought to go into education. Before you get a licence for a firearm, you should have to go to a TAFE college, as you do with a driver's licence, and go through a proper course, but that does not happen today. As I pointed out, we do not have cadets at school, with people shouldering arms and learning how to fire a gun properly and safely. Some basic safety rules must be followed and, if people are aware of them, they do not have much trouble. Gun clubs today, whether they are skeet shooting or whatever, have some strict rules about the safety of guns.

One sees very few accidents under that control. I am suggesting that if those safety rules are taught under a structured scheme, and TAFE is an ideal place to do it because we have TAFE colleges from Coober Pedy to Mount Gambier, and a person passes a reasonable standard, he ought to be able legitimately to obtain a licence and a permit to acquire a rifle. We should not be legislating to the degree that this Bill does. As I pointed out previously, it is ticklish and picky—all those things that just make people cross when they see the legislation. Not only that, but I have not yet seen the regulations. I suspect that they are being made on the run, and, like most things that are made on the run, they will have some faults in them. The restrictions will become even more severe under the regulations.

Some people have grave concerns about those matters. I am not just putting my point of view: many people have an opinion about that. Perhaps if I read one or two portions of letters into the *Hansard,* it will demonstrate that many people in the community think that some of this is not good legislation. I will start by reading a letter from T.W.C Angove of Renmark, who states, quite correctly:

> Firearms being inanimate objects are unable to act independently of an animate operator and an operator with any sort of firearm can cause it to perform its function. The animate operator being a unique personality with a will and an intention individually peculiar for a purpose can and will achieve that purpose regardless of laws and regulations, paying regard to them only as a reflection of their fatuousness.

It is a lovely set of words, but what he is saying is that the gun cannot do anything on its own. His argument would be that the dangerous part of this legislation is not the gun but the person who handles it. Mr Angove thinks it is the person, and he is quite right. It is not the gun but the brain or attitude on the end of the trigger that matters.

I will read significant portions from a letter written by Raymond Dennis, a person I know very well, the local dentist in Cleve, from whom many of us could take an example. He has a small company called Lightforce that makes spotlights. He has been so successful in this company that he now has either eight or 11 people working for him making these spotlights. When the war broke out in Iran, he had an order for $150 000 worth of these lights to go to America because they have proven to be the best and most efficient light. They are very lightweight, but they produce an excellent light. They are available in shops Australia-wide. He also runs a gun shop, so he understands what he is talking about. Dr Dennis may be coming from a biased point of view, but it is important that we have this in the record. The letter reads:

> The overriding concern with this Act is its attempt to restrict the accidental and criminal misuse of firearms and accessories within the Australian community via the control of hardware procurement, rather than providing adequate user education and imposing severe penalties for deviates shown to be criminally negligent.

I have said that in the past. He goes on to say:

> No logical person can ever expect to remove offending hardware from the true criminals by legislating tighter ownership and registration laws.

How true that is, as I have pointed out. If they cannot buy them, they will make them. The letter continues:

> The analogy I often use is in comparing the common abuse juveniles in our community who indulge in motor vehicle theft and subsequent highly dangerous 'chase' scenarios. One might ask, 'Do we ban all high performance motor vehicles due to the abuse of a small but ever present percentage of juvenile delinquents?'

That is a good question to answer. He is applying the same logic to the owning of rifles. With respect to the registration of firearms, he states:

> (a) An economic and logistic burden on our Police Force which statistics from other countries have conclusively shown never to aptly assist in solving armed crimes or misuse.
>
> (b) The purported loss of over 3 000 files from the police computer highlights the present inadequacies of the registration procedure!

That backs up what I was saying about the difficulty in administering this law. He further refers to the education process at some length as follows:

> (d) Funds accumulated from the issue of firearms licences should be allocated to education programs specific to firearms use and responsible ownership.

That is quite reasonable. He spends some time on silencers. I have not addressed this in my preamble, but it is interesting to hear what Dr Dennis says. He states:

> (a) Illogical that a device intended to aid in hearing protection and minimising environmental noise impact should be deemed illegal! There are over 10 000 silencers in S.A., the vast majority used responsibly. A whole class of 'criminals' will immediately be classified under the Act.

That is correct. What will you do with them? Will they be collected by the police or whomever and all put away? I suspect not. If you know what a silencer looks like and how it attaches to a rifle, you would realise it could be put away and many people would not know what it was. On its own, I suspect that eight out of 10 people would not know what it was. He ponders the question:

> Don't the politicians know:
>
> (a) Air rifles in the metropolitan are just as quiet and effective killers of suburbia's 'pets' by irresponsible people as silenced .22 rimfires?
>
> (b) The purchase of certain types of .22 ammunition allow the silent operation of rimfires without the use of a silencer.

He is referring to low charged rim fire 22 ammunition, which is quite silent but very effective at killing the neighbour's cat or dog. He goes on to say:

> (c) Most hold-ups are with sawn off rifles, shot guns and pistols unsilenced!
>
> (d) Professional criminals and hit men will never be prevented from acquiring silencers as they are so simple to manufacture.
>
> (e) Illegalisation of the accessory will only penalise the majority of law abiding firearms users and have no impact whatsoever on the true culprits.

I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

[Sitting suspended from 6 to 7.45 p.m.]

The Hon. PETER DUNN: Before the dinner adjournment I referred to Dr Ray Dennis. He goes on to talk about the shot magazine capacity, and says:

This is an absolute farce and no logical reason can explain the rationale for this amendment.

(a) If this is intended to stop the 'maniacal' from laying a field of fire with 30 round capacity magazines who is trying to kid who?

(b) If hypothetically all magazines greater than five rounds were controlled, has anybody ever thought how long it takes a competent rifleman to change a five shot magazine? (Less than three seconds.)

(c) Imagine the bureaucracy required to control the legislation of this law! horrifying!

Are all authorised by permit greater than five shot magazines going to be serialised? If not how are they going to be controlled? If they are, who is going to pay for this administrative nightmare which will never prevent a maniac from letting loose?! While ministerial approval for exemption, etc. can be gained for varying reasons I question why we are bothering to get bogged down in such a meaningless measure.

Dr Dennis goes on to verify the position that I have been putting, namely, the problem that it will cause police. He says:

My pity for our worthy Police Force who are relegated the impossible task of policing these irrational Acts. How frustrated they must be!

Mr Dennis mentions a number of other facts in his letter, but that is the relevant information that he wishes to be made known to the public.

I have a letter from a Mr S. Sotos of Whyalla, who makes a couple of points that are worth relating regarding the ability to be able to complain or to have recourse if, for instance, a magistrate makes a mistake. Mr Sotos says:

Persons aggrieved of a decision by the registrar have no recourse to a magistrate and the Minister is adamant that he will not reconsider this matter.

I made a mistake previously. It is the Registrar. If he makes a mistake there is no recourse in the legislation. Mr Sotos goes on:

Persons who have completed a TAFE course under the legislation, which covers both practical and theoretical knowledge of firearms, will not, I understand, be permitted to use a firearm other than a particular firearm presumably identified on the licence. I have no quarrel with the TAFE course, but think it illogical to restrict the licence holder to a particular firearm rather than a class of firearm.

Mr Sotos goes on to say that when one gets a driver's licence it does not restrict a person to a particular vehicle, and that is correct. Once one learns the safety rules and regulations for handling firearms, there is no reason why that should not apply to most hand guns and firearms, perhaps other than the very sophisticated army type gun. He says:

The permit to purchase system will prove to be a bureaucratic nightmare which will remove many police and police staff from more productive duties. The only people who will obey this legislation will be the law-abiding.

Once again, that backs up the problem that I see when it comes to the administration and policing of it. I have a letter from the Firearms Safety Foundation, signed by Michael Papps. Many members will remember that Michael Papps was an Olympic pistol shooter. He makes a number of points regarding the sections within the Bill. The Bill requires that ammunition be stored in a sealed metal container. Regarding the storage of ammunition, under section 28 of the draft regulations, Michael Papps says:

The requirement to store ammunition, primers and propellant in a locked container is likely to cause problems unless the containers are carefully described. It is well documented that confinement of such articles in steel, airtight containers has resulted in significant accidental explosions with devastating results. The proposed circumstances will also be present during the conveyance of the above items in motor vehicles to and from firing ranges, etc.

And he is right. The other factor is that a number of people load their own ammunition at home. They have the necessary equipment to do that and they will have to carry the shot, primers and powder under such conditions. If they happen to carry it in an airtight container that can be the result.

The Bill contains some unusual provisions. First, it defines an air gun and an air rifle, and then defines a firearm for the paint ball operation. The definitions are accurate, but we cannot really determine for what reason.

Another important thing is that clause 6 amends section 12 of the principal Act to provide that the dangerous firearm will be used for a purpose authorised by the regulations. I am not sure what one does when one purchases a rifle: whether one has to put down that it is for the destruction of vermin and whether one has to name the vermin.

An honourable member: Two-legged ones.

The Hon. PETER DUNN: Think about it: that is true. One may have to put names to them all. I do not know whether one has to say that one will shoot at jam tins with it or for what purpose. Guns are guns and are used for a multitude of things: target practice, destroying vermin, sporting activities, scaring off birds and a number of other reasons. To have to name the purpose for which one wants to use a gun seems to be a little farcical.

One of the other descriptions in the Bill is the length of the barrel for a pistol, and it states that a pistol means a firearm of any length of barrel. A pistol is a handgun by nature and that is generally accepted as the description of it, and, if you have ever tried to put a 24 inch barrelled .22 in your holster, you have got a bit of a problem, and I think that the length of the barrel ought to be described. I understand there is an amendment for that to come into place.

Another problem I have with the Bill is that the Crown is not bound. Does that mean that every policeman can carry a pistol and its number is not recorded? Does it mean that they can have a pistol by just going and getting it, and that they can have as big a magazine as they want on it, or for that matter any person in a park—

The Hon. Anne Levy interjecting:

The Hon. PETER DUNN: It might be, but what about the people who work in the national parks; how are they controlled?

The Hon. Diana Laidlaw: What about the Transit Squad?

The Hon. PETER DUNN: Exactly. I think that it is silly not to have the Crown bound by some of these rules, and for specific purposes they can exclude themselves just as everybody else has to, by regulation or by signing a statutory declaration that they want a firearm for a specific reason or that they need a rifle of a specific sort. I do not think that there is any point in not having the Crown bound in this case

Another amendment relates to the purchase of a firearm from an auction, and that happens often in the country. You often go to a clearing sale and see a rifle there that it is just what you want, so you put your hand up and you have bought the rifle. But under this Bill, if an application for a permit approving the purchase of a firearm at auction is refused, the licence of the applicant will be taken, for the purpose of this Act, not to authorise possession of that firearm. What happens to the firearm? He is still allowed to keep it by the sound of it but his licence has been removed. So some of these provisions are not terribly practical. If someone who is a bit deranged puts his hand up and buys at auction he has about a fortnight to make the application, and in that time the damage is done. So, I am not sure that that is an extremely clever provision in the Bill.

There is a provision that deals with the obligation of medical practitioners and I agree that most of that is very sensible. When a medical practitioner determines that a person has become, in his or her opinion, unstable, I think that what is provided is probably the best that we can do, namely, that the names of those persons be forwarded to the police or appropriate authorities. I believe that their access to firearms ought to be removed, and the firearms taken from their household. I agree with that wholeheartedly, because it is the person, not the firearm, that is the problem.

The Bill goes into detail about the registration of firearms and the recognition of firearms clubs and paint ball operators, and I referred to this earlier. I conclude by saying that if we really want to control the firearm industry, it is an education process. The money to be raised from licensing and regulating can be put into the education process—back into TAFE—or people can be charged for the education process—I do not have any problems with that. That is the more sensible way to go about handling firearms. I suspect that many people do not have much knowledge about firearms, but for one reason or another (they have inherited a gun or it was in the house when they bought it) they have in their possession a firearm, and they do not know what to do with it.

Quite often, they are dangerous. A number of firearms are inherently dangerous, and I cite tube loaded .22 rifles, which I must say under this legislation would create a problem, because if you have a magazine loading rifle you will be allowed to have a rifle with only five bullets in it, but some of these rifles that are tube loaded are either loaded through a tube under the barrel or through the stock of the barrel, and they hold more than five shells. What does one do to control that? It is not a magazine as such. I guess under the definition it can be called a magazine, but it is very difficult to control the number of shells that are put into that tube. The problem with tube loading rifles of any sort is that you never know when there is a bullet in the tube, but when there is a detachable magazine, at least, when that is taken out it is always obvious.

You can see into the chamber and into the magazine and it is obvious that there is no shell in it. So, some rifles are inherently more dangerous than others and, if people have not been educated in the handling of those rifles, they can get into trouble. I spent more time than I anticipated speaking to this Bill but I think that it is an important piece of legislation. I am not very fond of guns. I do not like shooting them, because they destroy life, but sometimes they are necessary. There are people who get enjoyment out of skeet shooting and target shooting, find it a challenge and enjoy it, and I find in this legislation a great restriction and an enormous cost.

It is obvious that the legislation will allow the use of some very dangerous rifles: very high powered rifles, rifles which, particularly today, have very small projectiles with a very large combustion chamber behind them, so they have a very flat trajectory and high speed and really do not kill by hitting the animal with a bullet. The animal is killed when the shell hits it at such high speed, and death is instant, because there is such a huge surge of blood pressure to the brain and the animal does not know anything about it. So, these rifles are extremely dangerous, but we will be able have them under this legislation.

We will be able to go along and make an application. I suspect that we will pay dearly to do so but, when we do, we will be able to. So, they will be available to the general public and it will not stop somebody who really wants to get that rifle and use it. The other dangerous rifle, I suppose, is the fully automatic rifle that is either gas loaded or inertia loaded, where, by just holding your finger on the trigger, the gun continues to fire, like the old Bren gun and the old Vickers gun. But they are more modern today. You have the Russian Kalashnikov, and the Americans have a gun I do not know the name of, but they are both very sophisticated guns that operate under very harsh conditions, and they are very dangerous.

