LEGISLATIVE COUNCIL

Tuesday 7 September 1993

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

ASSENT TO BILLS

Her Excellency the Governor, by message, intimated her assent to the following Bills:

Correctional Services (Control of Prisoners' Spending) Amendment,

Local Government (Voting at Meetings) Amendment,

Murray-Darling Basin.

QUESTION

The PRESIDENT: I direct that the written answer to question on notice No. 71, as detailed in the schedule that I now table, be distributed and printed in *Hansard*:

OPERATIVE AGREEMENTS

71. **The Hon. R.I. LUCAS:** Will the Minister of Education, Employment and Training provide copies of all currently operative agreements between the old Education Department, Children's Services Office, DETAFE and the South Australian Institute of Teachers?

The Hon. ANNE LEVY: The range of operative agreements between the old Education Department, Children's Services Office and DETAFE and the South Australian Institute of Teachers is large. The agreements listed below from the Education Department is a small sample, however to provide copies of all agreements is an inordinate task which would consume considerable time. The Minister would be happy to provide the member with a copy of a specific agreement/s upon his request.

Education Department

Staff selection for internal acting positions

Recruitment process

AST (Advanced Skills Teacher) assessment and procedures

Salary conversion and formula (teacher/SSO[Schools Services Office]/HPI[Hourly Paid Instructor])

SSO (Schools Services Officer) transfer

Teacher placement

PRT (Permanent Relieving Teachers) conditions

PAT (Permanent Against Temporary) conditions

Part time teacher policy

PAC (Personnel Advisory Committee)—role and training

SAIT branch secretary time allowance

Curriculum Guarantee

Behaviour Management of students

Attainment levels.

Children's Services Office

The agreements reached between the Children's Services Office and the South Australian Institute of Teachers are as follows. Copies of these are provided for the member.

· CSO Interim Staff Reallocation Agreement

The Industrial Awards operative within the Children's Services Office where the South Australian Institute of Teachers have been involved include:

· Preschool (Kindergarten) Teaching Staff Award

· Early Childhood Worker Award.

DETAFE

The current operative agreements between the old DETAFE and the South Australian Institute of Teachers are as follows. Copies of these are also provided for the member.

Selection of Officers employed under the TAFE Act.

Temporary to permanent Tenure conversion

Transfer Policy

PAPERS TABLED

The following papers were laid on the table:

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

Industrial Court and Commission of South Australia—Report, 1991-93.

Regulations under the following Acts—

Construction Industry Long Service Leave Act 1987—Corresponding Law—Queensland.

Daylight Savings Act 1971—South Australian Summer Time, 1993-94.

Government Management and Employment Act 1985—Promotion Appeals Level.

By the Minister of Transport Development (Hon. Barbara Wiese)—

Highways Act 1926—Lease of Department of Road Transport properties.

Regulations under the following Act—

South Australian Health Commission Act 1976—

Prescribed Hospitals.

Private Hospitals—City of Hindmarsh and Woodville.

By the Minister for the Arts and Cultural Heritage (Hon. Anne Levy)—

Local Government Act 1934—Memorandum of Lease—Jolley's Boathouse.

Regulations under the following Acts—

Industrial and Commercial Training Act 1981—Trades Assistants, Labourers.

National Parks and Wildlife Act 1972—Camping and Entry Fees.

South Australian Museum Act 1976—Revision and Consolidation.

Subordinate Legislation Act 1978—Postponement of Expiry.

Urban Land Trust Act 1981—Tea Tree Gully Land.

Corporation By-laws—

Town of Thebarton—

No. 2—Streets and Public Places—Amendment

No. 3—Garbage Removal

No. 4—Parklands

No. 5—Caravans and Camping

No. 6—Inflammable Undergrowth

No. 7—Animals and Birds

No. 8—Cats

No. 9—Dogs

No. 10—Bees

Rural City of Murray Bridge—

No. 1—Permits and Penalties

No. 2—Streets and Public Places

No. 3—Taxis

No. 4—Garbage Removal

No. 5—Inflammable Undergrowth

No. 7—Caravans and Camping

No. 8—Dogs

No. 9—Animals and Birds

No. 10—Insects

No. 12—Public Conveniences

District Council By-law—Yorketown—No. 10—Moveable Signs.

STATE BANK

The Hon. C.J. SUMNER (Attorney-General) brought up the final report of the Royal Commission into the State Bank of South Australia and moved that it be authorised to be published.

Motion carried.

The Hon. C.J. SUMNER (Attorney-General): I seek leave to table a ministerial statement being given in another place by the Hon. Lynn Arnold, MP, Premier of this State, in relation to the State Bank Royal Commission.

Leave granted.

QUESTION TIME

STATE BANK

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

Leave granted.

The Hon. K.T. GRIFFIN: The third report of the Royal Commission effectively finds that under the law Government Ministers are to be judged by lower standards of propriety than those imposed on board members and the executives of Government statutory bodies and corporations. My questions to the Attorney-General are as follows: does the Government, which has presided over losses of $3.15 billion in the State Bank accept such blatant double standards, and does the Attorney-General believe that changes in the law are necessary to address those double standards?

The Hon. C.J. SUMNER: This is just nonsense coming from the honourable member. There is no suggestion of that in the Royal Commission report and, if this is the only question the honourable member can ask about the report, it obviously indicates that a lot of the allegations that were being made over the past few months and years about what happened in relation to the State Bank have now been laid to rest, in particular, the accusations made in the past few weeks about some alleged dishonesty and criminal behaviour on the part of the former Premier and Treasurer, which was just a beat-up in this Council and this Parliament by members opposite.

They knew it was a beat-up. They knew they could have taken the matter to the Royal Commissioner to have it considered under his terms of reference. For two weeks members opposite chose to lead the media by the nose in this Parliament by making allegations about the former Premier and Treasurer's apparent engagement in illegal activity in relation to certain matters in the report, in particular, the resignation of Mr Baker and Mr Reichert from BFC. The Opposition's bluff on that issue was eventually called.

Members interjecting:

The Hon. C.J. SUMNER: You were making allegations in Parliament and not going to the Royal Commission. Eventually we made it clear, as you could have done weeks before you raised those allegations in the Parliament. You could have gone to the Royal Commissioner and said, 'Is this covered by the terms of reference? We want to make submissions.' You did not do that. For two weeks you continued to make allegations in this Council and led the media by the nose with those allegations. That is the fact of the matter. When it became clear, as it was to the Government from the word go, that the Royal Commissioner could consider the matters, he wrote to you and sought submissions. You then made the submissions. He has now dealt with them and finds that the whole parade of allegations was a load of nonsense.

Members interjecting:

The Hon. C.J. SUMNER: Absolutely unsubstantiated; no evidence.

Members interjecting:

The Hon. C.J. SUMNER: That is the effect of what he said. He clearly says that there are no matters that require further investigation in relation to the issue.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: That was the allegation that you were making in this place. You were making the allegation of breaches of the criminal law by the former Premier and Treasurer and some of his officers. That is the fact of the matter. The matter could always have been referred to the royal commission. When it was referred to the Royal Commissioner he found there was no basis for those allegations and no cause for further investigation. There is nothing in this report from what I have read to give any support to the premise in the honourable member's question. There are a number of matters in the report which the Royal Commissioner has suggested should be further examined. The Government has already set up a structure to enable that to occur with its task force relating to potential criminal offences and the civil legal team relating to civil matters. All these issues will now be placed before those bodies and the Government will take whatever action it can to ensure that these matters are progressed if that is indicated, following the assessment by the appropriate authorities and legal team.

CHILD CARE

The Hon. R.I. LUCAS: I seek leave to make an explanation before asking the Minister representing the Minister of Education a question about child-parent centres.

Leave granted.

The Hon. R.I. LUCAS: I have been contacted by representatives from the Southern Primary Principals Forum voicing their concern at what they say is a situation of 'total injustice in schools' where a child-parent centre exists. CPCs provide similar educational programs to those provided by kindergartens but they are attached to a junior primary or primary school and are under the direction of the school principal. The representatives of the Southern Primary Principals Forum are concerned that CPC enrolments at a primary school are not considered when the Education Department calculates administration time, appointment of a deputy principal and library time. They also say that no provision is made for meeting the needs of CPC children who have been recognised as being eligible for support under the children with disabilities policy. So a five-year-old child at the school will receive support, but a four-year-old with the same disabilities is ineligible for support under the same policy.

The Southern Primary Principals Forum representatives argue that it makes no sense to include every five-year-old in departmental statistics used to calculate staffing time, administration time, and so on, yet four-year-olds—who attend CPCs—are excluded from the equation. They say the policy makes no sense and puts added stress on principals and their staff.

Does the Minister agree with the current policy regarding the administration of CPCs as I have outlined and, if so, why; and, if not, does she intend to address the issues as outlined by the Southern Primary Principals Forum?

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

ENVIRONMENT INTERGOVERNMENTAL AGREEMENT

The Hon. ANNE LEVY: I seek leave to make a ministerial statement on the Intergovernmental Agreement on the Environment.

Leave granted.

The Hon. ANNE LEVY: Mr President, I wish to table, for the benefit of members, an extract from the Intergovernmental Agreement on the Environment. The extract consists of the agreement, and schedule 4 of the agreement deals with national environment protection measures.

The agreement was entered into by the Commonwealth and all State and Territory Governments in May 1992. Schedule 4 proposes complementary Commonwealth, State and Territory legislation to establish national environment protection measures dealing with matters such as ambient air and water quality.

Members may wish to refer to the agreement, and particularly to schedule 4, when considering the application of national measures as State policy under the Environment Protection Bill currently before the Council. I formally seek leave to table that document.

Leave granted.

HINDMARSH ISLAND BRIDGE

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Minister of Transport Development a question about the Hindmarsh Island bridge.

Leave granted.

The Hon. DIANA LAIDLAW: As members would be aware, last week the Deputy Commissioner of Taxation lodged a summons in the Supreme Court to wind up Binalong Pty Ltd, the company developing the Goolwa Marina project. Binalong, of course, is also a party to the deed made earlier this year with the Minister of Transport Development and the District Council of Port Elliot and Goolwa relating to the construction of a bridge to Hindmarsh Island.

I have read this deed several times, as have lawyers on my behalf. It is an intriguing, rather confusing document and therefore I have a number of questions to ask the Minister in terms of her understanding of the deed.

1. Can she confirm that under clause 5 of the deed Binalong is required to pay to the Minister a financial contribution amounting to at least one half of the construction cost of the bridge, together with interest?

2. Can she also confirm that the deed contains no provision which relieves the Minister of the obligation to construct the bridge in the event that Binalong goes into liquidation?

3. Is it a fact that the deed obliges the Minister to complete construction of the bridge, notwithstanding that Binalong may be in liquidation and has no prospect of honouring its obligations? If so, why did the Minister not ensure that the public interest was protected by insisting upon a provision that discharged the Minister from performing her part of the bargain if Binalong was unable to perform its part of the bargain?

4. Can the Minister advise, given the recent announcement that an application has been made for an order winding up Binalong and the appointment of a liquidator, whether she will defer taking further steps in relation to the letting of contracts until the financial status of Binalong is determined?

The Hon. BARBARA WIESE: With respect to the first question, it is my understanding that under the tripartite agreement Binalong Pty Ltd is required to pay amounts relating to the rate of development within the Binalong development area, plus interest. It is also my understanding that the Government is obliged to construct the bridge under the tripartite agreement regardless of the position of Binalong Pty Ltd. The reason for the agreement, as set out in the tripartite deed, is that the decision taken to build the bridge is based upon the planning requirement that a bridge be built prior to stage 2 or subsequent developments taking place, because it was appropriate to build that bridge when taking into account the various options available. That has subsequently been confirmed by various consultancies as I have indicated previously.

As to the question of whether there is reason to defer construction of the bridge in view of the notice that appeared in last week's newspaper, whereby the Deputy Commissioner of Taxation was seeking to wind up Binalong, my advice is that there are not grounds for us to take this action. Furthermore, I am advised that the arrangements are currently in hand for the Commissioner of Taxation to be paid outstanding moneys and, in the event of that occurring, the winding up action will not proceed. If that is the case, there would appear to me to be no grounds that should lead the Government to change its position on building the bridge to Hindmarsh Island. The fact is that, as I have indicated on numerous occasions, this proposition as a financial proposition stands up on its own. It is cheaper than any of the other options that may be available to us; it is cheaper than continuing the existing inadequate ferry service; it is cheaper than a dual ferry service; and it is therefore in taxpayers' interests that this bridge should be built in order to improve access to Hindmarsh Island.

The Hon. DIANA LAIDLAW: As a supplementary question, can the Minister confirm why when signing the document she agreed that there be no protection in the public interest, that if Binalong did not keep its part of the bargain as provided for in clause 5 of the deed the Government would still be obliged to perform its part of the undertaking? Also, as the Minister indicated in her reply that there would not be grounds to take the action proposed, that is, not proceeding with the contracts for the bridge in the event that Binalong went into liquidation, would she be prepared to table that advice?