I think that there can be a restriction on that type of gun, and I have no problems with that whatsoever, because I do not think it is necessary to have that type of fully automatic gun in Australia. There may be some reasons, but I cannot think of any at the moment. But the whole essence of this Bill, in my opinion, will not be obeyed. I repeat: if we put legislation through this Chamber which people just will not bother to abide by, it is a farce and makes us look quite silly. I do not propose to vote against the legislation, because obviously there is some requirement to update it at this stage, but I hope that it is proclaimed more quickly than the 1988 legislation, which is still not proclaimed.

If it is proclaimed and comes into law it will be a nightmare for the police force and will need plenty of Government funds put into that area to get it working correctly and with some semblance of commonsense as far as the public is concerned. But I still think that there will be many people who carry their rifle around in their

ute and who will not want to lock their guns away in a lockable cupboard, who will not want to separate the ammunition and who will not do so, because the police will just not bother to go into their homes. I think that it will be a farce and will not work extremely well.

I put down all those reasons because a number of people are very concerned about what this legislation does, and I do not think that it will work to the betterment of legislation in this State.

Bill read a second time.

ROAD TRAFFIC (PEDAL CYCLES) AMENDMENT BILL

In Committee.

Clause 1 passed.

Clause 2—'Commencement.'

The Hon. DIANA LAIDLAW: I would be interested to learn from the Minister when she believes this Bill will come into operation. I should also like some advice on when she may be thinking of releasing the review of the State Bicycle Committee, because I am aware that that report has been completed and it is an important one in terms of the promotion of cycling in this State in general, of which this Bill is one small measure. I should be interested to know when this Bill will come into operation and when this Minister will be releasing the State Bicycle Committee review.

The Hon. BARBARA WIESE: I cannot be very specific about the proposed time for the Bill to come into effect except to say that I want it to come into effect as soon as possible. I do not believe that a large number of matters should hold up that process. As to the question of the cycling report to which the honourable member referred, she is correct that that report has been completed and, before I make decisions about it, I should like the opportunity to be given to various cycling interests to comment further on the final report.

As I understand it, most of the cycling organisations had some input into the study prior to the preparation of the report itself, but I would like a further period of consultation to enable organisations to comment on the report as it stands before it comes to me for final decision making, and I expect that the report will be released to those organisations in the very near future, if it has not already been forwarded to them. Once I have received a response from the appropriate organisations about the issues contained in the report I hope it will be possible for me to make appropriate decisions on the recommendations contained within it.

The Hon. DIANA LAIDLAW: Do you intend to release the report selectively, or widely in the public interest?

The Hon. BARBARA WIESE: I think at this stage selectively is the path I would prefer to follow, because anyone who has an interest in cycling had an opportunity to make a submission to the group that worked on the preparation of the strategy report, and now, just as a final step, I would like the organisation that represents cyclists to have a second bite at the cherry, if you like, before I make final decisions on the matter.

Clause passed.

Clause 3—'Interpretation.'

The Hon. I. GILFILLAN: I move:

Page 2, after line 16—Insert the following paragraph:

(ca) by inserting in the definition of 'trailer' in subsection (1) 'or pedal cycle' after 'motor vehicle' (first occurring);

This amendment and the following amendment on file to insert new clause 3a are related, so I will speak to both amendments. Because of the pressure of business and shortage of staff I was unable to hear the Minister's winding up of the debate. I look forward to seeing whether she did entertain the Council with a description of the box turn, and will come to that in due course.

The Hon. Diana Laidlaw: You don't get the real feeling from reading *Hansard,* though.

The Hon. I. GILFILLAN: No, I am sure one doesn't, and I am devastated that I missed it. However, this amendment in relation to trailers is to legalise what has become quite prevalent in cycling in Adelaide, where there is the attachment of a lightweight trailer for carrying more conveniently and safely goods, and occasionally children. Obviously it cannot be *carte blanche* that trailing anything behind a cycle will become legal through this amendment, and so there will need to be regulations specifying the weight and size of such a trailer. However, I urge the Committee to support this amendment. It opens up the opportunity for people who ride bikes and who wish to use them as the pulling power for a lightweight trailer to legally do so, using a trailer which will be defined specifically in regulations.

The Hon. BARBARA WIESE: I support the amendment. Just to let the Hon. Mr Gilfillan know of my contribution on this matter when I closed the debate yesterday, I indicated at that time that there was nothing in the legislation that specifically provides for trailers being towed behind bicycles and the only real reference to trailers in the Road Traffic Act is in respect of the allowable width of a trailer, and that would apply to trailers being towed behind bicycles, the same as it would in relation to other vehicles. So there ought to be a definition of trailer in the Road Traffic Act, because, as the honourable member indicates, increasingly people are towing trailers behind cycles. Therefore it is appropriate that there should be some reference to it in the Road Traffic Act.

The Hon. DIANA LAIDLAW: I, too, support the amendment. I recognise that it is a measure that the Australian Conservation Foundation has highlighted. I commend them for bringing it to our attention and the Hon. Mr Gilfillan for moving this amendment.

Amendment carried; clause as amended passed.

New clause 3a—'Drivers of trailers.'

The Hon. I. GILFILLAN: I move:

Page 2, after line 20—Insert new clause as follows:

3a. Section 7 of the principal Act is amended by inserting 'or pedal cycle' after 'motor vehicle' (first occurring).

This is consequential on the previous amendment.

New clause inserted.

Clauses 4 to 6 passed.

Clause 7—'Passing vehicles.'

The Hon. I. GILFILLAN: I move:

Page 3, lines 8 and 9—Leave out 'inserting in subsection (3) "on a carriageway" after "vehicle" (first occurring)' and substitute 'striking out subsection (3) and substituting the following subsection:

(3) The driver of a vehicle on a carriageway may pass a vehicle proceeding in the same direction on the left where—

(a) the carriageway has two or more marked lanes for vehicles proceeding in the same direction and the passing vehicle is in a lane on the left of the lane in which the other vehicle is proceeding; or

(b) the passing vehicle is a pedal cycle and the other vehicle is stationary at an intersection or junction,

and it is safe to pass the other vehicle on the left of that vehicle.'

This amendment is to legalise the practice which is universal in cycling, namely, that where there is a stationary line of traffic, pausing for a change of traffic lights, or stopped at a stop sign, bicycle traffic will move up in the space between the footpath and that line of vehicular traffic and take up a position, quite safely and conveniently, at the front of that line, but to the side. There is no infringement of the space of the vehicular traffic, which is still unimpeded in its forward movement when the lights change or the traffic moves from a stop sign. Anyone who has ridden a bike, or even observed people riding bikes, would realise that it is impossible to expect that cyclists will stop as soon as they are adjacent to or parallel with a stationary vehicle. It just does not happen, and nobody stipulates that it should happen, but this does give some legitimacy to this practice, which is one of the advantages and a fair one that cyclists have. There is unused road space and it gives an opportunity for cyclists to take advantage of moving up the lane, of saving time and moving further forward.

It is a perfectly safe practice except perhaps for unobservant or irresponsible opening of a passenger door on the left. That is a different category; that applies regardless of whether or not we pass this amendment. I believe that passing this amendment should act as justification for giving even more publicity to the caution that it is a responsibility of the driver of a vehicle in which a passenger is likely to open a door to the left and put at risk traffic of any sort on the left-hand side of the vehicle. I will not go down that line of discussion; suffice it to say that that problem applies from time to time whether a vehicle is in a kerbside lane or the second lane or whether a motorcycle, another motor vehicle or a pedestrian is in the vicinity. I do not accept that that is an argument for not supporting this amendment. In fact, I cannot see any argument to oppose this amendment, because it is current practice. As far as I know, the law enforcing agents (the police) have never made an issue of this, so I think it legitimises what is an accepted practice.

The Hon. BARBARA WIESE: I support this amendment. As I indicated yesterday in closing the debate, it is an illegal practice at the moment for a pedal cyclist to pass a stationary vehicle on the left-hand side, but it is common practice, as the Hon. Mr Gilfillan points out. The comment he makes about lack of action on the part of the police in holding people up who are undertaking this practice is also true. However, it is a legal practice, as I understand it, for a pedal cyclist to pass a motor vehicle on the right-hand side when vehicles are stationary at traffic lights. It seems to me that this is a much more dangerous practice than the proposal put forward by the Hon. Mr Gilfillan, although I acknowledge the point that has been made by some that there may be occasions where there is the risk of a pedal cyclist passing on the left coming into conflict with passengers alighting from vehicles at traffic lights.

However, I agree with the Hon. Mr Gilfillan that it is the responsibility of people in a motor vehicle to alight carefully from their vehicle, just as I would expect cyclists who are passing on the left to take care when passing stationary vehicles. On balance, I believe that the proposal that the Hon. Mr Gilfillan puts forward is preferable and safer for cyclists than the existing law, and for that reason I support the proposal.

The Hon. DIANA LAIDLAW: I have a number of questions for the Hon. Mr Gilfillan, although I indicate, in general, sympathy for the proposition. While the honourable member targeted his remarks only to pedal cyclists, does the definition of a vehicle mean that his amendment applies equally to any form of vehicle, including a motor cycle?

The Hon. I. GILFILLAN: There is a distinction between paragraph (a) and paragraph (b).

The Hon. DIANA LAIDLAW: Will the honourable member indicate why he has confined it to two or more marked lanes and why he does not see this practice applying in principle to any carriageway no matter how many lanes or whether they are marked?

The Hon. I. GILFILLAN: I point out to the Hon. Di Laidlaw very gently that she has not read the amendment very carefully. The word 'or' appearing at the bottom of the first page clearly distinguishes between the amendment's effect on vehicular traffic and pedal cycles. If she recognises the significance of the word 'or', it becomes plain that paragraph (a) covers the situation for fuel powered vehicular traffic but paragraph (b) does not place any restriction on whether it be a one or two lane circumstance. All that is required for a cycle to be able to legally pass is that the other vehicle be stationary at an intersection or junction. It does not require two lanes for that to apply. That is totally detached from paragraph (a).

Amendment carried; clause as amended passed.

Clauses 8 and 9 passed.

Clause 10—'Duty of driver or pedestrian being overtaken.'

The Hon. I. GILFILLAN: I move:

Page 3, line 21—After 'is amended' insert as follows:

—

(a) by inserting in subsection (a) after paragraph (a) the following paragraph:

(ab) where the rider of a pedal cycle on a carriageway is about to pass a vehicle that is stationary at an intersection or junction on the left;

(b)

This amendment is consequential on the previous amendment.

Amendment carried; clause as amended passed.

Clause 11—'Driving on footpaths or bikeways.'

The Hon. DIANA LAIDLAW: Yesterday, the Minister indicated that $250 000 would be provided this financial year by the Department of Road Transport for local government subsidies for pedal cycle initiatives. I am not sure whether that will be confined to the metropolitan area or whether it will apply to the whole State. I ask the Minister: what is the dollar value of

applications that have been received by the State bicycle committee or whichever forum receives such applications for funding under this scheme, because it is my understanding that there is increasing enthusiasm for cycling initiatives and that the $250 000 may not be sufficient to meet the demand? We are proposing by way of this Bill that there be further initiatives which councils can undertake in their area, so I wonder whether the budget is adequate.

The Hon. BARBARA WIESE: I do not have that information with me, but I will be happy to provide it later.

Clause passed.

Clause 12—'Giving way at intersections and junctions.'

The Hon. BARBARA WIESE: I move:

Page 4, after line 18—Insert the following paragraph:

(ab) by inserting after subsection (1b) the following subsection:

(1c) Notwithstanding subsection (1)(ba) and (c), a driver is not required to give way to a vehicle whose driver is required to give way pursuant to section 65a.

This amendment is consequential. The Bill requires a driver of a vehicle about to enter the carriageway of a road from a footpath or bikeway to give way to all vehicles on the carriageway. However, the driver of a vehicle on the carriageway would normally be required under section 63 of the Road Traffic Act to give way to vehicles approaching the carriageway from his or her right in the absence of any stop signs, traffic lights or other signs, including those approaching on a bikeway. It has always been intended that the new obligation to give way to all traffic when entering a carriageway from a bikeway should prevail over any other give-way rule. This amendment makes it absolutely clear that it does so and I commend it to the Committee.

Amendment carried; clause as amended passed.

Clause 13—'Insertion of s.65.'

The Hon. I. GILFILLAN: I move:

Page 4—

Line 28—Before 'The driver' insert 'Subject to this section,'.

After line 29—Insert in new section 65a the following subsections:

(2) Subsection (1) does not apply where—

(a) the driver of the other vehicle is required, by a stop sign, give way sign, stop line or give way line, to give way and the driver of the vehicle about to enter or entering the carriageway is not required by such a sign or line to give way;

(b) traffic lights that control the entry of vehicles from the footpath or bikeway onto the carriageway are installed and operating at the point of entry.

(3) For the purposes of this section, traffic lights will not be regarded as operating where they only display a flashing yellow light.

The driver of the other vehicle which starts that amendment is, in fact, the driver of a motor vehicle on the normal road. The driver of the vehicle mentioned in the middle of that amendment is, in fact, the rider of a bike who is on a major bikeway and that bikeway that is intercepted by a relatively minor roadway. The point this amendment is attempting to make is that it is ridiculous that in every instance the bike traffic has to stop, or to kow-tow or give precedence to anybody or anything that is travelling along that roadway or carriageway. There is, in this first part of the amendment, the capacity for the Department of Road Transport to put proper signage on the roadway so that the drivers of vehicular traffic on the roadway will stop and give precedence of access to cyclists on their major bikeway.

Paragraph (b) hardly justifies an argument. Where a decision has been made to install traffic lights on an intersection with a bikeway moving into ordinary vehicular roadway, the formal procedure on traffic lights must be observed. In other words, people on bikes will be given the right of way on green lights and the other traffic must stop, observing the red.

The third point was rather astutely picked up by Parliamentary Counsel whom I was very fortunate to have helping me formulate these amendments. The flashing yellow light on traffic lights means that no-one is getting any signal except to look out, and under those circumstances a cyclist, in his or her own best interest, will be very prudent about trying to take any right of way and should look very carefully about what traffic is coming from left or right.

I have moved this enabling amendment so that where the circumstances are right the department can set up the proper signage in relation to cycle traffic. I emphasise that we must encourage cycle traffic to have relatively free and ready access on certain dedicated routes. This is to allow that traffic to be able to travel unimpeded and not always having to stop whenever the bikeway actually becomes an intersection with another type of road.