The Hon. BARBARA WIESE: As to the second question, I would need to consider that. I am acting upon advice given to me by officers with the assistance of Crown Law and, as the honourable member knows, it is not the practice normally to table advice that comes from Crown Law. However, I will take that matter into consideration and, if further advice can be provided to the honourable member about that matter, I will provide it. As to the first question, as the honourable member is aware, officers of the Government on behalf of the Government, in negotiating the arrangements with Binalong Pty Limited and with the Port Elliot and Goolwa council in reaching the tripartite agreement, were instructed to achieve the very best possible arrangement for the Government. The result contained within the deed represents the best possible arrangement that could be achieved. The honourable member keeps referring to this matter as though the taxpayer somehow or other will be out of pocket through the decision that has been taken by the Government to build this bridge. The fact is that we have entered into this arrangement knowing that it is in the taxpayers' interests to build this bridge in order to improve access to Hindmarsh Island.

Any money that we are able to recoup from the Port Elliott and Goolwa Council and from Binalong Pty Ltd will be cream on the cake because it is already going to be cheaper for us, even if we recoup not 1¢ from either of those sources, to have constructed this bridge than to persist with the inadequate service. The honourable member frames all her

questions from the very most inappropriate premise each time. I would remind her of the facts in this matter, which I seem to have to repeat regularly in this place and elsewhere, in outlining to this Council and to others who have raised the issue with me on numerous occasions, that it is a cheaper proposition for this bridge to be built than it is for us to persist with the existing service. That is the bottom line and the fact is that there will be further development on Hindmarsh Island, whatever happens to Binalong Pty Ltd.

If Binalong Pty Ltd were to be wound up—and my most recent advice is that the action which has been mooted is likely to be withdrawn—presumably a liquidator will seek a new purchaser for that development. Let us not forget that $15 million worth of investment has already taken place on that site. It is a development of high standard and quality and it is most likely that should the unfortunate circumstances arise that this company were to go into liquidation there would be a new purchaser. A new purchaser would be likely to purchase this development at a very favourable price and would be in a position to develop this project very profitably. It may also be possible then for the Government to enter into some arrangement with such a new purchaser. So whichever way we look at this proposal the fact is that it is a cheaper proposition for the taxpayer than persisting with what is already there, and however the Hon. Ms Laidlaw or anyone else wants to dress this story up for their own political or other purposes that is the bottom line and they are the facts.

ROXBY DOWNS

The Hon. I. GILFILLAN: I seek leave to make an explanation before asking the Attorney-General, representing the Premier, a question about the reduction of electricity costs for the Roxby Downs mine.

Leave granted.

The Hon. I. GILFILLAN: In recent weeks there has been a spate of publicity in the media by assorted Government Ministers, publicity which has been almost entirely a re-run of earlier media statements and decisions. Last Friday the Premier announced in a media release that Western Mining would be saving more than $1 million a year in energy charges as a result of 'an important new agreement between ETSA and Western Mining Corporation'. As reported by the *Advertiser* last Saturday, it is quite clear that a majority of those savings—probably an extensive majority—will actually be coming from previously announced tariff reductions to industry; so there was nothing new there. But if there are any new concessions being granted in electricity charges to Western Mining at Roxby they will be paid for by South Australian households, either through less Government revenue, which comes from the so-called profit of ETSA, or by higher tariffs paid by the households who have to make up the shortfall of the generosity to Western Mining. The same article pointed out that the mine has made a pre-tax profit of $56.8 million, up from $19.1 million recorded last year. This is hardly a cot case and hardly a case deserving of Government charity in any form—and certainly not in lower electricity charges. I ask the Attorney-General:

1. What specific new initiatives were included in last Friday's announcement and why was it necessary to provide extra incentives to a business that is already running extremely profitably?

2. Did Western Mining ask for this reduction?

3. Why should we and the people of South Australia not regard these sort of statements as campaigning hype?

4. Is it not true that this announcement is really recycled from earlier announcements?

The Hon. C.J. SUMNER: I have never heard of anyone recycling announcements. I know it is something that the Hon. Mr Gilfillan never does, but whether it has occurred in this case I cannot say. I will refer the honourable member's question to my colleague and bring back a reply.

BENEFICIAL FINANCE

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Attorney-General a question about Beneficial Finance.

Leave granted.

The Hon. J.F. STEFANI: In the second Auditor-General's report Mr MacPherson identified that by September 1989 the Tribe Crisapulli Group was experiencing difficulties and that the Beneficial board was concerned about Beneficial's exposure to that group. The board imposed a limit of $33.5 million on the exposure to the Tribe Crisapulli Group. It is important to note that in the particulars of the register of directors, chief executive officers and secretaries lodged on 12 July 1989 with the National Companies and Securities Commission by the solicitors acting for Gratton Street Carlton Pty Ltd, the directors listed were Keith Tribe, Vincent Crisapulli, Eric Reichert, John Baker (resigning) and Ronald Hansen. The secretaries listed were Peter Erskine and Barend De Vries, a solicitor.

On 31 August 1990, Beneficial Finance lodged a new directors return with the National Companies and Securities Commission, listing Michael Hamilton, Graeme Yelland, Keith Tribe and Vincent Crisapulli as directors of the Grattan Street Carlton company. The secretaries listed remained Barend De Vries and Peter Erskine. It is also important to note that the Grattan Street Carlton company was one of the many companies in the Tribe Crisapulli Group which were indebted to Beneficial Finance. In a statement of affairs prepared in July 1991 under the provision of the Bankruptcy Act, the Tribe Crisapulli Group revealed that an amount of $74 million was owing to Beneficial Finance. This amount is more than $40 million above the limit imposed by the board of Beneficial Finance.

The Auditor-General has clearly identified that a potential conflict of interest existed on the part of at least six Beneficial Finance executives who were involved in the loans deal with the failed Tribe Crisapulli Group. An interesting aspect of this matter also involves Mr De Vries, a solicitor, who was acting as a proxy for Beneficial Finance and who was listed as a secretary of the Grattan Street Carlton company, which owed Beneficial Finance $6 million.

At a meeting of creditors of the bankrupt principals of the Tribe Crisapulli Group held on 9 June 1991, Mr De Vries, acting as a proxy for Beneficial Finance, advised the meeting that he had had discussions with his superiors in Adelaide head office and that he was trying to persuade them to accept the new Tribes' proposal. He is quoted as saying that the decision is being made by the Attorney-General's office, as it has taken charge in Adelaide. Unfortunately, he could not obtain consent from the Attorney-General that day. My questions are:

First, why was consent being sought from the Attorney-General about this matter and who took charge?

The Hon. C.J. Sumner: What matter?

The Hon. J.F. STEFANI: About this matter.

The Hon. C.J. Sumner interjecting:

The Hon. J.F. STEFANI: He was acting as a proxy, and that is what he was quoted as saying.

The Hon. C.J. Sumner: That was the Commonwealth Attorney.

The Hon. J.F. STEFANI: The Commonwealth Attorney? Well, he was talking about the Adelaide office. I am just coming to the questions. When did the Attorney-General or any officer of his department become involved in the Tribe Crisapulli Group, because he said that he was acting—

The Hon. C.J. Sumner: It was the Commonwealth Attorney.

The Hon. J.F. STEFANI: The Commonwealth Attorney? He was acting as a proxy. I am just asking a question; that is all. Did the Attorney or any officer of his officer of his department take action on the matter and, if so, what action was taken?

The Hon. C.J. SUMNER: I think the question relates to the Commonwealth Attorney-General, but I will have the matter examined and bring back a reply.

ARTS BUDGET

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before asking the Minister for the Arts and Cultural Heritage a question about the budget.

Leave granted.

The Hon. CAROLYN PICKLES: I have in my possession a copy of a newsletter which has been circulating and which has been signed by the Hon. Diana Laidlaw. In relation to the budget for Arts and Cultural Heritage she makes the following statement:

> Arts and Cultural Heritage budget cut by $2.2 million in real terms. The overall increase of $168 000 to $70.168 million represents an increase of only 0.23 per cent, well below the 3.4 per cent anticipated rate of inflation.

She goes on to say:

> The Adelaide Festival Centre will receive $500 000 for new audio and lighting equipment, but this is offset by a cut in both the centre's operating grant by $350 000 and its debt servicing payments by $200 000.

I understand that this statement is cause for some concern amongst people who are associated with the arts. Is this statement true?

The Hon. ANNE LEVY: I am delighted to say that it is not true and that the deduction that the Hon. Ms Laidlaw has drawn from the budget papers is simplistic, to put it at its most polite. In some respects it is plainly wrong. What the honourable member does not seem to realise is, first, that debt servicing costs are provided to various organisations to the extent that they require them. The fact that the Festival Centre Trust is receiving $200 000 less for debt servicing costs is because it needs less money for debt servicing costs, mainly because interest rates have fallen. It is being provided with whatever is required for debt servicing costs. Not only the Adelaide Festival Centre Trust but also the South Australian Country Arts Trust and other organisations which have debt servicing obligations are, as ever, receiving their complete debt servicing requirements, which are a lot lower this year because of falling interest rates.

Secondly, in doing her calculations the Hon. Ms Laidlaw is apparently completely ignoring the fact that any salary and wage increases in the current financial year will be met by productivity increases and are not in any way catered for or need to be regarded under the heading of inflation. It is true that goods and services can be subject to inflation, but their proportion of the Arts budget is nothing like 100 per cent.

The Hon. R.I. Lucas interjecting:

The Hon. ANNE LEVY: Yes, the budget papers, which I am sure the honourable member has studied very closely, make allowance for an inflation rate of 3.4 per cent. But, if one is to apply that to the Arts budget, one need only to apply it to that portion which is non-salary, that is, the provision of the goods and services component of the budget. Even if one presumes that 50 per cent of the Arts budget is for goods and services, they could be subject to inflation. But, even if they are 50 per cent, this would only mean that over the whole budget the appropriate figure to use would be 1.7 per cent, even presuming that goods and services constituted 50 per cent of the budget, and I think that would probably be stretching it.

Furthermore, the honourable member is ignoring the components of last year's budget regarding work force management, in other words, TSPs and VSPs which are one-off matters and which certainly do not have to be catered for. If we make sensible allowance and ignore these one-off matters, work force management will not occur this year to anything like the extent to which it occurred in the last financial year.

If we make, as we should, the correct corrections for debt servicing matters, which are obviously down because of falling inflation, we find that the 1992-93 budget was $64 886 000—

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: —and the 1993-94 budget rises to $66 142 000, a clear rise of about 2 per cent, which is completely contrary to the erroneous comments that the Hon. Ms Laidlaw is circulating around Adelaide. Based on her interjections—

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: —I presume she is not proposing to circulate to the recipients of her incorrect data the correct information, although I would be most grateful if she were courteous enough to do so.

PARKING NOTICES

The Hon. J.C. IRWIN: I seek leave to make a brief explanation before asking the Minister for the Arts and Cultural Heritage, representing the Minister of Local Government Relations, a question about parking expiation notices.

Leave granted.

The Hon. J.C. IRWIN: As most honourable members know, I have parking matters brought to my attention on an almost daily basis and, despite assurances over many months from the Minister of Local Government Relations and the Local Government Association, nothing seems to have happened to improve the situation. Nothing has changed at all. Many councils, mainly rural, still do not have a register of parking controls. In many cases they do not even know that they have to keep a register of parking controls or that they need to pass proper resolutions if they need to control their local parking.

Many times other people and I are fobbed off for raising seemingly trivial matters about parking. We hear the sort of throw-away line that does not give a damn about the Local Government Act or the fact that motorists are being ripped

off every day, let alone the waste of time and money by local government going before the courts when so-called offences are thrown out or withdrawn.

I have here an example of two sets of duplicated final notices from Adelaide City Council. These notices are merely print-outs and are not authorised and, as such, the late payment fee of $12.40 on each of them would certainly be illegal. I have examples of eight parking complaints being taken out against one person and then being withdrawn. That would probably involve thousands of instances, but I will give an example of only eight.

The Hon. Anne Levy interjecting:

The Hon. J.C. IRWIN: Surely someone in the Government, particularly the Minister, or the council ought to get the message concerning the administration of the Act, because people are being ripped off.

The Hon. Anne Levy: You said that notices have been withdrawn.

The Hon. J.C. IRWIN: That is right, and I will explain why.

The Hon. Anne Levy: Are you complaining?

The PRESIDENT: Order!

The Hon. J.C. IRWIN: What about the cost? What about knowledge of the Act, for a start? Clearly, five are related to a taxi stand that was originally declared by resolution in 1975, when signs incorrectly inscribed 'No standing' were used. These signs remained in position until May 1992, and were eventually changed to the correct signs after seven years, and it is anyone's guess how many people were illegally charged with an offence. At least five cases were withdrawn because someone did take it further. Despite the five complaints being withdrawn on 17 June 1993, one notice of intention to prosecute, four final notices and eight infringement notices were all forwarded to the same person at the same address on the same day by the same council. The court costs for the eight matters that were withdrawn amounted to more than $500, which I presume is paid for by the council. The mind boggles at the administration of this section of the Adelaide City Council, a council much in the news of late with regard to its attention to parking matters and parking income.