The Hon. BARBARA WIESE: I intend to support these amendments. As I indicated yesterday, the measure that is contained in this Bill with respect to giving way where a bikeway intersects with a main carriageway was never intended to preclude the possibility of traffic signals or give-way signs, or something of that sort, being erected which would essentially give pedal cyclists precedence when crossing or moving from a bikeway or a shared-use pathway onto a main carriageway. The legislation was attempting to achieve a recognition of the general principle that, in the absence of anything which indicated to the contrary, it is a safe or safer practice for a bicycle to give way to motor vehicles where they are encroaching on a main carriageway.

It was always the intention that, where deemed appropriate and safe, it would still be possible for traffic lights or give-way signs to be constructed which would give pedal cyclists priority where these things were appropriate. If the Hon. Mr Gilfillan feels that the inclusion of these subsections makes that position clearer, I am happy to accommodate that, because this was the general intention of the legislation in any respect.

The Hon. DIANA LAIDLAW: When speaking to this clause during the second reading debate, I noted that the Australian Conservation Foundation was strongly opposed to its wording. It did not recognise, and nor did I, that it was always intended to be as the Hon. Mr Gilfillan has now so moved, and I thank the Minister for that explanation. It is important that we make more than token statements with respect to strongly promoting cycling in this State. This measure is one such statement by this place to indicate that at suitable times and places a bicycle should have priority over other means of transport.

Amendments carried; clause as amended passed.

Clause 14 passed.

Clause 15—'Box right turns by riders of pedal cycles.'

The Hon. DIANA LAIDLAW: During the second reading debate I failed to ask a question about this issue of box right turns. I am aware through the National Road Transport Commission that there are moves in terms of uniform regulations to get rid of the box turn for motor, vehicle traffic, and that Victoria is likely to agree, in the interests of uniformity, to no longer continue with box turns at major intersections within their city. If it is agreed in the interests of national uniformity that box turns are not seen as desirable on a national basis for any form of vehicle turning, would this mean that this measure we are debating tonight would then have to be the subject of repeal?

The Hon. BARBARA WIESE: I may be wrong, but my understanding of this matter is that the proposal at the national level is for the box turn to be abolished for motor vehicles but that there is a proposal for the introduction of box turns for pedal cyclists where they currently do not apply. So, if my recollection of discussions I have had over the past few months is correct, I would hope that the measure we are enacting here might become the model for other States to follow.

The Hon. Ms Laidlaw might remember from the debate yesterday that I indicated, when describing how a box turn would be completed, in one or two aspects the South Australian proposal was slightly different from that which is currently present in the draft national guidelines. It is the intention of the South Australian Department of Road Transport to raise these issues at the national level with a view to having the South Australian proposal adopted as the national proposal. I hope we will be successful in achieving that goal and that our measure in this legislation will become the model which will be followed by other States.

Should that not be the case, we will obviously have to reconsider what we are doing here. I suspect that other States, some of which share the reservations that have been expressed in South Australia, will support the proposition that we are putting forward and will want to follow it.

The Hon. DIANA LAIDLAW: On this issue of box turns, I note that the Local Government Association of South Australia was concerned about the fact that we are removing, through this Bill, signals by a cyclist of their intention to turn left or stop. The association believes that where a cyclist is undertaking a box turn the cyclist should be indicating their intent. I failed to raise this issue during the second reading debate. Would the Minister comment on this issue?

The Hon. BARBARA WIESE: I think it would be very confusing for the drivers of motor vehicles should a cyclist indicate that they wanted to turn right by using a box turn, because the aim of this manoeuvre is to enable the cyclist to ride to the opposite side of the intersection, position the pedal cycle in the direction in which they wish to travel, and wait there until the lights have changed or until it is safe to proceed in that direction.

Therefore, if a hand signal was given during this manoeuvre it might confuse the drivers of motor vehicles, have them believe that a cyclist is intending to turn right immediately and could cause accidents rather than being an additional safety measure. For that reason, such a hand signal is not required.

The Hon. I. GILFILLAN: If the LGA's suggestion were followed through there would be a profusion of one-handed cyclists—and they would principally be left-handed—riding in Adelaide because the hazard of putting out a hand signal in Adelaide's traffic is very high. Most of the time cyclists need both hands on brakes or handle bars, so that is an unsympathetic suggestion by the LGA. I have just read the Minister's explanation concerning the question I raised in my second reading speech about subclause (2)*(d)*. I accept that what she explained was the intention is clear—I do not have any dispute with that—but it is a little obscure in the drafting. I cannot see that it is so specific that it would not leave the impression that a cyclist doing a box right turn could ignore the traffic light instruction on the strength of an interpretation of this subclause. I do not have an alternative wording, and I simply suggest to the Minister that it may be appropriate to look at this in the future to attempt to make it clear. I still believe that it is not clear enough to be subject to only one interpretation.

The Hon. BARBARA WIESE: I will ensure that this matter is looked at again with a view to clarifying the language, but it is the intention of the Government to embark on an education campaign before these measures are brought into force. It would be primarily through this proposal that I would hope to draw to the attention of cyclists exactly what their responsibilities would be in this respect.

Clause passed.

Clause 16 passed.

New clause 16a—'Duties at traffic lights.'

The Hon. I. GILFILLAN: I move:

Page 6, after line 13—Insert new clause as follows:

16a. Section 75 of the principal Act is amended—

(a) by inserting in subsection (1) 'Subject to this section,' before 'A driver must comply'; and

(b) by inserting after subsection (la) the following subsections:

(lb) Notwithstanding any other provision of this Act, where—

(a) the rider of a pedal cycle is required, by the instructions applicable to that rider indicated by traffic lights or signals or signs exhibited with traffic lights, to stop at an intersection or junction; and

(b) the traffic lights,signals or signs whose instructions are applicable to the rider operate in such a manner that those instructions will not change except—

(i) by the operation of a device that is not within the rider's reach while he or she remains on the carriageway of the road at the entrance to the intersection or junction; or

(ii) by the activation of a device that is only activated by a vehicle of a mass greater than that of a pedal cycle,

the rider may proceed through the intersection or junction without complying with the instructions applicable to the rider indicated by the traffic lights, signals or signs, provided that—

(c) it is safe to do so; and

(d) the rider gives way to any vehicle that is approaching, or is in, the intersection or junction.

In relation to subsection (1b)(b), a cyclist is blocked by a red light and nothing will change it except by the operation of a device like the pedestrian button, which can in due course operate the traffic lights, but, as anyone knows, they are not widespread in many parts of Adelaide and are often out of reach of a cyclist unless the cyclist goes well off track.

In relation to subsection (lb)(b)(ii), anyone who has ridden a bike will know that one can squat, sit, or jump up and down on top of one of those things all night, but unless some other traffic comes along or it is whimsically determined to change itself the cyclist can be there until the early hours of the morning.

This is again one of those rather simple amendments that will facilitate and legitimise what is normal practice for cyclists. Anyone who has not experienced it cannot understand the frustration of being blocked at 10 p.m. or later or at any time by a stop light at an intersection with no other traffic in sight. The fact is that cyclists do not wait: they can see that no traffic is within cooee and go on their way. If we are to recognise that cyclists have the right to use the roads with these qualifications—(a) they have made an assessment that it is safe and (b) they give way to any other vehicle, no matter where it comes from—it would then be legal for them to go across the intersection. That is the intention of the amendment. Because the Minister and shadow Minister have not had time to consider it properly, I recognise that it is appropriate now to report progress.

The Hon. BARBARA WIESE: Ms Acting Chair, I thank the honourable member for his explanation of this proposed amendment, and so that we have proper time to consider its implications I will move that the Committee report progress.

Progress reported; Committee to sit again.

LAND AGENTS, BROKERS AND VALUERS (MORTGAGE FINANCIERS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 26 November. Page 1040.)

The Hon. K.T. GRIFFIN: Madam Acting President, the Opposition has some sympathy for the objects of the Bill, recognising that there have been a significant quantum of defaults by mortgage finance brokers, from Swan Shepherd to Hodby to Field to Winzor and others, and acknowledging that the clients of those persons have been indemnified from the Agents Indemnity Fund established under the principal Act. The difficulty that we have with the legislation, however, is that whilst the Real Estate Institute and the Land Brokers Society support the Bill there is nevertheless a concern on the part of the Finance Brokers Institute, which, as I understand it, now comprises some 40 or so members who are land brokers, as well as mortgage finance brokers. Land brokers have not only undertaken what one would call the conventional work of brokers, that is conveyancing work, but a number have actually been responsible for the investment of clients' funds, mostly in mortgages and, in the cases of those I have mentioned, in dubious investments as well as in playing clients off one against the other, as they have experienced shortfalls in the return on investments which they have made on behalf of the clients.

However, in 1989 there were some substantial amendments to the Land Agents, Brokers and Valuers Act, which sought to impose much stricter controls upon mortgage finance brokers. I am informed by the Minister that, apart from Winzor, whose default was discovered after those provisions came into operation but whose defaults are presumed largely to have occurred before that date, there have been no defalcations by mortgage finance brokers. It must be acknowledged that responsible members of the mortgage finance industry did play an important role in conjunction with the Government in trying to clean up their part of the industry, and to ensure that a significant degree of responsibility was developed, so that no longer would either land brokers or, more particularly, mortgage finance brokers, be brought into disrepute by the actions of a few.

There is of course some question as to whether the clients of mortgage finance brokers should have been indemnified by the Agents Indemnity Fund. Some land agents and land brokers dispute that there was an entitlement to be reimbursed from the Agents Indemnity Fund. The Liberal Party has never taken that point either privately or publicly, believing that, because there were land brokers acting as mortgage finance brokers, it was very difficult to distinguish the transactions, and it seemed very harsh to have taken that point, which would have left the clients of mortgage finance brokers in a considerable hole, considering that most of the investors with Hodby, for example, were people who had invested their life savings and their superannuation in what they believed were completely secure investments through Hodby.

I made some criticisms of the department at the time and of the then Minister. I do not think that we have ever got to the bottom of what actually happened, but there is no doubt that Hodby was allowed to get away without filing audit reports on time. There was inordinate delay in the filing of those reports and there is a view, which in some measure I share, that if there had been a more prompt filing of proper audit reports it may be that, whilst some defalcations would have occurred, they may not have occurred in such magnitude. That is now a matter which is significantly in the past but which, nevertheless, did raise the issue of auditing. Of course, since that time, auditing has been tightened up considerably, with spot audits as well as regular audits and, as I understand it, the department focusing particularly on the audit of the trust accounts of mortgage finance brokers: not just their accounts but all the associated material that goes with the transactions that are recorded in trust accounts.

Auditors have learned from experience in the past that they do not just check off the books but they check off the files, they look at the transactions in detail and at all the accompanying documentation, so that now, whether it be with land brokers, lawyers or even companies, there is a higher level of diligent auditing and inspection than there has been in the past. The public ought to be pleased that that is occurring. If I could digress for a

moment, I have raised with the Minister's predecessor in this Chamber or, at least, in some speeches, the issue of auditing land agents' and brokers' trust accounts, and the general issue of regulation of those two industry groups.

I hold a view that a very substantial part of that surveillance can be undertaken by the professional bodies, the Real Estate Institute and the Land Brokers Society, and that, whilst they do not have the same highly developed capacity to undertake surveillance on their members as, for example, the Law Society does through its responsibilities under the Legal Practitioners Act, I do believe that the Government ought to be looking more closely at the opportunities so that some greater measure of professional self regulation can be undertaken. Whilst one might have some criticism of self regulation, certainly in the legal profession lawyers know more quickly what the gossip is around the legal profession about who might be having difficulty or, through the Legal Practitioners Complaints Committee, who is not paying accident compensation to clients promptly. A pattern can develop, and it is not necessarily—

The Hon. Anne Levy: Do they not observe confidentiality?

The Hon. K.T. GRIFFIN: Yes, they do, but there are clients who complain about not having received their accident compensation. Some of those talk to other lawyers. They have friends of friends who have lawyers, and so there is that sort of discussion. The Legal Practitioners Complaints Committee, for example, gets many of those sorts of complaints and, if it sees a pattern with any particular legal practitioner, will immediately send in the spot auditor. As well, there is a capacity for managers of practices to be appointed and for other administrative steps to be taken to move quickly.

The Hon. Anne Levy: They have a statutory authority.

The Hon. K.T. GRIFFIN: Yes, but what I am saying, and I know it is digressing a little from this, is that there is statutory authority for the Law Society to do that, and it is a good model. I think that, because of the general desire of bodies such as the Land Brokers Society and the Real Estate Institute to ensure that their respective industries are well managed and not brought into disrepute because of the intelligence of which they become aware at a much earlier stage than the department, which is not involved in the industry on a day by day basis, frequently they will be more aware of potential problems and be able to do something quickly, and they will do something more quickly than the department.

I do not make that as a criticism of the department but merely as an observation of the facts of life in undertaking surveillance of a particular professional or trade group in the community. It may be that there can be a program of gradual delegation of authority in respect of audits and other activities, which will enable those two organisations to undertake a higher level of surveillance of their respective industries.

With Hodby, for example, there were land agents and brokers who said to me at the time, 'We had a pretty good idea that this was happening'. They even said, 'Well we tried to tell the department, but nothing happened.' I have no concrete evidence of what specific evidence was ever given to the department. However, that sort of discussion suggested to me that even in respect of Hodby there could have been perhaps some earlier action that might have prevented the problems that occurred. It cannot always happen like that, because I recognise that some people are clever and they will disguise what they are doing. But auditing and industry intelligence both play a part in ensuring that there is proper surveillance of the particular industry. That is digressing a little, although it does have some relevance to the Finance Brokers Institute, not in relation to self regulation but, as I understand it, in respect of the attempts they have made, in conjunction with the department, to try to clean up the area of mortgage finance broking in particular.

The Bill does seek to remove mortgage finance brokers or clients from the protection of the Act in respect of the indemnity provided by the Agents' Indemnity Fund, although that protection will continue for existing mortgages and investments. As I understand it, it is very difficult to tell how much has been contributed from the trust accounts of mortgage finance brokers to the Agents' Indemnity Fund, because they are both brokers and mortgage finance brokers, and the trust accounts, as I understand it, have not been kept separately.

I attempted to find out what the respective contributions may have been, but from the Minister's response I understand that it is not possible to make that calculation. From discussions with the Finance Brokers Institute it seems that it may be that proportionately the contribution to the Agents' Indemnity Fund may not have been as significant from the finance brokers as it has been from land agents and land brokers, partly because, as a result of financial institutions duty and the bank account debits tax, a lot of moneys are now bypassing the trust funds of land agents and brokers and are being paid direct to parties to a particular transaction, and that is likely to happen more with finance brokers than it is with land brokers and land agents.

Notwithstanding that, there is no doubt that with the 40 or so land brokers who are also mortgage finance brokers that is a very small proportion of the total number of licensees whom I understand to number something like 1 800 and, quite properly so, there is concern by land agents and land brokers who do not practise as mortgage finance brokers that what is contributed by their clients through interest on trust accounts is being used to disproportionately benefit the clients of mortgage finance brokers who suffer as a result of default.

In addition to that, mortgage finance brokers who are also land brokers are able to claim the additional backing of the Agents Indemnity Fund when making propositions for investment, something that other finance brokers are not able to do. The Minister very kindly sent me a copy of a letter to the legal adviser to the Finance Brokers Institute, setting out a number of the reasons why the Government was moving to remove mortgage finance brokers from the cover provided by the Land Agents, Brokers and Valuers Act. As I said at the outset, I have considerable sympathy for that reasoning, and so I should make it clear that we do not have an objection to the policy direction. What we do have a concern about, though, is the speed with which it may be occurring.

I understand there have been some discussions between mortgage finance brokers of the Finance Brokers Institute and the department for some time. On the basis of a chronology provided to me by a representative of the Finance Brokers Institute, it seems that there was a Government-industry meeting at the Office of Fair Trading as early as September 1990, where mortgage financing was first considered. It was again raised briefly at a meeting of the Audit Committee at the Office of Fair Trading in December 1991.

At about that time there was some discussion by the new Australian Securities Commission about the obligations placed upon finance brokers under the corporations law, because the ASC was of the view that the interests provided by mortgage finance brokers were caught by the other interests provisions of the corporations law. Those provisions, because they had, in the view of the ASC, some application, placed quite onerous obligations on finance brokers, particularly in relation to the preparation and provision of a prospectus in relation to pooled funds that may be used for mortgage investment purposes.

At about that time there was a public hearing by the ASC into solicitors' mortgage investment schemes. They are more in vogue in New South Wales, Victoria and Tasmania, and I think also Queensland—certainly in the eastern States rather than South Australia. Solicitors in South Australia have never really got into mortgage investment financing.

The Hon. Anne Levy: They don't do a lot of broking, do they.

The Hon. K.T. GRIFFIN: The Minister says that they do not do a lot of broking, but I think to be fair they do a considerable amount of broking in the bigger transactions, the large commercial transactions. But there are some legal firms that have been doing a large amount of conveyancing work. However, without having any figures at my fingertips, most probably land brokers have done the bulk of the smaller domestic type broking. That is changing. A lot of legal firms are now actually employing land brokers, and the land brokers are working under the umbrella of a legal firm, and it is a very happy relationship, and I think a good relationship, because it provides the clients not only with the benefits of relatively cheap conveyancing but also and more particularly with the back up of the legal firm if there should be any major problem with a particular transaction. Again, though, that is digressing from the main subject.

The Finance Brokers Institute was of the view that it was not really relevant to them that they should be making some discussion to the public hearing into solicitors' mortgage investment schemes. They had some discussions over a period of time with the ASC during the first part of 1992 and, finally, in May 1992 they made a submission to the ASC for exemption from the provisions of the Corporations Law.

There were then some subsequent discussions. I do not think the submission was professionally prepared, but in the latter part of 1992 they engaged a competent commercial lawyer to assist in the dealings with the ASC. On 8 October 1992, the Office of Fair Trading wrote to the Finance Brokers Institute with proposed amendments to the Land Agents, Brokers and Valuers Act. I presume that was the draft of the Bill which was subsequently introduced by the Minister in November. The Finance Brokers Institute met on 26 October to consider the amending Bill. There was a meeting with the lawyer whom they engaged at the end of October, and that lawyer had a meeting with the ASC in about mid-November, because according to the Finance Brokers Institute, the ASC indicated that it was becoming concerned about the proposed amendment. The ASC believed that the withdrawal of the protection of the Agents Indemnity Fund, if it proceeded quickly, would force the hand of the ASC to take action in respect of mortgage financiers, because there was no longer that back-up protection for the public and the finance brokers were and would more likely be in breach of the Corporations Law.

A draft submission to the Minister of Consumer Affairs was prepared in relation to the issue, and finally a meeting took place on Wednesday 16 December at the Office of Fair Trading. There was a request for a meeting with the Minister, but it could not be arranged at that time. However, a formal submission was actually made on 23 December by the firm of Playfords, the lawyers whom the Finance Brokers Institute had engaged. They understood that it was likely to be possible to arrange a meeting with the Minister in mid-January, but that meeting did not occur until 8 February after there had been a telephone call to members of the Finance Brokers Institute on the morning of Saturday 6 February to set up that meeting. They had the meeting, but quite obviously nothing was resolved. I understand that they expressed some concern about the Bill and were seeking some delay in its consideration.

I had some discussions with the ASC. I do not profess to have had discussions as extensive as those that the department may have had, but I understand that the ASC believes that the mortgage finance brokers' activities are covered by the Corporations Law and that they need to make an application for exemption from those parts which they regard as unduly onerous and which are not necessarily applicable to mortgage finance brokers.

However, I suspect that whatever application is made at least the conditions imposed in relation to other mortgage finance brokers might be applied to members of the Finance Brokers Institute. However, there is no indication yet as to the way that would go.

In discussions I have had with the ASC, it seems that there will need to be more detailed submissions by the Finance Brokers Institute. There will also need to be a transitional period if any exemptions are granted and if the brokers can achieve some reasonable structure within which they can operate and still provide protection for their clients. It is not for me to explore what conditions the ASC may impose or the sorts of exemptions that the Finance Brokers Institute is proposing.

The difficulty as I see it is that if the Bill is passed and comes into operation reasonably quickly that will force the hand of the ASC and will mean that finance brokers will not be able to continue their operations. I can understand that there is a contingent risk to the Agents Indemnity Fund if the fund is continued for some time, but I am reassured by the fact that there has been no defalcation since 1989 and that there have been more

intensive auditing obligations imposed upon finance brokers since that period.

So, whilst it is possible for defalcations to occur, that is very much less likely now than it was prior to 1989. For that reason, I believe that finance brokers ought to be given a reasonable period within which to undertake their negotiations with the Australian Securities Commission and face up to the withdrawal of the protection of the Agents Indemnity Fund. I have some sympathy with them, because they have been carrying on their business for quite some time—some years, in fact—and I think it is rough to, in effect, cut them off at the knees.

So, some period of delay is what the Liberal Party and I are prepared to support in dealing with this legislation. There are two or three options for that. One is to delay consideration of the Bill until towards the end of the session. Another is for the Bill to pass but for there to be some undertaking in relation to the proclamation. The third is for the Bill to pass but with an amendment which will effectively postpone the proclamation to enable a reasonable period of notice. The fourth is to put the Bill off until the next session by way of amendment to the motion that the Bill be now read a second time.

Because I will not get a chance to speak again at the second reading and to enable the options to be explored, I have to decide what I want to do now. As a holding measure, acknowledging that the Liberal Party and I are sympathetic to the thrust of the Bill, provided that time is given, I want to move an amendment which can be dealt with as we progress the discussion. I move:

To amend the motion 'That this Bill be now read a second time' by leaving out the word 'now' and adding after the word 'time' the words 'this day six months'.

I have moved that amendment formally to hold the position from my point of view. I have explored those options. I have no desire to be unduly difficult, but I would like finally to resolve the issue once I have heard the way in which the Minister and the Hon. Mr Gilfillan believe the issue can be resolved without putting at risk immediately the livelihood of the honest finance brokers who are genuinely concerned about being cut off at the knees, remembering that they have carried on their businesses for a number of years in many instances. So, I urge consideration for delay on the basis that reasonable opportunity should now be given for finance brokers to have further consultations with both the Government and, more particularly, the Australian Securities Commission.

The Hon. ANNE LEVY (Minister for the Arts and Cultural Heritage): I thank the honourable member for his learned discussion of the Bill. I certainly appreciate his comments regarding the intentions behind the Bill and the appropriateness of the policy decision to have such legislation. I would agree with him: it is not appropriate that the Agents Indemnity Fund should cover the mortgage financing activities of land brokers when they are acting not in their capacity as land brokers but as mortgage financiers.

As the Hon. Mr Griffin said, there are about 1 800 land agents and land brokers in this State, and the Agents Indemnity Fund obviously covers their activities as land agents and land brokers. That is what the Bill was set up to do and it does this most efficiently. There is a very small number, about 40 at the last count, of land brokers who also undertake mortgage finance activities. It has been ruled, from the Shepherd case on, that their activities as mortgage finance brokers are also covered by the indemnity fund, and that is not the purpose for which that fund was set up.

The vast majority of payments from the fund have resulted from the defalcations which the , honourable member mentioned arising from mortgage finance activities on the part of land brokers, not from activities as land brokers. It seems unfair to expect other land agents and land brokers, through the interest on their trust funds, and their clients, of course, to whom the money belongs in the first place, to be providing what is, in effect, a Government guarantee for the mortgage financing activities of a very small number of brokers.

It is true that there have been no defalcations with the exception of Windsor, for very good reasons, that have occurred since the amendments to the Act in 1988. However, we must not ignore the fact that the resources required to police the Act are disproportionately being expended on those 40 land brokers who are also mortgage finance brokers, and the effort and resources expended on that relative to the effort expended on the other 1 760 contributors to the fund is out of all proportion.

The Hon. K.T. Griffin: If this occurs, are the resources being applied now to the finance brokers then to be applied to the others, or is it intended that those resources will then be available for other activities within the department?

The Hon. ANNE LEVY: A mixture of both, and I do not know in what proportions. Certainly it will enable a fairer distribution of resources to be made within the activities of the department. There is also the point that it is not really fair, if one considers purely the mortgage financing industry, that one section of mortgage finance brokers should have this advantage of virtually a Government guarantee for their clients whereas other mortgage finance brokers who are not also land brokers cannot offer what is in fact a Government guarantee to their clients. So, within the one industry of mortgage financing, it seems that the current situation sets up an unfair competition between those who can in effect offer their clients a Government guarantee and those who cannot offer their clients such a Government guarantee. This again seems inequitable, and the Bill is designed to remove that inequity.

Mortgage financing is certainly covered by the Corporations Law and is administered through the Australian Securities Commission. The Federal Corporations Law has been in existence since 1 January 1991, and it was certainly well before late 1992 that the Australian Securities Commission made clear that it felt the mortgage financing industry was subject to the Corporations Law, and mortgage finance brokers have been aware of this for quite some time. Anyway, ignorance of the law is no excuse, as I am sure the Hon. Mr Griffin would agree, and it is now more than two years since the Corporations Law came into existence, clearly regulating, amongst many other activities of course, mortgage finance broking.

The Hon. Mr Griffin did suggest that this Bill should be delayed, and I would certainly strongly oppose his amendment to the motion that this Bill be read a second time. For the reasons I have given, this is a very desirable piece of legislation to be passed by this Parliament. The mortgage finance brokers did make the request of me to delay the matter so they could approach the Australian Securities Commission to see whether they could obtain an exemption. The exemptions which the ASC has so far granted, such as to the Law Society of Victoria, are granted with a very strict set of conditions, and it is most unlikely that any exemptions granted to finance brokers in South Australia would have conditions any less strict than applied to the Law Society of Victoria. In fact, they would probably be stricter given that the Law Society of Victoria has a statutory existence and has authority under the statute of enforcement, whereas the Finance Brokers Association here has no statutory recognition, and certainly no authority for enforcement.

However, I do not wish to guess what the ASC might or might not say to an application for an exemption which is put to them, but I am aware of the time lines which would come into play. The Finance Brokers Association indicated to me that it would take it about a fortnight to prepare a submission to the ASC. The ASC has indicated that it would take between two to three months to consider any such submission and reach its decision. If we stretch out that time line, it would mean that it would be impossible for this matter to be considered further by this Parliament before the budget session beginning in August and, knowing the rate at which the Parliament usually proceeds at that time, it could well be September or October before the legislation passed.

Furthermore, this leaves a most undesirable element of uncertainty as far as the finance brokers themselves are concerned. They indicated to me that they felt that, under the current legislation, they would have quite a hard row to hoe to obtain any exemption. That was their assessment, or that of their legal adviser. If they did obtain an exemption, and then we passed the legislation, it may throw the whole situation back into the melting pot as far as they are concerned because the exemption may be contingent on the current legal situation existing in South Australia, not as it would exist once this legislation is passed.

If this Parliament—as I think the honourable member has indicated—agrees with the policy decision that the Agents Indemnity Fund should not cover the finance broking activities of land brokers but only their land broking activities, it would be as well for this Parliament to make that very clear and pass this legislation.

The finance brokers could then apply to the ASC if they wished, clear in the knowledge that the legal situation in South Australia would not change half way through or a short time after they received an exemption. They would make their application in the knowledge of what this Parliament felt was the desirable policy for this State. This would remove any ambiguity in an application from them to the ASC.

As I indicated, it could take two or three or 31½ months before they received their answer. I would be very happy to undertake to the Parliament that this legislation will not be proclaimed to come into existence before 1 July this year, which gives time for such exemption to be sought if the finance brokers wished it. If any honourable member would like to move an amendment to that effect I would be happy to accept it, but if that does not happen I will be happy to undertake for this legislation not to become operative before 1 July. This gives time for the finance brokers to apply for exemption to the ASC and to take any necessary steps under the rules of the Corporations Act so that they comply with it as early as possible, and it will enable time for discussions to occur and education of land brokers and customers—we must not forget the clients of the finance brokers. I thank the Hon. Mr Griffin for his support of the policy, but I urge the Council to oppose his amendment for the reasons that I have indicated.