The mind also boggles when we read about metropolitan councils that seek to administer any 40 km/h speed zones on local roads with speed cameras and other devices if and when any 40 km/h speed limit ever eventuates. My questions are quite simple: when will the Minister of Local Government Relations take seriously the administration of local government parking regulations and when will he demand that motorists be protected by the parking regulations being properly used and administered?

The Hon. ANNE LEVY: I will refer that series of questions to my colleague in another place for him to respond to this matter. It seems to me that what the honourable member has detailed are complaints against the Adelaide City Council of which, so far as I am aware, neither he nor Mr Gordon Howie are ratepayers. As a ratepayer of the City Council myself—

Members interjecting:

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

The Hon. ANNE LEVY: As a ratepayer of the City Council myself—

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: —I do not wish to indicate whether or not my mind is boggled on this matter, but it seems to me that many of the matters that the honourable member has raised are properly the concern of the City Council. I would suggest that, as ratepayers or not, either the honourable member or Mr Howie could take up the matters with that particular metropolitan council. As I have indicated, I will refer the question to my colleague in another place for him to provide a more detailed response.

LEIGH CREEK

The Hon. L.H. DAVIS: I seek leave to make an explanation before asking the Attorney-General, as Leader of the Government in this Council, a question about safety at the Leigh Creek coal mine.

Leave granted.

The Hon. L.H. DAVIS: Last week the *Advertiser* carried a report that the Leigh Creek Trades and Labor Council had written to the Minister of Public Infrastructure, Mr Klunder, claiming a series of breaches of the Mines and Works Inspection Act at the ETSA Leigh Creek coal mine. In fact, I understand that a number of claims had been lodged with WorkCover by workers on the Leigh Creek site alleging health damage as a result of these breaches.

Amongst the allegations raised by the union was the matter of a series of coal and oil shale fires at Leigh Creek. These spontaneous combustion fires are occurring even before terrace mining commences at Leigh Creek. The terrace mining involves digging to the final pit depth and then back filling and ETSA, when it proposed terrace mining, originally claimed it would cut operating costs at the coal mine by 10 per cent. However, in more recent times it has claimed that operating cost savings would be no more than 2 per cent or 3 per cent.

Experts with whom I have consulted say that terrace mining at Leigh Creek will in fact save no money and will increase the hazard to the lives and health of workers on site by increasing the possibility of additional spontaneous combustion fires. It is a distinct health risk. My questions to the Minister, to which I would ask the Government to respond as a matter of urgency, are as follows:

1. How many WorkCover claims have been lodged by workers on the ETSA Leigh Creek coal field in the past 12 months, and what were the bases of these claims?

2. Will the Government confirm that terrace mining, far from reducing operating costs at Leigh Creek, will in fact result in no savings and, indeed, may prove to be more costly if spontaneous combustion fires result in additional work having to be done?

3. Will the Government confirm that breaches of the Mines and Works Inspection Act have occurred at Leigh Creek, as alleged by the unions and, if so, what are these breaches and what steps have been taken to remedy them?

4. What capital and operating expenditure has already been incurred on terrace mining at Leigh Creek, and what are the projected estimates for capital and operating expenditure on terrace mining at Leigh Creek in the future?

The Hon. C.J. SUMNER: I am sure that not even the honourable member would expect me to be able to answer those questions immediately, so I will refer them to the appropriate Minister and bring back a reply.

WESTBOURNE PARK SCHOOL OVAL

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister of Arts and Cultural Heritage, representing the Minister of Education, Employment and Training, a question about the Westbourne Park School oval.

Leave granted.

The Hon. M.J. ELLIOTT: I have been contacted by constituents concerned about the State Government's move to force the sale of part of the Westbourne Park School oval. The oval is the only green space in the Westbourne Park-Cumberland Park area and is situated in one of the more densely populated parts of the area. Considering new developments are required to set aside 15 per cent of land as open space, the retaining of this land as open space, local constituents argue, is more than justified. But the Education Department has forced the school to sell off part of the site to pay for a much needed upgrade of the school to accommodate increasing enrolments. One letter I have received states:

> How is it that for over 75 years this school has needed its oval, now suddenly it is surplus to requirements, even given the fact that school enrolments are increasing?. . . The issue goes far wider than Westbourne Park Primary School. If the Government can establish this 'Beachhead', no other school oval will be safe from a similar attack.

The letter goes on to say that the Government should be forced to buy the site using funds accumulated over the years for the open space levy under the control of the South Australian Planning Commission. This fund was set up for just this reason: to secure and develop more open space as compensation for the increased urban consolidation in our community. Retaining the land as open space would be the only sensible response in a community bereft of other recreation areas.

Reports say that the Government has put a $2.3 million price tag on the three hectare site which is zoned for commercial and housing development. There are also concerns that the Education Minister's office has been reported as saying it has not had any formal discussions with the council about the sale of the land. This is totally at odds with council agenda papers detailing such discussions. I ask:

1. Does the Minister admit that her department has taken part in negotiations over the sale of the land?

2. At what stage are negotiations to sell the land?

3. Will the Government consider using funds from the open space levy to ensure that the land is retained as open space?

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

WORKCOVER

The Hon. BERNICE PFITZNER: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister of Labour Relations and Occupational Health and Safety, a question about the WorkCover levy.

Leave granted.

The Hon. BERNICE PFITZNER: Certain new businesses appear not to have been assigned the appropriate WorkCover levy, possibly owing to the businesses being unusual and, therefore, not appropriately classified. Two such businesses are finding it difficult to accept their classifications. First, a herb grower has been categorised as a vegetable market farmer for WorkCover levy purposes and has to pay 6.7 per cent for the WorkCover levy. The person says that their business is more akin to a 'cut flowers' classification which gets a WorkCover levy of only 3.2 per cent—half as much.

Secondly, a new and very successful smoked fish business, with growing contracts to Asian countries, has been categorised as an abattoir for WorkCover levy purposes. He pays the abattoir WorkCover levy of 4.84 per cent. These new companies not only do not have the concessional rates to help start up, but they appear to be inappropriately classified, resulting in a heavier WorkCover levy. My questions to the Minister are:

1. What are the criteria used to decide on the level of the WorkCover levy?

2. What is the justification for the herb grower to be classified under 'vegetable grower' rather than 'cut flowers'?

3. If the justification is vague, can the herb grower's WorkCover levy be rectified so that a better rate is obtained?

4. What is the justification for the smoked fish business to be classified as an abattoir?

5. Is there a chance for reclassification of this business, taking into account that it is a new business and that it exports its products overseas?

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

AMBULANCE SERVICES

The Hon. PETER DUNN: I seek leave to make a brief explanation before asking the Minister representing the Minister of Emergency Services about the cost of ambulance services in South Australia.

Leave granted.

The Hon. PETER DUNN: Recently, the rather rapid increase in the cost of ambulance services in South Australia has been brought to my attention. They appear to have gone up by 25 to 30 per cent in one year. Looking at the financial report of the ambulance services this year, I notice that their total budget is about $40 million, yet last year the budget was only $35.75 million. In 1992, the call-out fee for an ambulance in South Australia was $285 and in 1993 it has gone up to $392. As well as that one pays $2.30 per kilometre one way to get to the hospital. If I fell down here and sustained a broken leg and had to be taken to the Adelaide Hospital, the fee would be $394.30—a very considerable sum of money.

Furthermore, the same fee applies if patients are transferred from hospital to hospital—inter-hospital transfers. The only concessions are if one is a member of St John's, if one has a pension card, a concession card or a health care card or if one receives Austudy or one can get a concession from the Department of Veterans Affairs. Volunteers man the ambulances in the country and they are not paid. In the city, the staff are paid extremely well. On that basis I ask:

1. Why must a patient pay the same for a country retrieval where volunteers are involved as for a city retrieval where paid staff are involved?

2. Why can there not be a lower fee for country transfers, from hospital to hospital, where volunteers are involved?

3. What board sets the fees, who are the people on these boards and what are the organisations they represent?

The Hon. C.J. SUMNER: I will refer those questions to the appropriate Minister and bring back a reply.

EDUCATION AMBIT CLAIM

In reply to **Hon. R.I. LUCAS** (5 August 1993).

The Hon. ANNE LEVY: The Minister of Education, Employment and Training has provided the following response:

1. The ramifications of the State Public Services Federation (SPSF) securing a Federal award will be that the parties to the award will be subject to the Federal industrial relations system whereby awards and industrial relations matters are dealt with by the Australian Industrial Relations Commission rather than the State Commission.

2. In the event that a Federal award is the eventual outcome of the proceedings in the Industrial Commission, such an award will contain rates of pay and conditions of employment either negotiated by the parties or determined by the Commission, in line with the prevailing principles of wage fixation. Even if higher rates of pay result from this process, there will be no additional cost to the Government as the school support grants utilised by school councils have no relationship with their employees' rates of pay.

SCHOOL DISCIPLINE

In reply to **Hon. R.I. LUCAS** (11 August 1993).

The Hon. ANNE LEVY: The Minister of Education, Employment and Training has provided the following response:

1. Under the procedures for Suspension, Exclusion and Expulsion of Students from Attendance at School (1992) the following procedures apply:

Suspension of a student is the responsibility of the principal, who may suspend a child for up to 5 days at a time.

Exclusion of a student is the responsibility of the principal. Exclusion is an appropriate response when the principal believes on reasonable grounds that:

- the student has threatened or perpetrated violence
  or
- the student has acted in a manner that threatens the good order of the school or the safety or wellbeing of a student or member of staff of the school
  or
- the student is interfering with the rights of other students to learn and teachers to teach
  or
- the student has acted illegally.

Exclusion of a child is for between four and 10 weeks or for the remainder of a term or semester.

Pending exclusion the student is suspended for up to five days, in which time there is a conference at which the student, school, parent and an interagency referral manager develop behaviour and learning goals to be achieved during the exclusion, should it be decided to activate the exclusion.

If these goals are not achieved during the term of an exclusion, the exclusion may be extended for up to another 10 weeks.

Expulsion denies a child enrolment within the Education Department for a period of one to five years. Expulsion is reserved for children over the age of compulsion, since the Education Department has a responsibility to provide an education for all children of school age.

The process of expulsion is the responsibility of the principals to activate.

Principals may recommend an expulsion to the Associate Director of Education (Schools) who may expel a student if he believes on reasonable grounds that the student has:

- threatened or perpetrated violence
  or
- acted in a manner that threatens the good order of the school or the safety or wellbeing of a student or member of staff of the school
  or
- acted illegally

A student, parent or other adult acting on the student's or parent's request may appeal against either Exclusion or Expulsion.

The Policy School Discipline: The Management of Student Behaviour (1989) instructs principals to notify police of illegal student actions. The possession of a weapon constitutes such an illegal action.

2. Since it is compulsory for all students of school age to be enrolled in schools, principals do not have the right to refuse enrolments on the basis of student history.

If a child is under expulsion from school, that child is denied access to all Education Department schools.

If a child is under exclusion from school, that child's placement for the duration of the exclusion is negotiated between student, parents, school and interagency referral manager.

If this placement cannot be negotiated, the child's placement is at the direction of the District Superintendent of Education, acting on behalf of the Director General of Education.

If a child is violent or acts in a manner which threatens the good order of the school the principal may suspend the child and initiate proceedings towards exclusion or expulsion.

3. The Roll Book currently in use in schools includes a record of all suspensions, exclusions and expulsions.

Records of suspensions and of re-entry procedures are kept at a school level as they are the responsibility of principals. A common format for recording suspensions is used in all schools.

Teacher and Student Support Managers and Interagency Referral Managers have developed, with the help of the Information Technology branch, a system of gathering and collating data on exclusions and expulsions.

The data base developed will provide statistics on the number of exclusions and expulsions as well as other valuable statistical data on the profile of students excluded or expelled, the reasons for exclusions and expulsions, the use of alternative placements, and the provision of support for students and their families.

STATE TRANSPORT AUTHORITY

In reply to **Hon. DIANA LAIDLAW** (11 August 1993).

The Hon. BARBARA WIESE: The General Manager was not in New Orleans on Sunday 8 August, 1993. He was on private holidays in New Zealand.

1. The expected cost of the trip to New Orleans is $180 000.

2. The cost of the Sydney conference was $137 000 comprising:

- Publications $14 000
- Stand and rental of space at exhibition $95 700
- Freight and Insurance costs $ 4 000
- Travel expenses $16 000
- Translation and other costs $ 7 300

3. The response at the UITP Exhibition held in Sydney in May 1993 at which 76 countries were represented, has been promising with inquiries being received from operators in Spain, Hong Kong, India, United States, Israel, France, New Zealand and Australia. Operators who expressed interest are being followed up as part of the post exhibition marketing.

TRANSPORT HUB

In reply to **Hon. DIANA LAIDLAW** (12 August 1993).

The Hon. BARBARA WIESE: The cost to date of the Maunsell Adelaide Transport Hub Concept Assessment Study totals $212 247. Of this approximately $146 000 was spent on the sea and land component and some $66 000 on the air component. These costs include Maunsell's fees and disbursements.

In the process of conducting its market research Maunsell visited key shippers and shipping lines interstate and overseas and consider that their market research assessment and conclusions are conservative rather than optimistic.

An implementation plan is now being developed by the Hub Executive for consideration by the Government. As part of this program Maunsell has been commissioned to do further work on aspects of the air component. This work is expected to be completed late in 1993.

PUBLIC SECTOR REFORM

The Hon. R.I. LUCAS: Does the Attorney have an answer to a question that I asked on 19 August about public service reform?

The Hon. C.J. SUMNER: I have that answer and it is as follows:

1. In the Economic Statement a new targeted separation package (TSP) was announced together with a work force reduction of 3 000 public sector employees to be achieved by 30 June 1994. There is no delay in the Government achieving the targets stated in the Premier's 'Meeting the Challenge' document.

At 18 August 1993, 1 552 public sector employees had requested and received an offer of a TSP approved by the Commissioner for Public Employment. 1 024 public sector employees had accepted offers by 18 August 1993 and resigned. Offers are under consideration by employees and further offers will be made as soon as the employees resolve outstanding workers compensation claims.

2. It is not anticipated that there will be any need to push the work force targets into the 1994-95 financial year if work force reductions continue to meet targets. In excess of 1 000 public sector employees accepted TSPs in the first six weeks of the 1993-94 financial year.

CONSENT TO MEDICAL TREATMENT AND PALLIATIVE CARE BILL

Adjourned debate on second reading.

(Continued from 24 August. Page 262.)

The Hon. DIANA LAIDLAW: This is an important Bill that I am keen to support. The Bill addresses the complex and sensitive issue of the manner of dying. It seeks to enhance and protect the dignity of people who are dying and to clarify the responsibilities of doctors who look after them. Also, the Bill seeks to promote the practice of palliative care. The Bill, as colleagues who have spoken on this debate have already stated, is one that will be considered by members as a matter of individual conscience.

Mr President, the Bill aims to implement the recommendations of the Select Committee into the Law and Practice Relating to Death and Dying. The committee itself was established following a motion moved by the member for Coles, the Hon. Ms Cashmore. I recall discussing this matter with her some weeks before she moved that motion. At the time I was keen to move for a select committee in this place to canvass the issue of voluntary euthanasia or the provision of medical assistance in dying.

I recall Ms Cashmore was not as keen on this idea, the whole notion of voluntary euthanasia or the exploration of the matter, as I was. She suggested to me that most members and possibly the community at large would also reject the idea. She therefore proposed a compromise resolution moved in the other place that would explore this whole issue of death and dying without looking at one aspect only as, in this instance, voluntary euthanasia. I was prepared to accept her advice and wisdom on this matter.

It was important to me at the time as it is now that changes were made to the law relating to death and dying. It was therefore more important to try to win the confidence of the majority of the community and certainly the majority of members of Parliament for that change rather than going for something that may be more dramatic and may be something that could happen in a decade or so, and I was prepared to accept her advice.

It is apparent that the advice was sound because the committee's recommendations, following a great deal of community consultation, have been brought before this Parliament, passed by the other place and will be accepted by this place, albeit with some amendment.

Just as I compromised in terms of the motion I wanted to move in this place on the issue of death and dying, this Bill is also a compromise. As I have acknowledged it is not as advanced as I would like but it is certainly a positive advance on current practices, those practices being provided for in the Natural Death Act 1983 and the Consent to Medical and Dental Procedures Act 1985.

I have taken a keen interest in this subject of death and dying for almost three decades, having experienced the death of my mother in hospital in 1963 after a long fight with cancer. I was aged 11 at the time and it was not a pleasant experience for any of us, particularly not my mother. Also, I have spent a lot of time nursing one grandmother at home. It was her wish that she die at home after a mercifully short experience with cancer. Another grandmother, unfortunately, died many years after she wished to die and spent, I think, 12 years in a nursing home. I am often grateful that we as a family could afford to keep her in very pleasant surroundings and with maximum care during those years. But she did not live those years with the dignity that she had certainly lived the earlier part of her life and it was a matter of great concern and agitation to her that she continued to live but with failing capacity to enjoy life to the full.

In recent times I have also witnessed my sister escape death from legionnaire's disease. I suppose, when I reflect back on the deaths and near deaths of very close members of my family, I could say that my mother and my sister were both young themselves, with young families and they had a strong will to live. In my mother's case she lived well beyond the expectations of most doctors who were in charge of her case. But when one looks at death and dying from the perspective of a young person and a young person with a family it is very different from the case of older people. It is the case today that our community is ageing at a dramatic rate. South Australia is known widely as being the oldest State in Australia in terms of age profiles.

It is probably worth looking at this issue in South Australia in terms of death because the position has changed a great deal over the past 150 years. Certainly at the turn of this century life expectancy in South Australia was around 45 years. The average life span is now 73 years for men and 80 years for women. The main factor in this trend has been the dramatic decline in the number of children dying soon after birth. Infant mortality rates are now only one-tenth of what they were in 1901.

Those figures in terms of infant mortality do not tell the full story. The leading causes of death in the nineteenth century among South Australians were growing children/adults who encountered infectious diseases: influenza, pneumonia and tuberculosis. By the 1960s these diseases had been replaced by heart and cancer as the main causes of death. Cancer, which was the eighth leading cause of death in 1900, now ranks second only to cardiovascular disease. One in four deaths in South Australia is now caused by this disease. By the year 2000 the number of people dying from cancer is forecast to increase by 30 per cent.

In the meantime lung cancer in women continues to rise and is forecast to replace breast cancer as the leading cause of death from cancer in a few years time. The trend is clear in South Australia as elsewhere in the developed world: higher standards of living, dramatically reduced infant mortality, and the various infectious diseases leaving the so-called chronic diseases of ageing as the main causes of mortality. So, with our ageing population it is important that we deal with this issue of death and dying.

I want to read a poem I saw recently in a publication called *The Country Web*, which is produced by the New

South Wales Rural Women's Network. It is a fantastic publication to which many women in rural areas write to express their views on a whole range of matters and to seek feedback and contact with others. This poem is called 'Grace', by a person called Quendryth Young of Alstonville, and reads as follows:

You wanted to die, Grace.
We wouldn't let you.
"*The time has come,*" you cried,
"*I've parried pain and platitudes*
now I decide the time is right to go."
"*Oh, no!*" we cowered, "*You mustn't leave us.*"
Doctors nodded, "*It is not allowed.*"
Nurses carefully plumped up pillows, cradling your despair.
And so, in spite of you, and for your sake,
We threw your aching body, weak with chemotherapy,
back onto the rack of the terrifying treadmill
of treatment that carried you against your will
through *all that can be done is being done,*
against your will *to give her every chance*
against your will to Psychiatric Ward.
You died, Grace. Six months too late, you died.
Dignity denied, spirit undermined.
Sacrificed, you suffered for our sake,
and then you died.

I relate to that poem in terms of the circumstances of members of my family. It is true that many family members are much keener for others around them, particularly the dying, to continue to live for their own sake and against the wishes of the person whom they profess to love and to care for. This Bill is extremely important. It takes us one step closer to people being ultimately responsible for their lives which, as a Liberal, I believe in most strongly.

I think that we can make decisions in this place from time to time, based on doctrines that we may believe in, that deny the individual the responsibility we in this place should be encouraging people to exercise at every opportunity, particularly when it is an issue that deals so directly with people, their comforts, needs and wants. And that issue is in relation to dying. Whilst in my view this Bill does not go far enough in terms of my beliefs in what should be individual responsibility for the ultimate and last decision one makes in his life, it is an important step in that direction and I commend the Hon. Jennifer Cashmore for moving the motion in the other place a couple of years ago, for pushing for this Bill, and I commend the Government for having adopted this measure.

I emphasise again, as the President of the Voluntary Euthanasia Society (Ms Mary Galnore) has emphasised, this Bill is not about voluntary euthanasia. The society would of course have loudly applauded such a move, but it recognises that this Bill does not embrace its agenda. The Minister's second reading explanation makes that particularly clear when it is noted that the select committee firmly rejected the proposition that the law should be changed to provide the option of medical assistance in dying or voluntary euthanasia. I suppose that, if I had been a member of that committee, that may not have been the same outcome, but I was not, and I am pleased to accept the majority view of those who served on it. I think this Bill is essentially a Committee Bill. There will be plenty of work for us to do in Committee because of the number of amendments that members have put on file. I will not be one seeking to amend this Bill, because essentially I am satisfied with it in its current form.

In conclusion, I would say that I am pleased to see the emphasis on palliative care, and I am keen to acknowledge the work of Professor Ian Maddocks and others who work in palliative care at Flinders Medical Centre and at Daw House Hospice. I also acknowledge the stunning work of the Mary Potter Foundation based at Calvary Hospital. The work of those institutions and others has ensured that in South Australia we have a level of palliative care and care for the dying that is matched by few other places in the world. So, we have that level of palliative care and with this Bill we have another important measure that ensures that those in South Australia have current and forward looking legislation that, in terms of informed consent, will make their life easier in its last stages. And, if they choose, they can be in charge of the processes of those last days through either their own decisions or decisions conveyed to a medical agent. I support and welcome the Bill.

The Hon. R.R. ROBERTS secured the adjournment of the debate.

CLASSIFICATION OF FILMS FOR PUBLIC EXHIBITION (ARRANGEMENTS WITH COMMONWEALTH) AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 18 August. Page 191.)

The Hon. K.T. GRIFFIN: The Opposition supports the second reading of this Bill. The principal Act deals with the classification of films for public exhibition. Presently, the Commonwealth Chief Censor classifies films, videos and publications on behalf of the States with a view to achieving a uniform system of classification. Those classifications are received into South Australian law although they may be overridden. In respect of publications, they may be overridden by the Classification of Publications Board. As I recollect, the classification of films for public exhibition may be overridden by the Attorney-General.

The Chief Censor has indicated that the collection of fees on behalf of South Australia will not continue after 1 August 1993 because the Chief Censor has received advice that there is a defect in South Australian law. The Bill seeks to remedy that defect. The Chief Censor has been collecting fees on behalf of South Australia for the classification of films, and portion of the amount collected has been remitted to South Australia and portion retained by the Commonwealth. The Chief Censor undertakes that responsibility not only in respect of films classified for South Australia but also in other States and Territories.

I understand that under the existing arrangements $15 is retained by the Chief Censor and $20 is returned to each State. The Bill seeks to authorise the collection of the fees without the mechanism that is presently in the principal Act, and so far as the Opposition is concerned that is merely a technical matter and can be supported. The Government has also taken the opportunity to transfer from the regulations to the Act the offence of exhibiting a film classified 'MA' to a child between the age of two and 15 years, if not accompanied by a parent or guardian. The penalty in the regulations is $100, and is being increased to $500. That penalty is similar to the penalty range which applies to the exhibition of an 'R' rated film to a minor.

This part of the Bill does raise the general issue of penalties relating to breaches of provisions of the principal Act. They have not been reviewed for some years. It would be appropriate to consider increasing those at some time in the future, but I accept, and have made the judgment, that it would not be appropriate in what is essentially a technical Bill to seek to make a wholesale review of penalties.

However, I can indicate that, in Government, we would certainly be anticipating at an early stage a review of monetary penalties with a view to bringing them at least up to date with current values. However, that is a matter for the future. If the offences are to mean anything, it is obvious that, where there are monetary penalties, they should be kept up to date, and we will do that in Government. I therefore indicate support for the second reading of this Bill.

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

CLASSIFICATION OF PUBLICATIONS (ARRANGEMENTS WITH COMMONWEALTH) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 18 August. Page 192.)

The Hon. K.T. GRIFFIN: Essentially, this Bill is a technical Bill. It seeks to achieve the same objectives as the Bill that we have just dealt with. The Classification of Publications Act deals with the classification of publications—printed material, with videos and with films that are not classified for public exhibition. Presently, the Commonwealth Chief Censor classifies films and videos as the Censor does with publications on behalf of the States and Territories, with a view to achieving a uniform system of classification. As I indicated previously, these classifications are received into South Australian law, although they may be overridden by the South Australian Classification of Publications Board in particular instances. The Chief Censor has been collecting fees on behalf of South Australia for that classification task. The amount of $15 is retained by the Chief Censor and $20 is returned to the State.

The Chief Censor, as with the classification of films for public exhibition, has received advice that the express power to collect fees has not been granted to the Chief Censor and, in view of that advice, ceased to collect fees in respect of South Australia from 1 August 1993. This Bill seeks to remedy that apparent deficiency and to allow the collection of fees by the Chief Censor on behalf of South Australia. To that extent the Bill is technical and we support it. There are several other matters to which I wish to draw attention. My colleague the Hon. Dr Pfitzner will be raising one issue which requires a response from the Attorney-General, and I will leave it for her to explain the difficulty. I think there is some substance in what she will tell the Chamber, and that it is a matter that ought to be resolved before the Bill is dealt with in the Council.

The other matter I wish to refer to is a letter from the Newsagents Association of South Australia. I sent the two Bills that we have been discussing to a variety of people for comment. The Newsagents Association does not raise any difficulties with this Bill but does raise other issues, and I think it is appropriate to mention them in passing on the occasion of the consideration of this Bill. The Newsagents Association of South Australia represents all South Australian newsagents. It says that it fully endorses and supports uniform procedures in the classification of publications, and strongly urges that this classification should remain with the Chief Censor.