The Hon. Mr Griffin's amendment negatived.

The PRESIDENT: I declare the second reading carried in accordance with Standing Order 287.

Bill read a second time.

MEMBERS OF PARLIAMENT (REGISTER OF INTERESTS) (RETURNS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 16 February. Page 1239.)

The Hon. J.C. IRWIN: I support the second reading of this Bill, and I particularly support the remarks made by my colleague, the Hon. Trevor Griffin. I will briefly contribute to the debate as it is a matter of interest to me (no pun intended) and has been for some time, indeed, since I became involved in local government in the early 1970s.

I have always been in favour of a declaration of interest of one sort or another. I remember my father's tales of his early city council's days, which go back to pre-second world war, when there was a requirement of a declaration of interest even if one had only one or 10 shares in a company such as BHP. It was interesting, apparently, to watch the bobbing up and down as various members of the Adelaide City Council in those days declared their interest in BHP or in a whole range of shares, as they were required to do. It was not only illuminating, but very disruptive of the council's procedures to have people bobbing up and down, standing behind their chairs all night.

These procedures of course changed, as they are now in the present Local Government Act, with its own conflict of interest provisions, which I will come to later. The unworkable arrangements were changed because they were obviously seen to be unworkable and conflict of interest provisions, I am sure, are not meant to be so intrusive in parliamentary or local council business as to bring that business to a halt. That is not the idea of conflict of interest provisions, but sometimes that is the end result.

It is recognised that the present Local Government Act provisions are not working very well at this stage, and I hope that they will be addressed in a white paper, to be released soon I have been told, and eventually we will address that in legislation in one of the major local government revision Bills, which I hope will be in the

Chamber some time later this year or early in 1994. It is worth recording again that the Local Government Act requirements for declaring an interest are quite harsh. As we do, every member has to prepare a primary return and an updated return. Once that is done and the motions are in front of the council, if there is an interest to be declared, it is declared. That person then leaves the room and does not take part in the vote. I believe that that is a quite harsh provision and may or may not be what is required.

In purely philosophical terms there is no Party vote in local government. It is a so-called conscience vote on almost all issues. If one or two people leave the room, those remaining councillors can and do make the best decisions. I have always supported that. In my old council of 14 members, if I was one declaring an interest and leaving the room, I had every right to believe that those other 13 people, if they were all there, would be prepared as a group to make the right decision on a conscience issue.

Of course, it would be unworkable if there were mass declarations of interest on any matter with no-one left to vote, or certainly fewer than necessary for the quorum required to record a vote. There are some areas in the conflict provisions that cover common interest. As a local councillor in a rural area the issue of saleyards was an interesting one and in my council nine or 10 of the 14 council members were farmers who had an interest in what the saleyard fees were going to be. That is covered by the common interest that they held with other people concerning saleyard fees.

That also applies in the matter of parking regulations, fines and fees. That is covered well by common interest provisions. Local government has the purest form of declaration and what follows that declaration. Certainly, I do not intend widening our debate to discuss why leaving the room and not voting should or should not be included in our deliberations and legislation, but I cannot think of too many logical reasons why people in local government should not have the same rules. Any member of local government reading this contribution in *Hansard* would, I am sure, support that view without doubt, because they have always asked why this form of government here should have a different set of rules in some areas than they have, yet we set the rules for local government. As the Hon. Trevor Griffin said, the Party line system we have here with its individuality makes us different, anyway, from local government.

Looking into the future, I believe that local government is more likely to go Party political—I hope it does not, but it is more likely than State political Parties to take on more conscience votes, and I would add that any move to more conscience votes in this place would certainly have my support. We could consider using the pairing system if honourable members had to leave the Chamber, if it ever reached that stage. My father's advice to me on the issue of conflict of interest—and I always follow that—was simply, always to err on the side of safety, and I have always tried to do that to the extent of declaring more than I needed under the Act and making a declaration on individual Bills, which strictly was not necessary.

I am, quite frankly, amazed at the few times a declaration is made in this place, and I cannot recall ever reading in the *Hansard* record of the House of Assembly debates declarations made by members of the House of Assembly. I do not say that does not happen, but I have not had the time to research that further. Eventually in this modern age of computer wizardry, which will be at our disposal here in Parliament in the near future, one will simply key in 'interest' and the computer will flick through the record over a number of years and do that research for me.

I reflected on this Act once before and was ticked off by the then President and I hope I can reflect on it now as we are debating changes to the Act. What does it matter, anyway? You can declare an interest and vote anyway, and if you do not declare an interest, what is going to happen? What has happened? Nothing I know of since the Act came in 10 years ago. In a simple example, I cannot believe that in all of the debate on the poker machines there were few, if any, declarations. In fact, I do not know of any declarations, and I do not accept that not one person in the Parliament did not have an interest in one form or another in that debate. The scope is endless, including, on the very bottom end of the scale, simple club membership or the number one ticket-holder for one or more of the league clubs in Adelaide, or any other club where there may be a benefit if poker machines are installed.

I accept that under the present legislation simple membership of a club is not caught, but membership of associations formed for political purposes; trade or professional organisations are caught; and if, for instance, the South Australian Farmers' Federation or the Liberal Party owned a hotel, it should be caught, and I should declare an interest, as should any of my colleagues, in any poker machine debate, if they were members of the Farmers' Federation and the Liberal Party in this instance.

The Hon. C.J. Sumner: We are obliged to under Standing Orders.

The Hon. J.C. IRWIN: Well, I am stretching it, certainly, but I believe that one should declare an interest, if only a very minor one. I do not know if the South Australian Farmers' Federation owns a pub or not, and that is one of the difficulties, but it did up until recently own a shop. The Hon. Mr Griffin put forward some discussion on trade unions and if I were a member of a trade union, and it owned a pub, I should declare that and so should anyone else. It is my belief that not only should members of the trade union be declared, which is the case, but so should its assets, as my assets are declared.

One matter which needs clarification is one area where we differ from local government. Local councillors have to declare an interest in a subject, topic or motion, whether or not they speak to that subject or motion. Then they leave the room and they do not vote on it. We, in Parliament, only seem to have to declare our interests if we speak. I put it to the Attorney-General and honourable members that we should declare our interests if we do not speak, and that should go for Ministers who may not and mostly do not, unless they are leading the debate, speak on a particular Bill that is before this place, notwithstanding that Ministers should and do

declare their interests in another arena in the Cabinet. It should be recorded if a person, including a Minister, has an interest, whether we are speaking or voting, because we all vote in this place.

Speaking in debate to persuade a colleague to vote a certain way is one thing, but the actual vote is quite another. If a declaration is to mean anything, we should tell the public where our interests are, if there are any interests. The interests should accompany the vote and not just the debate. My problem with the whole exercise is that no-one in the public arena knows what is going on or what he or she can or cannot do with a declaration or a non-declaration. The media certainly never report who has or does not have an interest. I have never seen an article or heard a radio report telling the public that a member or a number of members declared an interest in one of the rather hot debates of public interest. If this legislation is to mean anything, it must be and must be seen to be in the public interest. How can it be when nobody knows?

Who is the umpire for this sort of legislation? I suppose it is the courts. If we offend against the legislation, what will happen? Can legislation be overturned if I, for instance, fail to declare my interest in a close debate? I think not. Due to the soft nature of the legislation as discussed in 1983 and here again tonight, what is to be achieved by it? And by 'soft' I mean that we are members and can still debate and vote on legislation. The motive is clear. In the absence of real teeth in the legislation, it is to pry into the affairs not only of members but of those close to members. And it is most likely to be used not in the Parliament but in other matters that may be associated with members of Parliament.

As the Hon. Trevor Griffin discussed, the real policy makers and those who are in Cabinet, where the power is, are caught, and rightly so, by Cabinet's own rules, which need to be strict. Chairs of committees and senior public servants should also be caught by stringent conflict provisions. Again, who knows whether a Cabinet member has complied with the rules? The public certainly does not, unless it is a well publicised case such as that of our colleague the Hon. Barbara Wiese recently. That is the only one that I can recall in my time. If members of Cabinet declare an interest, as I understand they must, I never know that, but I think that it should accompany the legislation and be made publicly known when there is a conflict of interest, otherwise it is quite meaningless to me.

One of the crosses we have to bear as part of our job here, and with which I am at ease, is to declare the interests of our close family. I can understand the anger of my wife and other spouses, both male and female, who get dragged into the public arena against their wishes. As I said earlier, I have no problem with declaring an interest. I do so willingly and, no doubt, go further than I need to. I will not enter any device which would or could hide matters of substance from the Parliament or the people of this State, but I have to say that I am scared stiff that I will offend against the Act.

Furthermore, I do not see why I or other members in this place have to pay for the preparation of legal and accounting advice that will help with the preparation of a return in order to comply with the requirements of the Act. As has been discussed before in this place, how on earth are we expected to know and remember the many investing policies of companies such as the State Bank, SGIC and other South Australian companies such as Argo Investments or Wakefield Investments who themselves invest in other companies. To be safe, the surest thing for me to do in future would be to declare an interest in every debate we have, whether or not I have an interest.

I assume that I am covered if I should fail to know about Argo Investments. If we are talking about making shovels, how do I know that Argo Investments has not got investments in other companies which make the shovels? So, it is a farce if we do not know that or if we are expected to know that.

I completely agree with the remarks made by my colleague the Hon. Trevor Griffin last week and yesterday on this Bill. The so-called tightening up in this Bill comes from advice that is eight or nine years old. Time has moved on and I know that some members do or may use legal devices to hide certain details. As the Hon. Mr Griffin said, time will move on again, and whatever the Attorney-General and others try to do in tightening up the original Act as they are in this Bill will be thwarted by some members through new legal devices. It is a bit like the tax Act: the bigger it is, the more loopholes there are and the more the creative in our community will find legal—and I stress legal—ways to circumnavigate the Act. I support the second reading and look forward to the explanations of the points raised by my colleague the Hon. Mr Griffin, by others and by me in this debate.

The Hon. L.H. DAVIS secured the adjournment of the debate.

WHISTLEBLOWERS PROTECTION BILL

Adjourned debate on second reading.

(Continued from 26 November. Page 1070.)

The Hon. K.T. GRIFFIN: The Liberal Party supports the second reading of this Bill, which is one of a number of initiatives throughout Australia dealing with the concept of whistleblowing. The description of whistleblowing is somewhat curious. I do not intend to explore its origins, but basically, as I understand, it means someone dobbing in someone else, and I have no difficulty with that where it relates to illegal or improper behaviour. The Bill seeks to provide a framework within which disclosure of information which exposes criminal activity, malfeasance, public danger and similar acts or omissions may be permitted and protected. A person who is not necessarily a public official but may disclose public interest information in the manner described in the Bill. Public information is defined as information that tends to show that an adult person (again not necessarily a public officer) or a body corporate is or has been involved in illegal activity, irregular and unauthorised use of public money or conduct that causes a substantial risk to public health or safety, or the environment; or that a public officer is guilty of impropriety, negligence

or incompetence in or in relation to the performance of official functions.

So, the Bill is focused essentially upon the public sector, although it does not limit the protection only to public officials, extending it to anyone who discloses to an appropriate authority information which falls within the ambit of the Bill. A public officer includes a person appointed to public office by the Governor; a member of Parliament; a person employed in the Public Service of the State; a member of the Police Force; any other officer or employee of the Crown; a member, officer or employee of an agency or instrumentality of the Crown, a body that is subject to control or direction by a Minister, agency or instrumentality of the Crown, or a body whose members or a majority of whose members are appointed by the Governor or a Minister, agency or instrumentality of the Crown; or a member of a local government body or an officer or employee of a local government body.

The protection is in essence provided to a person who believes on reasonable grounds that certain information is true and where the disclosure is made to a person to whom it is in the circumstances of the case reasonable and appropriate to make the disclosure. In that event, the person is protected from legal action.

There is a penalty for those who knowingly make a disclosure of false information. If the disclosure is made to an appropriate authority, it is deemed to be reasonable and appropriate, provided the prerequisite of a belief that the information is true on reasonable grounds is satisfied. The Bill identifies what is an appropriate authority. It includes within that description a Minister; where the information relates to an illegal activity, a member of the Police Force; where the information relates to a member of the Police Force, the Police Complaints Authority; where the information relates to the irregular and unauthorised use of public money, the Auditor-General; where the information relates to a public employee, the Commissioner for Public Employment; where the information relates to a member of the judiciary, the Chief Justice; where the information relates to a public officer other than a member of the Police Force or a member of the judiciary, the Ombudsman; and where the information relates to a matter falling within a sphere of responsibility of an instrumentality, agency, department or administrative unit of government, a responsible officer of that instrumentality, agency, department or administrative unit. The Bill also provides that, if information about fraud or corruption is given to one of the appropriate authorities, it is to be made known to the Anti-Corruption Branch of the Police Force. There is provision for the identity of the informant to be kept confidential, and there is a provision dealing with victimisation, which is to be dealt with under the Equal Opportunity Act as if it were an act of victimisation under section 86 of that Act.

I want to focus on a number of issues in relation to the Bill. Whistleblowing legislation is supported by a range of bodies and persons throughout Australia. In December 1991 the Australian Press Council issued a copy of its submission to the Electoral and Administrative Review Commission in Queensland on the protection of whistleblowers. It makes the point that in its view whistleblowing should be protected, because it represents one aspect of freedom of speech and a basic right of the Australian people. It believes that whistleblowing ought to be protected by the establishment of an independent system, not a supplement to the current common law, and that that ought to be established in order to compensate for the lack of a clear guarantee of freedom of expression under the Queensland and Australian Constitutions. The Press Council also states that the protection of whistleblowers should not be limited to the public sector only but that the protection should be wider in the public sector, and that Queensland may well be an example for the protection of whistleblowers to other States and the Federal Government.

I think that, whilst the focus in this Bill is in relation to whistleblowing in respect of the public sector, at some stage in the future one should address the issue of whistleblowing in the private sector, but I think that is a more difficult issue and I certainly do not want to press for it to be included in this Bill. I think there needs to be a lot more consultation on such a proposition and a lot more consideration given to the implications of such a widening of whistleblower legislation.