I made the point that, generally speaking, the classification of the Chief Censor does apply in South Australia but I think it is important from the perspective of South Australians that some residual power reside with State authorities to override that classification in special circumstances, and that power, as I said earlier, does remain here and in this instance with the Classification of Publications Board. The Newsagents Association draws attention to one matter, and that is responsibility for correct classification. It argues very strongly that the responsibility for that task should rest with publishers and approved authorities before distribution through the newsagency system. The Australian Newsagents Federation wrote to the Federal Attorney-General, and sent a copy of that letter to each of the State Attorneys-General, and raised that issue, and in particular they say:

> Newsagents should not be required to act as the arbiters of public taste, thereby leaving them open to prosecution on the grounds of 'causing offence'.
>
> We are of the opinion that publishers and/or distributors should bear the sole legal responsibility for the content and appearance of their product.

The letter later goes on to state:

> Our association believes that the following solutions should be considered by the Federal and State Attorneys-General:

It talks about uniform classification codes and guidelines regarding display, content and presentation). Then it goes on to recommend:

> That all adult publications delivered to retailers have been cleared by the Australian Censorship Board and are where necessary labelled accordingly, and that penalties be imposed on retailers for selling unlabelled publications which do not comply with the official classification.

One can see that, from the newsagents' point of view, there is some commonsense in that. Over the years I can remember a number of representations being made by newsagents that the publishers and distributors did not accept any responsibility for correct labelling of classifications and, from time to time, newsagents, delicatessens and other similar outlets have been caught, because they have displayed material in a way that has been contrary to the law.

Whilst placing all the responsibility on publishers and distributors may be convenient for newsagents, this does have to be treated with some caution, because not all publications are distributed through those agencies, and some responsibility must be accepted by the final retailing outlet proprietors.

It is an issue that does need to be considered and, whilst I do not expect the Attorney-General to give a response on this matter in the context of consideration of this somewhat technical Bill, I hope that at some stage in the future he may be able to provide me with information as to what the Australian Censorship Ministers' response may be to that request from the Australian Newsagents Federation, particularly in respect of an obligation being placed more directly upon publishers and distributors of material which should be the subject of classification.

Apart from that, I have no difficulty supporting the second reading of the Bill, but the issue which the Hon. Dr Pfitzner will raise needs some clarification before the Bill finally passes. I support the second reading.

The Hon. BERNICE PFITZNER: I support the second reading and, in so doing, I take the opportunity to comment very briefly on the need to obtain uniformity of censorship procedures for publications with more haste than we are achieving. This Bill corrects and strengthens the ability of the Chief Censor to collect fees on behalf of South Australia for the classification of films, videos and publications. The authority to do this has been under the term 'corresponding

law', and this legislation now gives the express power which will be granted under the Act.

I now signal my concern about clause 4, which relates to the board's refraining from assigning a classification. Subsection 3(b) of the Act provides that the board may refrain from assigning a classification to a publication where it is satisfied that the publication would, by reason of the manner in which it describes depicts, expresses or otherwise deals with prescribed matters, so offend against the standards of morality, decency and propriety generally accepted by reasonable adult persons that it should not be assigned a classification.

I am a little puzzled as to why we are to delete this subsection, especially following the second reading explanation, which just states this that this Bill is to empower the Chief Censor to classify videos and publications on behalf of South Australia and to collect fees in respect of that service. I would appreciate an explanation of the deletion of this section.

It is encouraging to note that this Bill also gives the State Censorship Board the ability to override a classification assigned by the Commonwealth. This should be so, as different States have different moral codes on certain issues. Nevertheless, we are also aware that there is a generally accepted baseline moral code that should be put in place for all States and Territories to work from. The Australian Law Reform Commission's censorship procedure was presented to the Commonwealth Parliament in November 1991. The consensus was that the different States and Territories had different classification standards, different procedures and different enforcement methods. This leads to confusion and fragmentation of the procedures and therefore of understanding how everything fits in. I found this to be so whilst researching the private member's Bill on indecent material.

The Law Reform Commission suggests that the various pieces of legislation should be rationalised. In 1984, after consultation between the Federal, State and Territory Governments national principles agreed to were that adults were entitled to read, hear and see what they wished to in private and in public; that people should not be exposed to unsolicited material offensive to them; and that children must be adequately protected from material likely to harm or disturb them.

These principles have been adopted in South Australia by our local censorship board, but not in every State and Territory. There is a need for uniformity for classification. We must work harder towards working for this uniformity, at least at a basic level that all States and Territories can agree upon.

An honourable member interjecting:

The Hon. BERNICE PFITZNER: The interjection as to why my particular indecent material Bill was put in and to the effect that it would make it worse I shall respond to towards the end of this second reading contribution. There is a need for uniformity. To put this uniformity of classification in place, three options were suggested. They were that a single national law or a Federal Act or a classification code be enacted. The decision was to opt for the classification code—a model code for all States and Territories. The model code procedure will attempt to produce uniformity between States on the category, that is, whether it be restricted or unrestricted, of the publication, using certain guidelines to categorise and classify the publication and the advertising thereof. This function would be performed by the Chief Censor.

There are local censorship boards that can override a Federal classification or include other publications that have not been classified by the Chief Censor. However, the enforcement legislation will specify how an item with that classification would be sold, and this power would remain with the States and Territories.

This brings me to the private member's bill on indecent material. This Bill is awaiting proclamation, and I understand that there are to be further discussions before the Bill can be proclaimed. I hope it will be done soon, as the Bill seeks to enforce category one (restricted publications) in a certain manner. This therefore is in line with the recommendation as it is in the enforcement section of the recommendation of the Law Reform Commission. Meanwhile, I support this Bill, subject to the explanation of clause 4, and I hope that the model code towards uniformity of classification for publication will proceed expeditiously.

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

ELECTRICIANS, PLUMBERS AND GAS FITTERS LICENSING BILL

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

The Hon. BARBARA WIESE (Minister of Transport Development): I move:

That this Bill be now read a second time.

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

Leave granted.

The licensing of electrical workers and contractors, plumbers and gas fitters is provided for in the Electrical Workers and Contractors Licensing Act 1966, and the regulations made under the Gas Act 1988, the Sewerage Act 1929 and the Waterworks Act 1932.

Plumbing and gas fitting are skills related trades and, in practice, the licensing and education framework are closely allied. It has been the intention of the Government, for some time, to combine the licensing function for gas fitting with that of sanitary plumbing and hot water plumbing.

There are some overlaps in the work that electricians and plumbers and gas fitters do. This has led, in recent times, to restricted cross-licensing. It makes sense to consolidate the legislative provisions for these licensing functions.

This new legislation achieves several things—

- it brings the licensing of these occupational groups under the umbrella of the Minister of Consumer Affairs—a logical extension of the 'one-stop-shop' concept for licensing;
- it makes use of the Commercial Tribunal as an appellate body for dispute resolution and discipline thus separating the policing authority, the licensing authority and the disciplinary authority and thereby eliminating the perception of any conflict of interest;
- it retains the advisory boards for the respective trades, which are an indispensable part of the national networks that play an important part in national uniformity and micro-economic reform.

Public health and safety are ever present concerns in electrical, plumbing and gas fitting work. It is important to ensure that only appropriately qualified people are allowed to practise these trades and that public health and safety are not put at risk by poor quality workmanship. This Bill ensures that this will not occur.

The original intention was to consolidate these licensing schemes with that under the Builders Licensing Act 1986. However, with further investigation, it has become apparent that a separate Bill will more completely satisfy the objective.

I commend the Bill to the Council.

PART 1

PRELIMINARY

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

This clause is formal.

Clause 3: Interpretation

This clause contains the definitions of words and phrases used in the Bill and, in particular, defines electrical work, gas fitting and plumbing.

Clause 4: Exemption

This clause provides that the Governor may, by regulation, exempt (either unconditionally or subject to conditions) any specified person or class of persons, any specified work or class of work or any specified transaction or class of transactions, from the application of this proposed Act or a specified provision of this proposed Act.

Clause 5: Non-derogation

This clause provides that the provisions of this proposed Act are in addition to and do not derogate from the provisions of any other Act.

Clause 6: Commissioner for Consumer Affairs to be responsible for administration of Act

This clause provides that the Commissioner for Consumer Affairs is responsible, subject to the control and directions of the Minister, for the administration of this proposed Act.

PART 2

LICENSING OF CONTRACTORS

Clause 7: Categories of licences

This clause provides that there are 6 categories of licences for contractors for the purposes of this proposed Act—

- contractors licences (ie: electrical contractors licences, plumbing contractors licences and gas fitting contractors licences)—authorising a person holding such a licence to carry on business as an electrical contractor, a plumbing contractor or a gas fitting contractor without restriction; and
- restricted contractors licences (ie: restricted electrical contractors licences, restricted plumbing contractors licences and restricted gas fitting contractors licences)—authorising a person holding such a licence to carry on business as an electrical contractor, a plumbing contractor or a gas fitting contractor subject to conditions attached to the licence by the Commissioner.

The Commissioner may, on granting a licence under this proposed Act, attach conditions (which may be varied or revoked by the Commissioner on application) to the licence limiting the work that may be performed in pursuance of the licence.

Clause 8: Obligation to be licensed

This clause provides that a person who carries on business as an electrical contractor, plumbing contractor or gas fitting contractor (or who claims or purports to be entitled to carry on such a business) except as authorised by a licence under this proposed Part, is guilty of an offence the penalty for which is a division 5 fine ($8 000).

Clause 9: Applications for licences

This clause provides that an application for a licence must be made to the Commissioner in writing in the prescribed form and be accompanied by the prescribed application fee. The Commissioner must, before determining an application under this proposed section, take into account the advice of the Electrical Work Advisory Board or the Plumbing and Gas Fitting Advisory Board, as the case may require. Where the Commissioner proposes to refuse an application for a licence, the Commissioner must allow the applicant a reasonable opportunity to make representations in relation to the application.

Proposed subsection (5) provides that on an application for a licence, the Commissioner must (subject to the proposed Act) grant the applicant a licence on payment of the prescribed licence fee if the Commissioner is satisfied (among other requirements) that—

where the applicant is a natural person, the applicant has—

- the qualifications and experience prescribed in relation to the kind of work that the applicant would be authorised to perform if granted the licence or, subject to the regulations, qualifications and experience that the Commissioner considers appropriate having regard to the kind of work that the applicant would be authorised to perform if granted the licence; and
- sufficient business knowledge and experience and financial resources for the purpose of properly carrying on the business authorised by the licence;

where the applicant is a body corporate—

- subject to the regulations and any determination of the Commissioner—every director of the applicant body corporate has qualifications and experience prescribed in relation to the kind of work that the body corporate would be authorised to perform if granted the licence or qualifications and experience that the Commissioner considers appropriate having regard to the kind of work that the body corporate would be authorised to perform if granted the licence;
- the directors of the body corporate together have sufficient business knowledge and experience for the purpose of properly directing the business authorised by the licence; and
- the body corporate has sufficient financial resources for the purpose of properly carrying on the business authorised by the licence.

Proposed subclause (6) provides that where a natural person applying for a licence, or a director of a body corporate applying for a licence, is or has been (during the period of 10 years preceding the date of the application) insolvent or the director of an insolvent body corporate or a body corporate applying for a licence is or has been (during the period of 10 years preceding the date of the application) insolvent or in a prescribed relationship with an insolvent body corporate, the Commissioner must not grant the application unless satisfied that there are special reasons why the application should be granted.

Proposed subclause (8) provides that the Commissioner must, by notice in writing served on an applicant under this proposed section, advise the applicant of the Commissioner's decision on the application and, in the case of a decision refusing an application, state in the notice the reasons for the refusal.

Clause 10: Duration of licences

This clause provides that a licence remains in force until the licence is surrendered or cancelled or the licensee dies or, in the case of a body corporate, is dissolved. A licensee must, not later than the prescribed date in each year, pay to the Commissioner the prescribed annual licence fee and lodge with the Commissioner an annual return containing the prescribed information. Where a licensee fails to pay the annual licence fee or lodge the annual return, the Commissioner may require the licensee to make good the default and, in addition, to pay to the Commissioner the amount prescribed as a penalty for default. Where a licensee fails to comply with such a notice within 14 days after service of the notice, the licence is, by force of this proposed subsection, suspended until the notice is complied with. The Commissioner must cause notice of a suspension under proposed subsection (4) to be served on the licensee.

This clause further provides that where a licensee fails to comply with a notice under proposed subsection (3) within six months after service of the notice, the licence is, by force of this proposed subsection, cancelled.

Proposed subsection (7) provides that a licensee may at any time surrender the licence.

Clause 11: Business may be carried on by unlicensed person where licensee dies

This clause provides that where a person carrying on business in pursuance of a licence dies, the personal representative of the deceased, or some other person approved by the Commissioner, may continue to carry on the business for a period of six months and subsequently for such further period and subject to such conditions as the Commissioner may approve. A person is, while carrying on business in pursuance of proposed subsection (1), to be taken to be the holder of a licence of the same category as the licence held by the deceased.

PART 3

REGISTRATION OF WORKERS

Clause 12: Categories of registration

This clause provides that there are 6 categories of registration for workers for the purposes of this proposed Act—

- workers registration (ie: electrical workers registration, plumbing workers registration and gas fitting workers registration)—authorising a person so registered to act as an electrical worker, a plumbing worker or a gas fitting worker without restriction; and
- restricted workers registration (ie: restricted electrical workers registration, restricted plumbing workers registration and restricted gas fitting workers registration)—authorising a person so registered to act as an electrical worker, a plumbing worker or a gas fitting worker subject to conditions attached to the registration by the Commissioner.

The Commissioner may, on granting registration under this proposed Act, attach conditions (which may be varied or revoked by the Commissioner on application) to the certificate of registration

limiting the work that may be performed in pursuance of the registration.

Clause 13: Obligation to be registered

This clause provides that a person who acts as an electrical worker, plumbing worker or gas fitting worker, or claims or purports to be entitled to act as such a worker, except as authorised by registration under this proposed Part, is guilty of an offence and liable to a division 7 fine ($2 000).

This clause further provides that an electrical contractor, plumbing contractor or gas fitting contractor who engages a person as an employee to carry out electrical work, plumbing or gas fitting where that person is not authorised by registration under this proposed Part to carry out such work, is guilty of an offence and liable to a division 7 fine ($2 000).

Clause 14: Application for registration

This clause provides that an application for registration must be made to the Commissioner in writing in the prescribed form and be accompanied by the prescribed application fee. The Commissioner must, before determining an application under this proposed section, take into account the advice of the Electrical Work Advisory Board or the Plumbing and Gas Fitting Advisory Board, as the case may require. Where the Commissioner proposes to refuse an application for registration, the Commissioner must allow the applicant a reasonable opportunity to make representations in relation to the application.

Proposed subsection (5) provides that on an application for registration, the Commissioner must (subject to the proposed Act) register the applicant on payment of the prescribed registration fee if the Commissioner is satisfied that the applicant has—

- the qualifications and experience prescribed in relation to the kind of work that the applicant would be authorised to carry out if granted the registration; or
- subject to the regulations—qualifications and experience that the Commissioner considers appropriate having regard to the kind of work that the applicant would be authorised to carry out if granted the registration.

Proposed subclause (6) provides that the Commissioner must, by notice in writing served on an applicant under this proposed section, advise the applicant of the Commissioner's decision on the application and, in the case of a decision refusing an application, state in the notice the reasons for the refusal.

Clause 15: Duration of registration

This clause provides that registration remains in force until the registration is surrendered or cancelled or the registered worker dies or, in the case of a body corporate, is dissolved. A registered worker must, not later than the prescribed date in each year, pay to the Commissioner the prescribed annual registration fee and lodge with the Commissioner an annual return containing the prescribed information.

Where a registered worker fails to pay the annual registration fee or lodge the annual return in accordance with this proposed section, the Commissioner may require the registered worker to make good the default and, in addition, to pay to the Commissioner the amount prescribed as a penalty for default.

Where a registered worker fails to comply with such a notice within 14 days after service of the notice, the registration is, by force of this proposed subsection, suspended until the notice is complied with. The Commissioner must cause notice of a suspension under proposed subsection (4) to be served on the registered worker.

This clause further provides that where a registered worker fails to comply with a notice under proposed subsection (3) within six months after service of the notice, the registration is, by force of this proposed subsection, cancelled.

Proposed subsection (7) provides that a registered worker may at any time surrender the registration.

PART 4

APPEALS AND DISCIPLINARY PROVISIONS

Clause 16: Appeals to Tribunal

This clause provides that the following appeals may be made to the Tribunal:

- a person who applied for a licence or registration may appeal to the Tribunal against a decision of the Commissioner refusing to grant the licence or registration or imposing a condition of the licence or registration;
- a licensee or registered worker who applied for variation or revocation of a condition of the licence or registration may appeal to the Tribunal against a decision of the Commissioner on the application.

An appeal must be made in a manner and form determined by the Tribunal, setting out the grounds of the appeal and must be made within two months after the making of the decision. The Tribunal may, if it is satisfied that it is just and reasonable in the circumstances to do so, dispense with the requirement that an appeal be made within the period of one month.

Clause 17: Powers of Tribunal on determination of appeals

This clause provides that on hearing an appeal under this proposed Part, the Tribunal may affirm, vary or quash the decision appealed against, remit the subject matter of the appeal to the Commissioner for further consideration and make any further or other order as to costs or any matter that the case requires.

Clause 18: Tribunal may exercise disciplinary powers

This clause provides that the Tribunal may hold an inquiry for the purposes of determining whether proper cause exists for disciplinary action against a person who is licensed or registered under the proposed Act or a person (whether or not being licensed or registered under the proposed Act) who has carried on business as an electrical contractor, plumbing contractor or gas fitting contractor or acted as an electrical worker, plumbing worker or gas fitting worker.

Proposed subsection (3) provides that, subject to the regulations, any person (including the Commissioner) may lodge with the Tribunal a complaint in the prescribed form setting out matters that are alleged to constitute grounds for disciplinary action against a person referred to in proposed subsection (1). Where a complaint has been lodged with the Tribunal, the Commissioner must, at the request of the Registrar, investigate or further investigate any matters to which the complaint relates and report to the Tribunal on the results of the investigations.

Where the Tribunal decides to hold an inquiry under this proposed section, the Tribunal must give the person to whom the inquiry relates ('the respondent') reasonable notice of the subject matter of the inquiry.

Proposed subsection (6) provides that if, after conducting an inquiry under this proposed section, the Tribunal is satisfied that proper cause exists for disciplinary action, the Tribunal may exercise one or more of the following powers:

- it may reprimand the respondent;
- it may impose a fine not exceeding $5 000 on the respondent;
- where the respondent is licensed or registered—it may reduce the respondent's licence or registration (or both) to a more limited category, attach conditions or further conditions to the respondent's licence or registration, suspend the respondent's licence or registration (or both) for a specified period or until the fulfilment of stipulated conditions or until further order, or cancel the respondent's licence or registration (or both);
- it may disqualify the respondent permanently, for a specified period, until the fulfilment of stipulated conditions, or until further order, from being licensed or registered (or both) under this proposed Act.

Proposed subclause (7) provides that if a person has been convicted of an offence and the circumstances of the offence form, in whole or in part, the subject matter of an inquiry under this proposed section, the convicted person is not liable to a fine under this proposed section in respect of conduct giving rise to the offence. Where the Tribunal attaches a condition to a person's licence or registration or imposes a condition as to the conduct of business by a person and the person contravenes or fails to comply with the condition, the person is liable to a division 7 fine ($2 000).

Proposed subsection (10) provides that there is proper cause for disciplinary action under this proposed section against the respondent if the respondent—

- has been guilty of conduct that constituted a breach of this proposed Act;
- has in the course of carrying on business as an electrical contractor, plumbing contractor or gas fitting contractor or acting as an electrical worker, plumbing worker or gas fitting worker been guilty of conduct that constituted a breach of any other Act or law or acted negligently, fraudulently or unfairly;
- being a person licensed under the proposed Act—
- has obtained the licence improperly;
- has ceased to qualify for such a licence under this proposed Act;
- is a director of a body corporate that is insolvent, or, in the case of a body corporate, is in a prescribed relationship with a body corporate that is insolvent;
- in the case of a body corporate—has directors who have ceased to qualify for such a licence under this proposed Act;

- has failed to comply with an order of the Tribunal under Part V of the Builders Licensing Act 1986 or an order of the Supreme Court made in relation to such an order;
- being a person registered under the proposed Act, has obtained the registration improperly.

The powers conferred by this proposed section in relation to persons licensed or registered under the proposed Act may be exercised, in the case of a person who was also licensed or registered under the repealed Electrical Workers and Contractors Licensing Act 1966, section 17b of the Sewerage Act 1929 or section 28 of the Gas Act 1988, or those regulations under the Sewerage Act 1929 or the Waterworks Act 1932 revoked with effect from the commencement of this proposed Act, in relation to conduct or circumstances occurring before or after the commencement of this proposed Act.

Clause 19: Restriction on disqualified persons being involved in contractors business

This clause provides that a person who is disqualified from being licensed or registered under this proposed Act who, without the prior approval of the Tribunal, undertakes any employment, or is otherwise engaged, in the business of an electrical contractor, plumbing contractor or gas fitting contractor is guilty of an offence and liable to a division 4 fine ($15 000).

This clause further provides that where a person who (to the knowledge of an electrical contractor, plumbing contractor or gas fitting contractor) is disqualified from being licensed or registered under the proposed Act is employed, or otherwise engaged, in the business of the electrical contractor, plumbing contractor or gas fitting contractor without the prior approval of the Tribunal, the contractor is guilty of an offence and liable to a division 4 fine ($15 000).

Clause 20: Record of disciplinary action to be kept

This clause provides that where the Tribunal takes disciplinary action against a person, the Registrar must—

- make an entry on the register established under the Commercial Tribunal Act 1982 recording the disciplinary action taken; and
- advise the Commissioner of the name of the person and the disciplinary action taken.

Clause 21: Advertising suspension, cancellation or disqualification

This clause provides that where disciplinary action taken against a person by the Tribunal consists of or includes the suspension or cancellation of the person's licence or registration or disqualification of the person, the Registrar must cause notice of the action taken to be served personally or by post on that person and to be advertised in a newspaper circulating throughout the State.

PART 5
ADVISORY BOARDS

Clause 22: Establishment of advisory boards

This clause provides for the establishment of the Electrical Work Advisory Board and the Plumbing and Gas Fitting Advisory Board.

Clause 23: Membership of boards

This clause provides that the Electrical Work Advisory Board will consist of six members appointed by the Minister, of whom—

- one (who will be the presiding member) will be a person nominated by Southern Power and Water;
- one will be a person nominated by the Minister of Public Infrastructure;
- one will be a person nominated by the Minister administering the Technical and Further Education Act 1975;
- one will be a person nominated by the Electrical Trades Union of Australia;
- one will be a person nominated by the Electrical Contractors Association of South Australia Incorporated;
- one will be a person nominated by the United Trades and Labor Council (not being a member or official of an organisation representing any of the trades in relation to which the proposed Act applies).

This clause further provides that the Plumbing and Gas Fitting Advisory Board will consist of 11 members appointed by the Minister, of whom—

- two will be persons nominated by Southern Power and Water (one of whom will be appointed by the Minister as the presiding member);
- one will be a person nominated by the Master Plumbers' and Mechanical Services Association of South Australia Incorporated;
- one will be a person nominated by The Plumbers and Gasfitters Employees Union of Australia (South Australian Branch);
- two will be persons nominated by the South Australian Gas Company Limited;
- one will be a person nominated by the Federated Gas Employees' Industrial Union;
- one will be a senior teacher in the School of Plumbing in the Regency College of Technical and Further Education nominated by the Department of Employment and Technical and Further Education;
- one will be a person with expertise or experience in the area of public health nominated by the Public and Environmental Health Council;
- one will be a person nominated by the United Trades and Labor Council (not being a member or official of an organisation representing any of the trades in relation to which the proposed Act applies);
- one will be a person appointed to represent the interests of consumers of plumbing and gas fitting services.

At least one member of each board must be a woman and at least one must be a man.

Clause 24: Terms and conditions of office

This clause provides that a member of a board will be appointed for a term of 3 years on such conditions as the Minister determines and will, on the expiration of a term of office, be eligible for reappointment. A vacancy in the membership and casual appointment to a board may occur on the usual terms.

Clause 25: Allowances and expenses

This clause provides that a member of a board is entitled to such allowances and expenses as the Minister may determine.

Clause 26: Procedure of boards

This clause provides that a meeting of a board will be chaired by the presiding member or, in his or her absence, by a member chosen by the members present at the meeting. Subject to proposed subsection (3), a board may act despite vacancies in its membership. A quorum of a board is constituted of the number of members of a board equal to half the total number of members plus one and no business may be transacted at a meeting of the Board unless a quorum is present.

This clause further provides that each member present at a meeting of a board is entitled to one vote on a matter arising for decision at the meeting, but the person presiding at the meeting has, in the event of an equality of votes, a casting vote as well as a deliberative vote. A decision carried by a majority of the votes cast by the members of a board present and voting at a meeting of the board is a decision of the board.

Each board must cause accurate minutes to be kept of its proceedings at meetings but the procedure for the calling of meetings of a board and for the conduct of business at meetings will, subject to this proposed Act, be as determined by the board.

Clause 27: Functions

This clause provides that the Electrical Work Advisory Board has the following functions:

- to advise the Commissioner in respect of applications for licences or registration;
- to advise the Minister or the Commissioner in respect of any other matter relating to electrical work or the administration of the proposed Act;
- any other functions prescribed by regulation or prescribed by or under any other Act.

This clause provides that the Plumbing and Gas Fitting Board has the following functions:

- to advise the Commissioner in respect of applications for licences or registration;
- to advise the Minister or the Commissioner in respect of any other matter relating to plumbing or gas fitting or the administration of the proposed Act;
- any other functions prescribed by regulation or prescribed by or under any other Act.