The report of the WA Inc royal commission in 1992 devotes a section to whistleblowing. I suppose one should expect that to be one of the focuses of the royal commission report, given the sort of governmental activity which occurred in that State and which prompted the establishment of the royal commission and the extent to which public officials, widely described, were involved in that activity.

It makes the observation that it may well be the case that whistleblowing legislation will become the norm for this country, and they certainly recommend at least in respect of Western Australia that it is desirable for legislation to be established in that State. The royal commission's proposition required some further development, but basically it takes the view that the vital prerequisites for any whistleblowing scheme are that it be credible so that officials and others not only feel that they can use it with confidence but also can expect that their disclosures will receive proper consideration and investigation, that it is purposive in the sense that the procedures that it establishes will facilitate the correction of maladministration and misconduct where it is found to exist, and that it provides reassurance both for the public and for the persons who use it. The report goes on to say:

> Consistent with the preservation of confidentiality in relation to operational matters, there should be appropriate reporting to Parliament. The public is entitled to know that where allegations have been made they have been properly investigated and, if substantiated, remedial action taken. Persons using it are entitled to expect that they will be protected from reprisal.

The report recommends that all agencies in the public sector, including statutory authorities and State-owned companies, should establish confidential procedures which will allow for reporting of maladministration and misconduct to be made within the organisation itself. It is a common theme of the recommendations of the Western Australian royal commission and the report of the Electoral and Administrative Review Commission in Queensland that, as much as possible, agencies ought to establish a structure for the encouragement of the reporting of public interest information and for

endeavouring to resolve the issues within the department before issues go beyond departments, but they both recommend the establishment of structures which are conducive to that and which encourage the disclosure of that sort of information.

In the Western Australian royal commission's report there is consideration as to whether whistleblowers should be allowed to go public in the first instance. The report states:

> Although there may need to be some constraint on the freedom of a person to disregard alternative procedures and to go public directly, we are of the view that a whistleblowing scheme should not prevent this course being taken. It is already permitted in a range of circumstances by the common law of this State.

In the Bill before us public disclosure is not prevented. The Western Australian royal commission report suggests that one matter will require careful consideration, and that relates to the management and waste of public funds. It states:

> While officers should not be able to complain of every use of public funds with which they disagree, it is abundantly clear that there is a vital public interest involved in the protection of public funds from waste, mismanagement and improper use. Whistleblowing provides one means for the protection of that public interest.

They also focus upon the need to protect against reprisal. In comment 4.7.12 they say:

> Of central importance in whistleblowing legislation are the measures to protect the whistleblower from reprisal, whether it be from harassment, intimidation and discrimination in the workplace or otherwise, from civil actions for breach of confidence or defamation, or from criminal and disciplinary proceedings. It is essential that a whistleblower not only should have avenues through which to make the disclosure but should also be able to turn to an appropriate agency for council and for protection against reprisal. It is inappropriate that a whistleblower be given rights against reprisal but then be expected to rely upon self-help for their vindication. We would add by way of qualification that a person should not be entitled to protection if a complaint is made which is known to be false or which is made on reasonable grounds.

In Queensland, there is the Criminal Justice Commission, and that has a pivotal role to play in assisting those who might be the subject of reprisal in defending themselves and seeking appropriate remedies. I would like to make some reference to features of the recommendations of the Electoral and Administrative Review Commission report on protection of whistleblowers made in October 1991 in Queensland. Some important issues arise as a result of that report which do not appear to have been addressed in the consideration of the drafting of this Bill.

Before I deal in detail with those, it is important to note that, particularly in Queensland, the EARC seeks to establish a structure within which disclosure of whistleblowing-type information can be made within departments. There is an encouragement to do that. There are protections in respect of the way in which people may be dealt with as a result of the disclosure and the establishment of a counselling unit.

There are features of that which are not within this legislation, and I want to pursue those with the Attorney-General, because some important support structures and protections for whistleblowers can be given. In recommendation 6.57, the Queensland Electoral and Administrative Review Commission recommends as follows:

> (a) subject to specified exemptions, whistleblower protection legislation should impose an obligation on Government agencies to establish internal procedures by which employees of an agency and members of the public may make a public interest disclosure that relates to the agency, and which provides protection against reprisal for employees who make disclosures in accordance with the procedures;
>
> (b) the Criminal Justice Commission facilitate the process of compliance by Government agencies with the requirement to establish internal procedures, by preparing and circulating a model set of procedures, which Government agencies can use as a base, to be varied as individual circumstances require;
>
> (c) whistleblower protection legislation should provide that public interest disclosures may be made either through the internal procedures of a public sector unit or to designated external authorities—it should not be a condition of eligibility for protection that a disclosure is first made through the internal procedures of a public sector unit; and
>
> (d) no provision obliging the establishment of internal procedures, or requiring disclosure to he made through internal procedures, should apply in respect of employers outside the public sector.

It is important to note that there is a recommendation for the law to impose a positive obligation on Government agencies to establish procedures, and that is not, as I see it, included in this Bill. I think there is merit in giving consideration to that inclusion. There is of course no Criminal Justice Commission in this State to facilitate the process of compliance, but I think at least we ought to provide in the Bill a positive obligation for agencies to facilitate compliance with procedures so that something is expressly included in this Bill which puts it beyond doubt that public sector organisations have specific obligations and responsibilities.

Paragraph 6.158 of the EARC report contains a recommendation that a person who makes a public interest disclosure should be entitled on request to receive written notice of the action taken by a proper authority in respect of the public interest disclosure. Again, it does not seem to me that that sort of entitlement is embodied within the provisions of this Bill. I think that one of the failings of Government can be that it does not keep people informed of what action is being taken to deal with a complaint, an issue or some other matter which has been referred by either a citizen or, for that matter, a public servant.

I think within the context of this Bill there ought to be some provision which enables that notice to be given, just as I think there ought to be a provision for reporting by an agency, perhaps in its annual report, on the matters which have been the subject of public information disclosure by whistleblowers and the action which has been taken, of course always being conscious of the need to maintain confidentiality. Paragraph 8.40 of the EARC report states:

> The commission agrees with those submissions which suggested that the task of administering a system of whistleblower protection should be performed by existing Government agencies and that it is not necessary to create additional bureaucratic bodies.

In paragraph 8.44 there is a specific provision dealing with assistance for a reprisal victim, and it refers to clauses 54 to 56 of the draft Bill which is annexed to the report. Clause 54 provides:

This division applies to a proper authority that, under section 22, accepts for investigation a public interest disclosure mentioned in section 10 or 11(1)(a) consisting in a complaint by a person (in this division called the 'complainant') that an unlawful reprisal has been, is being or is proposed to be taken against the person.

Clause 55 provides:

(1) The proper authority is to provide assistance to the complainant by way of counselling on the protections and remedies available under this Act or otherwise available in relation to the unlawful reprisal.

(2) If—

(a) the complainant requests the proper authority to do so; and

(b) the proper authority considers it appropriate;

the proper authority is to approach the person against whom the complaint is made and attempt to resolve the complaint by negotiation.

Clause 56 provides:

If the proper authority is not the commission and it considers—

(a) that negotiation is inappropriate; or

(b) having attempted to negotiate, that insufficient progress is being made by negotiation;

the proper authority may refer the complaint to the commission.

That is the Criminal Justice Commission. Of course, we have no equivalent to that, but it may be appropriate to refer that complaint on to some central body if the agency is not dealing adequately with the issue. Paragraph 8.45 of the report states:

Thus, if another proper authority is unable to resolve a complaint of unlawful reprisal by negotiation it may refer the complaint to the CJC that can either negotiate or use its protective powers on behalf of the whistleblower.

Then the recommendation in paragraph 8.48 provides:

The Commission recommends that a comprehensive whistleblower protection scheme should empower existing Government agencies to protect whistleblowers against unlawful reprisals, but should also incorporate private enforcement mechanisms.

Reprisal can take a variety of forms and I see that as the biggest disincentive to people seeking to report matters which are encompassed by the Bill. It is not only harassment or victimisation in the immediate sense; it can extend to intimidation by third parties or, for that matter, to the families of whistleblowers.

It is important to note that the recommendation in the EARC report is that reprisal is an offence. Under the Bill if one looks at clause 8(2), which refers to section 86 of the Equal Opportunity Act, one sees that it does not provide for an offence; it merely provides that behaviour is unlawful and as an unlawful act can be dealt with by the Equal Opportunity Commission. There is some value in not only making reprisal unlawful but also an offence.

Of course, some of the remedies which ought to be available to whichever body deals with reprisals include damages, compensation, legal fees, injunctive relief, preference in transfers, rewards and the preservation of existing protections.

As I said earlier, the EARC report recommends the establishment of a whistleblowers counselling unit and does provide for that to be established in its draft Bill. In clause 36 of its draft Bill, it provides:

(1) The commission is to maintain an organisational unit called the Whistleblowers Counselling Unit.

(2) The Whistleblowers Counselling Unit is to be maintained, as the Commission considers appropriate, within the official Misconduct Division of the commission or as the division or other entity within the division.

Since we do not have a Criminal Justice Commission it may be appropriate to establish that in the office of the Commission for Public Employment or in some other agency of Government so that there is some positive focus upon counselling, and so that someone has the responsibility to counsel and persons who need counselling know where to go to get it. Clause 37(1) of the draft Bill provides:

The function of the Whistleblowers Counselling Unit is to provide counselling and assistance concerning—

(a) the kinds of disclosures that may be made under the Act; and

(b) the manner in which a public interest disclosure may be made under this Act;, and

(c) whether or not particular information disclosed to it may be disclosed as a public interest disclosure; and

(d) how particular information disclosed to it may be disclosed under this Act; and

(e) the protections and remedies available under this Act or otherwise, in relation to the taking of an unlawful reprisal; and

(f) the operation of the Act in any respect.

So, it is not just providing support: it is also providing guidance. It is made clear that it is not the function of the whistleblowers counselling unit to accept and refer a public interest disclosure to a proper authority. There is a more detailed explanation of the whistleblowers counselling unit in paragraphs 11.36 through to 11.40.

The comprehensive report of the EARC in Queensland should provide a useful guide in the consideration of this Bill. It does provide a focus which is missing from this Bill and which ought to be addressed, and that is the focus on providing support for—

The ACTING PRESIDENT (Hon. R.R. Roberts): Order! I can see that the speaker is having trouble with background noise. I draw members' attention to the fact that they are not supposed to stand in the corridors, especially alongside the speaker. The Hon. Mr Griffin.

The Hon. K.T. GRIFFIN: The focus in the Queensland report upon support and guidance for whistleblowers is a desirable provision, as well as the focus upon the positive obligations on agencies to provide support and endeavour to deal with whistle-blowing reports.

In respect of the Bill, I want to make several suggestions which ought to be at least considered in the Committee stage. First, in the description of public interest information in clause 4, there is reference to an 'irregular and unauthorised use of public money'. It seems to me that it should be 'irregular or unauthorised use of public money' so that both activities can be the subject of report.

I question why the protection is limited to an adult person, recognising that young people from 15 to 18 years can be engaged in the public sector. I would have

thought that, if they make a disclosure of public interest information under the Bill, they ought to receive the same protection. In fact, I would have thought they needed more protection perhaps than adults. Also, we need to deal with the issue of waste or mismanagement of public resources. Maybe that is encompassed in the reference to 'irregular and unauthorised use of public money', but that may not be so, and that issue ought to be focused upon.

In respect of the definition of 'public officer', looking at the definition of 'Public Service of the State' under the Government Management and Employment Act, it seems to me that, for example, teachers and those employed under the Technical and Further Education Act may not be encompassed within the meaning of Public Service. Public Service is not defined in this Bill. Presumably it can be taken to refer to Public Service as defined in the Government Management and Employment Act, but it may be broader than that, and I would like some clarification on it.

In fact, if it cannot be construed to cover the persons that I have referred to, then I think it ought to be expanded for that purpose. In clause 4(2) in line 22 there is a reference to the question of whether there has been irregular and unauthorised use of public money or other acts being determined with due regard to relevant statutory provisions and administrative instructions and directions governing the employment of that officer.

I point out that it may not necessarily be employment: it may be engagement. In the case of the judiciary, for example, they are not employed. They are statutory officers. In relation to members of Parliament, they are not employed: they are statutory officers and it may be that in the public sector there are some contractors who are not employed but are engaged. I would like to ensure that was put beyond doubt.

Clause 5 contains a reference to the judiciary. When there is information relating to a member of the judiciary, that public interest disclosure may be made to the Chief Justice. I presume that 'judiciary' extends to the magistracy, but I want to put that issue beyond doubt. Other categories of officers ought to be included within clause 5(4): for example, the Presiding Officer of either House of Parliament or a parliamentary committee. It should include the National Crime Authority. There may be some others but certainly those at least should be considered for inclusion.

In respect of public interest information being disclosed publicly, I am attracted to the proposition made in the EARC report in paragraph 11.53, which provides:

> Protection would be available for a disclosure to the media of the existence of a serious, specific and immediate danger to the health or safety of the public where the whistleblower has an honest belief, reasonably based, as to the existence of such danger. This exception is a recognition of the fact that in cases of serious and immediate danger, the use of the media to reach the largest number of people as quickly as possible should be permitted.

I suggest that that issue also ought to be considered. Clause 8(2) deals with the issue of victimisation, but I do not believe it is adequate to refer to the protections against victimisation in that shorthand manner. In his second reading explanation the Attorney-General said that it was intended that the Bill should provide easy reference and, for that reason, protections against victimisation or reprisals ought to be specifically and comprehensively set out in the Bill.

I am also concerned that the protection is through the Equal Opportunity Tribunal. Whilst I understand the reason why that tribunal may have been chosen, I suggest that victimisation under this Bill is not in any way akin to the victimisation which is protected under the Equal Opportunity Act and, in any event, this is not an issue of equal opportunity.

I am attracted to what the Queensland report proposes and that is a remedy through the courts after all avenues which are available have been explored, but not necessarily making those other avenues a mandatory precondition to action in the courts. I am not suggesting that it ought to be the Supreme Court, but I think the courts generally, having the wider and overlapping powers which they now have under the courts restructuring package, are the appropriate agencies to provide that protection.