PART 6
MISCELLANEOUS

Clause 28: Name in which licensee carries on business

This clause provides that a licensee who carries on business in pursuance of the licence except in the name appearing in the licence or in a business name registered by the licensee in accordance with the provisions of the Business Names Act 1963 (of which the

Commissioner has been given prior notice in writing) is guilty of an offence and liable to a division 8 fine ($1 000).

Clause 29: Publication of advertisement

This clause provides that a licensee who publishes, or causes to be published, an advertisement relating to the business carried on in pursuance of the licence where the advertisement does not specify—

- the licensee's name as it appears in the licence or any registered business name in which the licensee carries on business and of which the Commissioner has been given prior notice in writing; and
- the licence number assigned to the licensee by the Commissioner and, where the licensee carries on business in partnership, the licence number of each partner;

is guilty of an offence and liable to a division 5 fine ($8 000).

Proposed subsection (1) does not apply in relation to an advertisement offering or seeking applications for employment or an advertisement directed to other licensees or builders.

Clause 30: Licensee to have sign showing name, etc., on each of licensee's building sites

This clause provides that a licensee must install or erect in a prominent position on the site of any work performed by the licensee or on the outside of the place where the work is being performed a sign showing clearly—

- the licensee's name (as it appears in the licence) or any registered business name in which the licensee carries on business; and
- the licence number assigned to the licensee by the Commissioner and, where the licensee carries on business in partnership, the licence number of each partner.

The penalty for failing to comply with this proposed subsection is a division 5 fine ($8 000).

This clause further provides that where a licensee is performing work on a site for some other licensee who is performing work on that site (whether the other licensee is a licensee under this proposed Act or the Builders Licensing Act 1986), it is sufficient compliance with proposed subsection (1) if the provisions of that proposed subsection or the corresponding provision of the Builders Licensing Act 1986 are complied with only by that other licensee.

Clause 31: Unlicensed persons not entitled to fees, etc., for work

This clause provides that an unlicensed person who performs electrical work, plumbing or gas fitting in circumstances in which a licence is required under this proposed Act is not entitled to recover any fee or other consideration in respect of the work unless the Tribunal or any court hearing proceedings for recovery of the fee or consideration is satisfied that the person's failure to be licensed resulted from inadvertence only.

Clause 32: Evidentiary

This clause provides that in any proceedings in respect of an offence against this proposed Act, where it is proved that a person performed electrical work, plumbing or gas fitting for another for fee or reward, the person is (unless the contrary is proved) to be taken to have been carrying on business as an electrical contractor, plumbing contractor or gas fitting contractor.

Clause 33: Investigations

This clause provides that the Commissioner must (at the request of the Registrar) cause officers to investigate and report on any matter relevant to the determination of any application or other matter before the Tribunal or any matter that might constitute proper cause for disciplinary action under this proposed Act.

Clause 34: Annual report

This clause provides that the Commissioner must, on or before 31 October in each year, submit to the Minister a report on the administration of this proposed Act during the period of 12 months ending on the preceding 30 June and the Minister must, within 12 sitting days after receiving the report, cause a copy of it to be laid before each House of Parliament.

Clause 35: Service of documents

This clause provides that a notice or document required or authorised by this proposed Act or the Commercial Tribunal Act 1982 to be served on any person is to be taken to have been duly served if it has been—

- served on the person personally;
- posted in an envelope addressed to the person at the person's last known address (or, in the case of a licensee—the licensee's address for service); or
- in the case of a licensee—left for the licensee at the licensee's address for service with a person apparently over the age of 16 years.

Clause 36: False or misleading information

This clause provides that a person must not, in furnishing any information required under this proposed Act, make a statement that is false or misleading in a material particular. The penalty for contravening this proposed section is a division 5 fine ($8 000).

Clause 37: Return of licence or certificate of registration when cancelled, etc.

This clause provides that where a licence or registration granted to a person is suspended or cancelled, or a condition is to be attached to it, under this proposed Act, that person must, at the direction of the Tribunal, the Registrar or the Commissioner, return the licence or certificate of registration to the Registrar or Commissioner (as the case may be). The penalty for contravening this proposed section is a division 5 fine ($8 000).

Clause 38: Offences by bodies corporate

This clause provides that where a body corporate is guilty of an offence against this proposed Act, each director of the body corporate is guilty of an offence and liable to the same penalty as is prescribed for the principal offence unless it is proved that the director could not by the exercise of reasonable diligence have prevented the commission of that offence.

Clause 39: Continuing offences

This clause provides that a person convicted of an offence against any provision of this proposed Act in respect of a continuing act or omission—

- is liable (in addition to the penalty otherwise applicable to the offence) to a penalty for each day during which the act or omission continued of not more than the amount equal to one-tenth of the maximum penalty prescribed for that offence; and
- is (if the act or omission continues after the conviction) guilty of a further offence against the provision and liable, in addition to the penalty otherwise applicable to the further offence, to a penalty for each day during which the act or omission continued after the conviction of not more than the amount equal to one-tenth of the maximum penalty prescribed for the offence.

Clause 40: Commencement of proceedings

This clause provides that proceedings for an offence against this proposed Act may not be commenced by a person other than the Commissioner or an authorised officer under the Fair Trading Act 1987 except with the consent of the Minister.

Clause 41: Regulations

This clause provides that the Governor may make such regulations as are contemplated by this proposed Act, or as are necessary or expedient for the purposes of this proposed Act, including—

- prescribing any form and the information to be contained in any form for the purposes of this proposed Act;
- prescribing fees (including differential fees) for the purposes of this proposed Act;
- prescribing penalties (recoverable summarily) not exceeding a division 7 fine for contravention of, or non-compliance with, any regulation.

A code of practice may be prescribed for the purposes of this proposed Act by referring to, or incorporating, in whole or in part, and with or without modifications, a code of practice for the time being, or from time to time, adopted by a body which, in the opinion of the Governor, represents the interests of a substantial section of persons licensed or registered under this proposed Act.

SCHEDULE

Transitional Provisions

The Schedule contains provisions dealing with the transition of a licence, registration or other authority under—

- the repealed Electrical Workers and Contractors Licensing Act 1966;
- the repealed section 28 of the Gas Act 1988;
- the repealed section 17b of the Sewerage Act 1929; or
- those regulations under the Sewerage Act 1929 or the Waterworks Act 1932 revoked with effect from the commencement of this proposed Act,

to a licence or registration of an appropriate category granted under this proposed Act.

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

[Sitting suspended from 3.58 to 4.20 p.m.]

ROAD TRAFFIC (BREATH ANALYSIS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 24 August. Page 268.)

The Hon. BARBARA WIESE (Minister of Transport Development): I would like to thank the Hon. Ms Laidlaw for her contribution to the debate. I note that the honourable member has four amendments on file. I will not take up the time of the Council to comment on those amendments now, because it is better left to the Committee stage.

As to one matter raised by the honourable member and her view that the Drager alcotest model should be gazetted as a screening device, I would like to say that this is a matter about which the Government agrees and it will be something that I will bring forward for gazettal as a screening device, because it would be an additional useful tool for the police in carrying out their responsibilities under these provisions of the Road Traffic Act. As to the other matters raised by the Hon. Ms Laidlaw, I am sure that we can deal with them in Committee. I support the second reading.

Bill read a second time.

In Committee.

Clauses 1 to 4 passed.

New clause 4a—'Insertion of ss.47fa and 47fb.'

The Hon. DIANA LAIDLAW: Before I deal with my amendment, I omitted to ask for information under clause 2. When does the Minister intend that this procedure will come into operation? Will it be immediately or after some delay?

The Hon. BARBARA WIESE: We intend to proclaim this legislation as soon as we can. The only matters that will cause delay are the various procedures that the Bill and other issues must go through following passage of the legislation. However, equipment and other matters are ready to go, so there should not be undue delays in enabling proclamation.

The Hon. DIANA LAIDLAW: As to the implementation, because there are significant changes in practice, where it is intended in most cases that the police would not accompany a person who requests a blood sample to a medical practitioner or hospital, does the Minister propose that there will be some educational publicity about these changes in terms of people's rights? If so, has any budget allowance been provided through the Office of Road Safety or the police for this purpose?

The Hon. BARBARA WIESE: Some publicity will be given to the new procedures to be adopted. I do not envisage that a huge media campaign will be developed, but certainly through the newspapers and other avenues we will be drawing the community's attention to the fact that these procedures will be changing. Of course the police themselves, in undertaking their responsibilities under the legislation, will also be making it clear to motorists exactly what the new procedures are and the new procedures that must be followed. It will be a two-pronged approach but I do not anticipate an expensive media campaign to be part of the publicity strategy.

The Hon. DIANA LAIDLAW: If the RAA supports this legislation in principle, subject to a couple of amendments I will be moving in a moment, it may well, through its motor magazine, be prepared to alert people to these changes as well. I move:

Page 2, after line 22—Insert new clause as follows:

4A. The following sections are inserted after section 47f of the principal Act:

Police to provide transport assistance for blood tests in certain circumstances outside Metropolitan Adelaide

47fa. (1) Where—

(a) a person submits to a breath analysis conducted under this Act at a place outside Metropolitan Adelaide;

(b) the person requests a blood test kit as referred to in section 47g(2a);

(c) it appears to a member of the police force that the person has failed or will fail, despite reasonable endeavours, to make safe and appropriate transport arrangements within the period of two hours after the conduct of the breath analysis to attend at a place at which a sample of the person's blood may be taken and dealt with in accordance with the procedures prescribed by regulation for the purposes of section 47g(1a);

and

(d) the person requests of a member of the police force that a member of the police force transport the person, or arrange for the transport of the person, to such a place,

a member of the police force must transport, or arrange for the transport of, the person to such a place.

(2) In subsection (1)—

"Metropolitan Adelaide" has the same meaning as in the Development Act 1993.

Blood tests by nurses where breath analysis taken outside Metropolitan Adelaide

47fb. (1) Where a person submits to a breath analysis conducted under this Act at a place outside Metropolitan Adelaide—

(a) a sample of the person's blood may be taken by a registered nurse instead of a medical practitioner for the purposes of section 47f or the procedures prescribed by regulation for the purposes of section 47g(1a);

and

(b) the provisions of this Act and the regulations under this Act apply in relation to the taking of the sample of the persons's blood and the subsequent dealing with the sample as if a reference in those provisions to a medical practitioner included a reference to a registered nurse.

(2) In subsection (1)—

"Metropolitan Adelaide" has the same meaning as in the Development Act 1993;

"registered nurse" means a person registered on the nurses register under the Nurses Act 1984.

The aim of this Bill is to remove the onus from police to take a person who is over the prescribed limit to a police station or a hospital, if they so wish, to have a blood alcohol reading and therefore challenge the breath test analysis. There is, however, in the Bill itself one exception to that where a person, for some reason of physical or medical condition, cannot utilise this equipment. In such a circumstance the Government has provided that the police would, at the request of the person concerned, take that person to a hospital or doctor of their choice.

The amendment I move suggests that there should be one further instance where the police must transport a person who seeks a blood test. The instance I have highlighted is the provision of assistance in country areas, or at least outside metropolitan Adelaide, as defined in the Development Act. We have not said that that would be open-ended in terms of the police responsibility. The amendment provides a condition and I will read that condition:

(c) it appears to a member of the police force that the person has failed or will fail, despite reasonable endeavours, to make safe and appropriate transport arrangements within the period of two hours after the conduct of the breath analysis. . .

There has been considerable discussion about this amendment. The RAA, in its submission to the Liberal Party, indicated that there should be a safety net included in the Act requiring the police to facilitate the blood test in circumstances where a driver could not make or it was unreasonable to expect the driver to make arrangements for a blood test.

I was concerned about having such an amendment that was open-ended in the metropolitan area because I could see very few circumstances where it was not possible for the arrangements to be made. I suppose the only circumstance would be where a person lacked the money to get to a hospital or doctor of their choice but the Government is making no provision for those circumstances in this Bill.

Essentially I felt that in the metropolitan area it was unreasonable to expect the police to take a person to a doctor or a hospital for a blood test when the evidence was to be used by that person in their own defence. In my view the country is quite different because a person can be a considerable distance from home, their family or friends to pick them up and take them to their doctor or a hospital. There may well be no taxi services in the area and there is certainly unlikely to be any public transport service. In those instances we believe that subject to the conditions in new section 47fa(1)(c), which I have already referred to, the police must provide the transport or arrange for the transport of the person to a hospital or a doctor, or (as in the further amendment I am moving) to a registered nurse for the blood sample to be taken.

The Hon. BARBARA WIESE: The Government supports this amendment concerning the provision of transport for blood tests in certain circumstances outside metropolitan Adelaide. The Government and the police acknowledge that in some cases in country areas special circumstances apply, and that it may be difficult for an individual to arrange their own transport either by calling a relative or by arranging a taxi to take them to a doctor of their choice.

In fact, as I understand it, in recognition of those special circumstances which could apply it was the intention of the police to provide transport in such circumstances as a matter of practice following the passage of this legislation. Therefore, neither they nor the Government have any objection to prescribing that this should be so by way of the legislation and for that reason we support the amendment.

New clause inserted.