In any event it was interesting to note from the Attorney-General's comments yesterday on the Courts Administration Bill, that it is intended to bring the Equal Opportunity Commission under the umbrella of the Administrative Appeals Division of the District Court, so it may be appropriate for the District Court to be the primary body for providing the legal protections if issues of reprisal cannot be arranged and achieved within agencies.

There are several other matters I want to touch on briefly in relation to the second reading speech. The Attorney-General says that the undertaking to introduce whistleblowers protection legislation is part of a public sector anti corruption policy. He then goes on to list a comprehensive anti corruption program. I certainly do not criticise what has been established—the Police Complaints Authority; codes of ethics and conduct of police officers and public sector employees; the Statutes Amendment and Repeal of Public Offences Act 1992; public sector fraud policy; and the anti corruption branch of the South Australian Police Force. But I think it is stretching the imagination to suggest that at the stage when the Police Complaints Authority was established or the anti corruption branch was established that this was part of a coherent program which the Government had then established, and had in train to deal with public sector corruption.

The only other reference in the second reading speech which I do want to refer to is at the bottom of the second page of the typewritten second reading speech. The Attorney-General says in relation to the desirable form of whistleblower protection legislation, which had not been agreed on a national basis:

> Such legislation is not only about freedom of speech it is also a useful weapon against corruption for personal gain, incompetence and danger to the public interest. These considerations make it clear that the scheme should apply beyond the public sector. Apart from that it is also the case that the distinction between the public sector and the private sector is artificial and in practice blurred—and, in the present climate, is likely to become more so.

I must confess that I have some difficulty in comprehending what the Attorney-General is driving at in relation to that. I do not think that there is an

artificiality between public sector and private sector. Nor do I see a blurring between the two, unless he is referring specifically to agencies like the SGIC and the State Bank. I do not understand what he means by the 'present climate', where this distinction is likely to become more blurred, and perhaps more obviously artificial.

So, I should like some clarification as to what he really means when he makes those references in the second reading explanation. In conclusion, I indicate support for the Bill: it is a start. I would like to see a number of matters addressed more positively in the legislation, particularly in the area of counselling and in protection against reprisal, and also a more positive obligation placed upon public sector agencies as well as ensuring that those who are not public officers who report in the whistleblowing context also have protection in perhaps their own private sector environment against reprisals, particularly where the information disclosed may relate to private sector dealing with Government agencies. They are issues that we will pursue further during the Committee stage. I am pleased to indicate support for the second reading.

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

PUBLIC FINANCE AND AUDIT (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 26 November. Page 1123.)

The Hon. L.H. DAVIS: This is important legislation that seeks to amend the principal Act, the Public Finance and Audit Act, which itself was passed by this Parliament some six years ago. That Act brought together two separate strands of legislation, the Public Finance Act, which had been passed in 1936 and the Audit Act, which had come into existence in 1921. Putting in the one Act the requirements for financial administration of public sector affairs in South Australia, together with a recognition of the importance of the auditing function, was a progressive step. It is worth noting that that legislation in 1987 enjoyed broad support across the Parties in the Parliament and had . resulted from a lengthy inquiry over some years, headed by the Barnes Committee.

The Barnes committee was chaired, as the name implies, by Mr Ron Barnes, a former under Treasurer in South Australia well regarded in financial circles around the nation, and it had other such notable public figures as Mr Bill Scammell, the driving force behind F.H. Faulding, a very successful public company, and Mr Kevin Davis who, at the time, was a senior lecturer in economics at the University of Adelaide. That was a measure that gave recognition to the need for tight legislation with respect to financial administration.

The Act that came into being in 1987 was based on the principle set out in the second reading at the time that underlying all appropriation law is that public money is Parliament's money, and that it was subject to public scrutiny; that not one cent of that money could be spent without the authority of an Act of Parliament. Recognition was given to the fact that authority for the spending of money is given in various ways, through Supply Bills, Appropriation Bills and special Acts of Parliament. That was given legislative form.

There was recognition of the changing nature of financial instruments. The legislation was updated to take into account the changing circumstances in financial markets and to recognise that increasingly Governments of all persuasions around Australia had sought to centralise finance operations, and in South Australia's case it was the South Australian Government Financing Authority which held the umbrella over cash balances of Government departments and other authorities and invested on their behalf.

So there was recognition of the need for the South Australian Government Financing Authority to have a wide-ranging investment power. There was the need for reporting information to Parliament and for accountability by the Treasurer. The fundamental principle of the Auditor-General is recognised in the legislation, along with the fact that he should be given an independence in legislation and power to examine the public resources in terms of their efficient and economic use. All these matters were dealt with in that Act which passed for the first time in 1987. I remember speaking in that debate and raising some matters of some importance at the time.

It is worth noting that 1987 was still in the days of wine and roses; free of financial debacles; free of the problems which were a feature of the last three years of the 1980s. As I said, I raised some matters of importance at the time. I indicated that we were dealing with 30 departments that were subject to ministerial control and 207 statutory authorities. As far as I can estimate, collectively they were responsible for 25 per cent of all spending in South Australia. In other words, public sector expenditure accounted for 25 per cent of all dollars spent in any one year in South Australia.

I talked about the complexities of having on-budget and non-budget financial arrangements; that our accounts were not satisfactory in that respect. I talked about the complexity of financial reporting and the fact that, with statutory authorities and Government departments intermeshing in the many transactions which took place between them and with moneys moving from budget to non-budget areas and back again, there was a lack of accountability within the State budget as we knew it at that time.

The Barnes committee alluded to that problem. It noted that, although the main expenditure and revenue items of the South Australian Government passed through the Consolidated Account, not all financial transactions in fact passed through that account. Many statutory authorities were not under the umbrella of the Consolidated Account and that in itself was a problem. The legislation sought to address many of the issues of the time and, as I said, there was general agreement with the legislation as proposed. It is interesting, though, as we have seen with another piece of legislation on the Notice Paper at the moment—and I refer to the Public Corporations Bill—that a Parliament can introduce the most effective legislation in the nation but, unless it is put into practice, unless it is observed, it makes not one

wit of difference. That is the problem that has bedevilled South Australia in the past few years.

In my contribution in 1987 I referred specifically to the lax approach to reporting by public authorities in South Australia. I said that we trailed New South Wales and Victoria in terms of setting down tight reporting standards. It saddens me six years later to stand in this Chamber and repeat that same message that I have repeated annually since that time and indeed before 1987—that the requirements for reporting in the private sector by big public companies listed on the Stock Exchange—companies such as SANTOS, S.A. Brewing, F.H. Faulding and SAGASCO—are simply not observed when it comes to large departments and statutory authorities under this State Labor Government. They simply do not understand that the scrutiny and the ability to pick up problems is diluted dramatically as time goes on.

So, when we have a situation where in 1991 SGIC was reporting on Christmas Eve—bringing its report with the mistletoe down the chimneys of Adelaide—quite clearly, accountability is thrown out of the window. It has been shredded. It is unforgivable stuff. It is not surprising that the report came down the chimney with Father Christmas and Prancer and all the other people whom I will not bother to name in SGIC, because SGIC had lost a cool $361 million. This Government condoned that sort of behaviour. If SGIC had been listed on the Stock Exchange as a public company, it would have faced delisting, fines, suspensions and headlines for unacceptable behaviour, but this Government does not see that as a problem. This Government has no financial morality. That has been shredded by the events of the past three years.

I spent some time emphasising the importance of full disclosure. I cited the situation in New South Wales, going back to 1985, when the Treasurer in New South Wales said that there are three requirements in Bills brought before the House. The first is to cause scheduled departments to prepare an annual report; the second is to specify that annual reports consist of certain financial statements—an audit certificate and report of operations—and, thirdly, to set time limits for the preparation of financial statements, the submission of an annual report to the Minister and the tabling of reports to Parliament. The time limits provided by departments are identical with those provided by the statutory bodies annual reporting legislation.

Under the Government Management and Employment Act we actually do have reporting standards, the Council should be interested to know, but they are simply not observed. In fact, for some time SGIC was specifically excluded from observing them. I believe that that is an area where this Government has fallen well short. It is interesting to see that another issue, which was a feature of the debate at that time when we were discussing the Public Finance and Audit Bill in 1987, was the difficulty of defining what was actually a public authority, how far we should go in defining a statutory or public authority and the difficulty (as we will debate again in Committee) of defining in precise language a clause to give the Auditor-General a power properly to pursue public moneys which have been given not only to public bodies but also to trusts, partnerships or groups in the community at large to make sure they have not been improperly spent. It is a difficult area, which obviously is a matter for Committee debate.

Another matter which I raised at the time and which I continue to believe is of great merit is that legislation of a financial nature such as this should be subject to the scrutiny of a committee. I suggested an amendment to require the Treasurer of the day to submit all Government proposals for the amendment of the Public Finance and Audit Bill or for regulations under that Act to the Public Accounts Committee for its recommendation and comment prior to the legislation being introduced into the Parliament. That provision does operate in other parliamentary forums. The Government rejected it out of hand. The Hon. Ian Gilfillan for the Australian Democrats thought it was a novel idea but, as so often is the case with the Australian Democrats, they wanted more time to consider the legislation, and the amendment was not supported.

Now that we have refined and, in my view, improved the committee system so that we now have an Economic and Finance Committee—which sadly is constituted of members of only the Lower House—I believe it is time for the Government to reconsider that measure so that this Bill to amend the Public Finance and Audit Act and other measures to amend financial legislation should be submitted to the scrutiny of a bipartisan committee of the Parliament. We all know how successful those committees can be, whether they be select committees such as the committee into the South Australian Timber Corporation, which was chaired so ably by the Hon. Terry Roberts and which reported in April 1989, or the recently established Social Development Committee, which is chaired by the Hon. Carolyn Pickles and which is investigating a wide range of issues such as AIDS and the significance of population growth in the South Australian economy. Those committees are valuable in reaching a view with the benefit of all shades of political opinion. Legislation such as this could be scrutinised and sometimes improved by the mature view of specialists working on the Economic and Finance Committee of another place.

Regarding the legislation now before us, the proposed amendments have general support, although I will raise specific queries. The Bill addresses a number of technical difficulties that have occurred since the Act first came into operation in 1987. One set of difficulties that has arisen is related to the continued development of financial markets; some of the language in the legislation is not adequate to meet the changes in the financial market. There is now a wide range of instruments which market participants use to manage their financial investments, and we are talking particularly about the larger bodies such as the South Australian Government Financing Authority, the Electricity Trust, the Local Government Financing Authority and the Australian Barley Board, where some of their moneys may be invested offshore and where they may enter into financial dealings that might involve futures plays, interest rate swaps and options.

There has been concern in the financial market, according to the second reading explanation—and I do accept this explanation—that the current legislation does not provide with certainty the powers required by those

bodies in managing their financial investments. There has been a case in the United Kingdom where a council was found to have been acting without the power, because in this sophisticated market arena, in fact, it was dealing specifically with interest rate swaps and it was not authorised under the relevant legislation. So, to remove uncertainty, there are amendments to cover that point. An amendment is proposed to revise the guarantee provisions to ensure that there is no doubt that the Treasurer can guarantee a specific obligation entered into by a semi-government authority which has been proclaimed. That apparently is an existing difficulty.

An amendment is also proposed to section 8 which requires that any surplus in a special deposit account at the end of a financial year be transferred to Consolidated Account unless the Treasurer otherwise directs. The second reading explanation indicates that, to simplify the operation of this section in future, these special deposit accounts will be used to conduct the financial operations of Government departments. Any surplus in the account at the end of the financial year can be retained by the department. Of course, that overcomes one of the problems which has occurred in the past and which was the subject of debate as far back as the 1987 Bill—that there has been this absurdity that any balances left in a departmental account at the end of the year have to be transferred back to Consolidated Account.

Of course, that meant that there was a spending binge by departments to clear the money that had been specifically allocated to them for that financial year. It involves some distortion. It simply is not how the real world works. As we talk about some specific Government departments moving to operate on a commercial basis, our imposing that artificial brake on them which simply does not exist in the private sector, of course, would be quite unfair. However, that is not to prevent the Treasurer from having the authority to direct at any time that a cash surplus built up in a special deposit account be paid into Consolidated Account. The Government claims that Treasury, under the amendments, will be able to monitor accounts, discuss the matter with the department and, if surpluses are building up in the account, provide the Treasurer with an authority to remove them from the special account into Consolidated Account. Again, that is a matter for discussion in Committee.

There are also provisions to simplify the operation of section 87, which at the moment provides that the Treasurer must declare each time by notice in the *Government Gazette* where a purpose of a Government department is one which is to be carried out through a special deposit account and to vary or revoke a previous declaration.

So, you could have a number of gazettals during any one year, which is a cumbersome and tedious process, and they will continue to approve the purpose by publishing it in the Treasurer's statement each year.

In section 9 there is again a proposal for amendment. This section covers the operation of imprest accounts, and we are talking about many dollars when we talk about some of these accounts. For instance, I have just referred to special deposit accounts of departments, and as at 30 June 1992 we were talking about $1.2 billion of liabilities tied up in those accounts. We are talking about $3 billion passing through special deposit accounts in any financial year. So, they are large figures.

Section 9 proposes to overcome the restrictive wording which currently exists in section 9(3)(a), which provides that money standing to the credit of an imprest account may be used for one or more of the purposes of a Government department; and section 9(4) provides that money expended from an imprest account must be recouped to the same account for money appropriated for the same purpose.

In the real world they often use money for other purposes. That is actually what happens in practice—they use it to meet expenses associated with other accounts and they are subsequently reimbursed. They are simply seeking to overcome that difficulty.

There has been some suggestion that the wording of section 9(4) is not appropriate as amended, and I do have some concern about the existing wording. I understand that there has been some debate on this, and it may well be that an amendment is necessary. I intend placing an amendment on file in relation to section 9(4), and it may well be that the Government will see a deficiency in that wording as well.

Section 15 does not concern me. The proposed amendment is one that I see as acceptable. Currently section 15 allows the Treasurer to appropriate funds to cover wage and salary increases resulting from a decision of a relevant tribunal. That, of course, is always a feature in the State budget papers each year. It was interesting to see, I think in the last budget, that no provision was made for round sum allowances for wages and salaries. Although the Treasurer has the power to appropriate funds to cover wage and salary increases as a result of an industrial decision, there is no provision to include increases and allowances for travel and meal expenses. They have been excluded in the past from salary and wage certificates issued under this section. It is proposed that in future they can be covered under this section, and the Liberal Party has no objection to that.

Moving to the provisions relating to the Auditor-General, it is worth noting that the legislation is set out in separate forms, recognising the key division which exists between financial administration and audit. There are some measures which seek to clarify the Auditor-General's powers, and I think it is probably here that the Opposition has a number of concerns.

First, I refer to an amendment to section 4 of the principal Act, which seeks to clarify that certain companies incorporated under the Corporations Law may be described under the Act as a public authority. They seek to ensure that the Act covers the recently created Group Asset Management Division of the State Bank of South Australia, that is, the body which is responsible for the bad and doubtful debts provisioning in the State Bank or, as the second reading delicately puts it, the impaired assets of the bank. It seeks to ensure that the Auditor-General has powers with respect to the bad bank division, as it is generally styled—GAMD.

It also widens the definition of 'publicly funded body' (and I alluded to that point before) to ensure that persons or organisations, trusts, partnerships and individuals that carry out functions of public benefit and have received grants or loans from the State can be brought within the ambit of the Auditor-General's inquiries.

It also clarifies the Auditor-General's powers in relation to the orders of companies which carry out the functions of a public authority or in which the Crown or a public authority is a sole or major shareholder.

There are some matters of interest in relation to the Auditor-General which I should raise. The Bill is suggesting, to my mind, that in addition to the ordered provisions of the Corporations Law a company may well be audited by the Auditor-General, irrespective of whether the company and its independent auditors have complied with Corporations Law requirements. I am not saying I necessarily object to that. Obviously, the Government is trying to broaden the powers of the Auditor-General to ensure that anybody under the definition of a 'publicly funded body' or 'a public authority' can be covered by the Auditor-General's inquiries.

I just refer briefly to two specific examples with which I am familiar. For example, ASER Nominees Pty Ltd, which is a trustee for the ASER Property Trust (and I am referring, of course, to the Adelaide Station environs), has as its main assets interests in the Hyatt Hotel, the Adelaide Casino, the Riverside Building and the public areas.

The ASER Property Trust is 50 per cent owned by the South Australian Superannuation Fund and 50 per cent by Kumagai Gumi. These are the joint partners. There is a third group involved with respect to the ownership of the Casino and the hotel, and that is now the Southern Cross Group, allied to the Catholic Church. That group had acquired from the estate of Pak-Poy a third interest in the Casino and the Hyatt Hotel complex.

I am on a select committee where information of a public nature has been provided, and this has been subject to comment in the media in recent months, about the value of the hotel. The hotel in the market place is worth about $80 million, according to national hotel experts, but it is valued in the books of ASER at $180 million, representing the initial cost of $160 million plus a consumer price index component, giving the hotel a current value of $180 million.

The accounts for ASER Nominees have been audited by Price Waterhouse. The South Australian Superannuation Fund, with its interest there, in turn reports on its own operations with its own accounts which are of course formally audited by the Auditor-General, and is one of the statutory authorities covered in the Auditor-General's annual report to the Parliament. So we see the difficulty that the Auditor-General has. There is an outside auditor, Price Waterhouse, which enjoys a national and, indeed, international reputation, dealing with a very controversial issue.

I turn now to the State Government Insurance Commission where Mr MacPherson, as the Auditor-General, again signs the accounts for the 1991-92 Annual Report of SGIC as an independent audit report to the Directors of the SGIC. Mr MacPherson says (page 78 of the SGIC Annual Report for the last financial year):

> As required by section 31 of the Public Finance and Audit Act 1987 and section 28 of the State Government Insurance Act 1992 I have audited the financial statements of the State Government Insurance Commission for the year ended 30 June 1992. The audit has been conducted in accordance with the requirements of the Public Finance and Audit Act 1987, and the Australian Auditing Standards to provide reasonable assurance as to whether the financial statements are free of material misstatement.

He goes on to say:

> The names of the entities controlled during all or part of the financial year but of which I have not acted as auditor are:
>
> SGIC Nominees, Torrens Property Funds, SGIC hospitals, Bouvet Pty Limited—

the company which is associated with the controversial Terrace Hotel—

> Darwin Private Hospital, SA Projects, SGIC Financial Services, Austrust—

which is a trustee company—

> Executor Trustee—

which is also a trustee company—

> Collins Street properties—

which presumably is the inglorious 333 Collins Street, which has plunged in value from $465 million to $250 million in just 13 months—

> SGIC Finance, and the 1991 Investment Trust.

He further states:

> I have, however, received sufficient information and explanations concerning these entities to enable me to form an opinion on the consolidated accounts. The audit opinion expressed in this report has been formed on the above basis.

There is a situation where we see a cross-over obviously between what the Auditor-General does on the main accounts of SGIC and some other bodies which are controlled by SGIC where he has not acted as an auditor.

I take it that these amendments will overcome perhaps the difficulty we have in this situation. Obviously, we do need consistency, particularly in Government commercial enterprises where we need, for instance, consistency in asset valuation and in an approach to what can sometimes be matters involving millions of dollars. As I read clause 15, the Auditor-General now will be required to report to Parliament on the outcome of his report on an audit. That power has been broadened by a requirement in clause 15, which provides a new section 32, as follows:

> The Auditor-General must, if requested by the Treasurer, examine the accounts of a publicly funded body and examine the efficiency and economy with which the body conducts its affairs.

Why should the Auditor-General examine the accounts of a publicly funded body and the efficiency and economy with which it conducts its affairs only if he is requested to do so by the Treasurer? I foreshadow putting an amendment on file to give either House of Parliament the ability to refer to the Auditor-General a request to examine the accounts of a publicly funded body.

It is fair to say that we have come a long way since 1987 when we first introduced this legislation. Our Economic and Finance Committee is doing a good job and it certainly has plenty of scope, given the debacle of the State Bank, SGIC and so many other Government instrumentalities in recent years. Mr President, I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

PUBLIC AND ENVIRONMENTAL HEALTH (REVIEW) AMENDMENT BILL

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

The Hon. ANNE LEVY (Minister for the Arts and Cultural Heritage): I move:

That this Bill be now read a second time.

In view of the hour, I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

The Public and Environmental Health Act, when introduced into Parliament in 1987, was described as "one of the most significant changes to public health legislation in the history of South Australia". It was the legislative instrument to maintain traditional public health controls, which have been effective in eradicating or controlling major health problems resulting from inadequate sanitation and infectious disease, and to extend those controls to deal with new public health concerns.

The legislation was the end product of a long, formal consultative process involving a working party which included significant local Government representation. The Act embodied changed relationships between the State and local government, recognising local government's major, historical role in ensuring proper standards of public and environmental health in their area.

The Act made the Health Commission responsible for public health.

The Public and Environmental Health Council was set up under the Act to keep the legislation under review, to recommend any amendments, and to act as the interface with local government, e.g. in appeals. Local government has significant representation on the Council, with three of the six members being nominated by the Local Government Association or local government Environmental Health Officers.

Some provisions of the Act (Part IV) came into effect in 12989, and the rest of the Act become operational from July 1991. In drafting Regulations to bring the Act into operation, extensive consultation took place, including the circulation of a "green paper". The consultation process was overseen by the Public and Environmental Health Council.

The Council has recommended amendments to the Act as a result of that consultation process, and taking into account experience with the Act since it has been in operation. There has been further formal consultation with the Local Government Association during the preparation of the Bill.

In summary, the Bill seeks:

- to clarify the respective responsibilities of the Health Commission and local councils in the area of notifiable diseases and vermin control;
- To incorporate provisions relating to waste disposal systems which address the concerns raised by local government during the consultation of the draft regulations;
- To clarify the circumstances under which personal or confidential information may be obtained under the Act to ensure public health surveillance, whilst protecting privacy;
- To update the Schedules of Notifiable and Controlled Notifiable Diseases, so that they reflect the national list of Notifiable Diseases recommended by the 113th Session of the National Medical & Medical Research Council in June 1992.

While it is not intended to change local government's important role in the control of notifiable diseases and vermin, there was some concern that the wording of the principal Act may limit local council responsibilities to Part III of the Act, and not include Part IV relating to notifiable diseases. Local councils have important responsibilities in this area, such as the provision of immunisation services, and in the control of head lice, and it is therefore desirable to remove any ambiguity. New Section 12a essentially restates existing Section 13, but specifically mentions notifiable diseases and vermin as coming within the duty of local councils. The section is relocated into Part II which is related to the administration of the whole Act.

Section 12a also incorporates provision for cost recovery where local council powers are transferred to the Health Commission, and more clearly spells out the consultation required before such a transfer occurs. The consultation steps reflect the agreement between the State and Local Government on the relationship between the two tiers of Government.

Consequential amendments are made to the definition Section, Section 6 relating to delegations and Section 36. Section 37 provisions relating to vermin are transferred out of Part IV as they were inappropriately included with the provisions relating to notifiable diseases.

The Act was drafted on the basis that applications and approvals for septic tanks and other effluent disposal systems would be dealt with under the Building Act, but standards for installation, operation and maintenance would be set by the Public and Environmental Health Act. The consultation process on draft regulations indicated that this approach was not acceptable to local government, who wished the whole process to be dealt with under public health legislation. It is proposed that the function will transfer to local government once the Regulations, which will be developed in consultation with local government, are in place. The amending Bill provides wider regulation making powers as well as incorporating a wide definition of waste disposal systems to cater for new technological approaches such as aerobic wastewater treatment systems, sand filers, wetlands and woodlots for treatment and disposal of effluent.

The proposed amendments to Section 41 and the new insertion of new Section 42a seek to clarify the circumstances under which personal or confidential information may be obtained and the restrictions on disclosure of that information to other persons. These amendments are considered necessary to ensure proper public health surveillance in the public interest, whilst protecting the privacy of individuals.

The Bill also seeks to update the Schedules of Notifiable and Controlled Notifiable Diseases, so that they reflect the national list of Notifiable Diseases recommended by the 113th Session of the National Health and Medical Research Council in June 1992.

The requirements for epidemiology studies and for urgent public health action in response to the occurrence of infections disease vary with time. Priorities will inevitably changed, depending on the importance that the public places upon a particular disease, the ability to prevent or control the disease and perhaps the severity of any particular disease. The recommendations for notifiable diseases for Australia issued by the 113th Session of NH&MRC in June 1992 reflect the current Australian views on these matters.

The only significant South Australian addition to the NH&MRC list is that of Cryptosporidiosis. This bowel parasite was responsible for a widespread epidemic of diarrhoea in

Adelaide in the summer of 1990-91. Preliminary investigations indicated a potential for waterborne spread during that epidemic, and more investigation into the origin of the parasite and the extent of the distribution of infection are necessary in South Australia.

Other amendments:

- bring the inspection provisions into line with those in other legislation administered by local government to address concerns expressed by local council officers about the existing "reasonable notice" requirement;
- provide for Divisional fines;
- expedite proof of authorisation of commencement of proceedings

The provisions of the Bill are as follows:

Clause 1 is formal.

Clause 2 provides for the commencement of the measure.

Clause 3 inserts three definitions into section 3 of the Act. The definitions of "child" and "vermin" are taken from existing section 37. The definition of "waste control system" is included for the purpose of making regulations concerning various systems that provide for the collection, treatment or disposal of human, commercial or industrial waste.

Clause 4 relates to delegations under the Act. The new provisions incorporate the material presently found in section 14 of the Act (to be repealed by this Act).

Clause 5 provides for the enactment of a new Division in Part II of the Act relating to the enforcement of proper standards of public and environmental health. The purpose of the amendment is to "transfer" the content of section 13 of the Act (relating to Part III) to that Part of the Act dealing with Administration, that relates to the whole of the Act. The opportunity has also been taken to revise the steps that must be followed if it appears that a local council has failed to perform any function or duty under the Act. The new arrangements are appropriate in view of the new relationship between State and local government.

Clause 6 provides for the repeal of Division I of Part III of the Act (comprising sections 13 and 14).

Clause 7 prescribes a 14 day time limit for instituting appeals against decisions of the Council under Division V of Part III (unless the Court allows an extension of time).

Clause 8 provides for the deletion of the word "controlled" where it appears in conjunction with the term "notifiable disease". The effect of the amendment is to require councils to take action in relation to any notifiable disease, not just "controlled" notifiable diseases.

Clause 9 strikes out subsections (2), (3) and (4) of section 37 relating to the infestation of vermin. It is intended to enact replacement provisions under Part V of the Act, being a part of the Act that is subject to the general administration of local councils.

Clause 10 revises the powers of an authorized officer under section 38 of the Act. The changes are "modelled" on provisions under the *Water Resources Act 1990*. It is intended to provide that an authorized officer can enter premises or a vehicle at any reasonable time. The powers of an authorized officer to use force to enter premises or a vehicle will be clarified. Except where immediate action is justified, an authorized officer will be required to obtain a warrant before he or she can use force.

Clause 11 provides that a person who is required to furnish information under section 41 of the Act cannot, by so doing, be held to have breached any law or code of professional ethics.

Clause 12 facilitates the collection of certain information by an authorized person relating to public health in the State.

Clause 13 provides for the re-enactment of provisions struck out from section 37 of the Act.

Clause 14 is consequential on a review of the penalties under the Act.

Clause 15 relates to the regulations that can be made under the Act. The powers to make regulations in relation to "waste control systems" are revised. New paragraph *(j)* provides that the Council will issue guidelines to assist local councils in the administration of the Act. Subsection (5) of section 47 is revised so that it is consistent with comparable provisions under the *Building Act 1971*.

Clause 16 enacts a new the schedule of notifiable diseases.

Clause 17 enacts a new schedule of controlled notifiable diseases.

Clause 18 provides for a review of the penalties under the Act.

The Hon. R.I. LUCAS secured the adjournment of the debate.

MOTOR VEHICLES (WRECKED OR WRITTEN OFF VEHICLES) AMENDMENT BILL

Returned from the House of Assembly without amendment.

STATUTES AMENDMENT (MOTOR VEHICLES AND WRONGS) BILL

Returned from the House of Assembly without amendment.

ADJOURNMENT

At 11.35 p.m. the Council adjourned until Thursday 18 February at 2.15 p.m.