The Hon. DIANA LAIDLAW: I still want to talk to new clause 4A because it is important to recognise what we have just passed and to acknowledge it in the *Hansard* record. The amendment which I have moved and which has already passed actually provides for a blood test outside the metropolitan area to be taken by a registered nurse. The South Australian Division of the Australian Medical Association in correspondence to me on this Bill requested that this be so. There has been a lot of trouble, which I think anybody who has taken interest in this Bill has recognised, in terms of providing opportunities for people who have sought blood tests to actually have those blood tests taken in country areas.

The AMA proposed that in the country, where it is not always possible for a doctor to take a blood sample, there be an opportunity provided for registered nurses to do so. I have made contact with the Australian Nursing Federation, and Di Krutli, on behalf of the federation, has provided me with the following advice:

> Thank you for faxing through the amendments to the Act. Regrettably, there has been no time to consult with our current membership on this issue. However, in November 1988 there is a record in our report to council re the Road Traffic Act and the issue of registered nurses being written in as appropriate people to take the blood. This report states:
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> 'The prevailing members' view is that there is not any objection to the suggested changes. The areas of concern highlighted are:
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> · rights to refuse to take the blood;
>
> · the need to attend any subsequent court proceedings;
>
> · that the regulations relating to blood alcohol and trauma victims not to be changed.'
>
> ANF (SA Branch) agree to participate with the Attorney-General's Department to consider amendments to the Road Traffic Act. It would therefore seem appropriate for ANF (SA Branch) to support the changed amendments. However, I do feel some reservation as this consultative process occurred five years ago.

It is interesting to note that this matter has the support of the AMA and the qualified support of the Australian Nursing Federation, and I think the amendment that has been moved and passed will be an excellent advance to the administration of the Road Traffic Act in terms of breath analysis and blood tests in the future.

The Hon. BARBARA WIESE: I, too, would like to make a few comments about this. Initially, I was advised that the Australian Nursing Federation would probably not support such a move as proposed by the Hon. Ms Laidlaw. However, today I have been advised that, although the consultation time on this amendment has been short, which means that there has not been full consultation with the membership of the Australian Nursing Federation, it is likely that that organisation would support such a move and therefore there has been no objection raised to this amendment. On the strength of that, I am prepared to support this amendment because I agree that it would improve the administration of this legislation, particularly in country areas where it is sometimes difficult for a medical practitioner to be available when required. So, I indicate the Government's support.

Clause 5—'Evidence, etc.'

The Hon. DIANA LAIDLAW: I move:

> Page 2, lines 29 and 30—Leave out 'deliver to the person a notice in writing in the prescribed form containing information' and insert 'give the person the prescribed oral advice and deliver to the person the prescribed written notice'.

I noted in my second reading speech that the RAA had raised this matter; that in terms of providing advice to the driver who is above the prescribed limit, this advice by the police should be both in written form and verbally delivered. Certainly, with the draft regulations that have been provided to me, there is much reading matter for someone to know their rights in this regard, and one should not always assume that a person over the prescribed limit is the most alert to understand his rights, let alone able to read at that time. One may suspect that, even with the combination of reading and verbal advice, he may yet not understand his rights. But at least in terms of rights we would be making every effort possible in these circumstances to help a person know what he can do in terms of seeking a blood test, which he can then use to challenge any reading from the breath analysis. It is of course recognised that to date the courts have not upheld any appeal where a breath test was challenged by a blood test.

Notwithstanding, it is important that people know their rights and we make every effort through the police to ensure that that is so. It is particularly important in this regard because the penalties are so harsh, some would even say vindictive, in terms of a person who may be just over .08, and there is just no lenience provided by this Parliament for the courts to consider hardship cases or the like where a person may, by being over .08, lose his licence for up to six months. That may mean in this economic climate that he also loses his job.

The Hon. I. Gilfillan: That is right, and it would not have got through unless your Party supported it.

The Hon. DIANA LAIDLAW: I know, but it is a matter that is under consideration in terms of hardship licences, which I understand apply in Western Australia and in Tasmania. Therefore, we feel that it is because of the harsh, and I think justifiably harsh, penalties related to drink driving that we must make every effort to ensure that people know their rights. The matter of a hardship licence is certainly under investigation by the Liberal Party and by me in particular, and with the change of Government I am sure that we would be keen to pursue such a measure.

The Hon. BARBARA WIESE: The Government supports this amendment. It is highly unlikely that the police, in fulfilling their responsibilities under this legislation, would not provide oral as well as written information to a motorist in the circumstances outlined under the legislation. Therefore, the police have no objection to having this requirement for the provision of oral information prescribed in the legislation, and the Government also supports it.

Amendment carried; clause as amended passed.

New clause 6—'Compulsory blood tests.'

The Hon. DIANA LAIDLAW: I move:

Page 3, after line 2—Insert new clause as follows:

Amendment of s.47i—Compulsory blood tests

6. Section 47i of the principal Act is amended—

(a) by striking out subsection (7) and substituting the following subsection:

(7) A medical practitioner by whom a sample of blood is taken under this section must—

(a) place the sample, in approximately equal proportions, in two separate containers and seal the containers;

(b) ensure that one of the containers is marked with an identification number distinguishing the sample from other samples of blood taken under this section; and

(c) ensure that the containers, together with a certificate signed by the medical practitioner containing the information required under subsection (10), are delivered to, or made available for collection by, a member of the police force;

(b) by striking out from subsection (10) 'subsection (7)(a)' first occurring, and substituting 'subsection (7)(c)';

(c) by striking out from subsection (10)(a) 'subsection (7)(a)' and substituting 'subsection (7)(b)';

(d) by inserting after subsection (10) the following subsection:

(10a) One of the containers delivered to, or made available for collection by, a member of the police force, must—

(a) be delivered to the person from whom the sample of blood was taken; or

(b) be retained at the police station nearest to the hospital for collection by or on behalf of that person, or, if that person is dead, by or on behalf of a relative or personal representative of the deceased;

(e) by striking out from subsection (11) 'a container made available to a member of the police force pursuant to subsection (7)(a)' and substituting 'the container marked with an identification number pursuant to subsection (7)(b)'.

This amendment arises from a matter that my colleague the member for Coles has been addressing for some time. I would like to read into *Hansard* correspondence on this matter of 6 July to the Public Prosecutor from the member for Coles:

Dear Mr Rofe,

I am writing to ask your opinion about the desirability of an amendment to the Road Traffic Act to ensure security for blood samples of defendants who have been involved in motor vehicle accidents.

I have been involved for over two years in the case of the accidental death of the daughter of two of my constituents who consider that there is a deficiency in the law. In the case concerned, the daughter of Mr and Mrs F. Batchelor, of 17 Maryvale Road, Athelstone, 5076, it was alleged that the defendant's mother refused to provide the blood sample which had been made available to her. It was suggested that hospital staff gave the passenger in the car the defendant's blood sample, who duly gave it to the defendant's mother who, as was her right, remained silent in the matter during court proceedings.

I would appreciate your advice as to whether you believe the law would be improved by amendment to prevent withholding of samples. If so, I will take the matter up with the Minister of Transport Development and suggest that an amendment be introduced.

The member for Coles received a reply from the Acting Director of Public Prosecutions (A.M. Vanstone) on 23 July, as follows:

I am in receipt of your letter of the 6 July, 1993 addressed to Mr Rofe. Both Mr Rofe and I spoke to Mrs Batchelor at the time the charge was discontinued.

Because of Mr Rofe's concern at the state of the law concerned with admissibility of blood samples in the circumstances which pertained, he brought the matter to the attention of the Attorney-General, recommending that the legislation be amended.

That recommendation was made some months ago. I have made inquiries as to its progress and have been told that it is still under consideration, and the views of the Minister of Transport and the Police Commissioner have been sought.

Since that correspondence I have received advice from the Public Prosecutor, who has indicated to me the nature of the amendment which he sought from the Attorney and which was the subject of discussion with the Minister of Transport Development and the Police Commissioner. My amendment reflects the submissions by the Public Prosecutor to the Attorney-General and it is to tidy up this section of the Act in relation to blood samples. So I know that this matter has been discussed within Government circles for sometime and I know that it has been urged by the Director of Public Prosecutions, and as this is the first opportunity that we have had to make amendments to the Road Traffic Act since the Public Prosecutor drew this to the attention of the Attorney I think it is wise that we take this opportunity to amend the Act, because we know there is a deficiency and we can so easily correct it at this time. Therefore I hope this amendment will receive the majority support of this place.

The Hon. BARBARA WIESE: The Government opposes this amendment. As the honourable member indicates, the matter of the proper handling of blood samples is something which has been receiving attention within Government for some months, and particularly since the Attorney-General took up the suggestion of the DPP that this was a matter that should receive attention with a view to amendment of the Road Traffic Act. There has been discussion taking place within Government and with relevant agencies about what such an appropriate measure could be and considerable progress has been made on this. Currently, negotiation is taking place with the State Forensic Centre, with a view to that organisation being the appropriate body to which blood samples would be sent and stored.

It is hoped that the problems that arose in the case that the honourable member has outlined, which were taken up by the member for Coles, will not arise in the future. So, we recognise the problem that the honourable member wishes to address. The Government wishes to put an appropriate measure in place to take care of that problem; but we do not believe that the approach that is recommended under this amendment would be the most appropriate approach to take. I am informed that the police would object very strongly to a proposal such as this, because they do not have appropriate facilities for the storage of blood in police stations around the State. It would require considerable effort to develop such

appropriate procedures, storage facilities and other mechanisms.

We believe that the approach that is being worked on now with the State Forensic Centre is likely to be a more suitable approach to address this problem. We have not reached the point yet where all of the procedures that would need to be followed have been fully agreed upon; but we are very close to reaching an agreement on these issues and on other matters that relate to section 47 of the Act in general. I am hoping that before very long there will be an agreement on a package of measures to address issues that have arisen and that, as a package, all of these measures can be introduced in a separate Bill in the very near future. So I acknowledge the concerns that the honourable member has raised and agree with her that the matter must be addressed in legislation, but I do not believe that this is the way to do it. At this stage I will oppose this amendment in favour of the procedures that are currently being worked on within Government.

The Hon. I. GILFILLAN: I would like to make a couple of comments. One is in relation to the issue of hardship, because I think that it is an ongoing point of concern that, where there is a rigorous penalty for drink driving, which the Democrats support, it ought to be equitable, and in previous debates in this place I have argued that it is not equitable if you have an absolutely inflexible penalty regardless of the location and regardless of the life circumstances of the individual involved. I think that that debate ought to be pursued and I am very pleased to hear the Shadow Minister, the Hon. Di Laidlaw, indicate that the Liberal Party would look to rectifying that injustice, although previously when they had the opportunity to vote in this place they locked into legislation this inflexible factor, insensitive to hardship. I refer to a letter from the RAA dated 7 September which states:

> The Association wishes to make the following comments on the Road Traffic (Breath Analysis) Amendment Bill introduced into the Legislative Council by the Minister of Transport Development. We appreciate that optional blood tests have proven to be of little assistance to motorists and that the inconvenience to police created by existing legislative requirements is significant. We therefore have no objection 'in principle' to an amendment to the Act which relieves the police from facilitating the taking of a blood sample. However, we are unable to give unqualified support to the proposed amendments, for two reasons in particular.
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> Firstly, we note that drivers over the limit will be advised in writing that they may be able to challenge the breathalyser reading if they submit to a blood test and that they may request a blood test kit for this purpose, even though they do not have the right to request the police to facilitate the test. We have been advised by the police that in practice not only will the written advice be issued but that this will also be supplemented by verbal advice. However, our concern is that if the police overlook to verbally inform the driver of this defence provision and the driver omits to read the information supplied he or she will not be aware that a blood test may be requested. This is not altogether hard to imagine as the form of written advice proposed for this purpose, specified in the regulations, is of necessity rather lengthy and may not be fully read by the driver.
>
> Even if it is read and understood, by the time the driver subsequently requests in writing a blood test kit and arranges transportation to a place where the test can be administered, insufficient time may remain for the test results to be regarded as comparable with the breathalyser reading, bearing in mind that section 47f(2) currently infers that the test be undertaken within one hour of the request for such a test. In this respect the written advice to be given to drivers simply says that drivers should proceed 'promptly' to a hospital etc. for a blood test.
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> It would seem that the only way to ensure that drivers are made adequately aware of optional blood test provisions is to require the police to explain the contents of the notice in writing issued under proposed new section 47g(2a)(a). Although as mentioned above this is the intention of the police, the association considers this requirement should be spelled out in the legislation. We also submit that the advice in the form of schedule 1 to the regulations proposed under section 47g should be more specific with respect to the time in which a blood test is required to be taken if it is to be regarded as an admissible comparison with the breathalyser reading.
>
> We are also unable to unequivocally support the proposed amendments because, despite assurances by the police that they will assist a driver to arrange transport for the purpose of having a blood test, circumstances could arise where either these arrangements cannot be made, or are unable to be made in sufficient time for the blood test to be of any use to the driver.
>
> We therefore propose that a 'safety net' provision be included in the Act which requires the police to facilitate the blood test in such circumstances. We suggest that the police involvement in these circumstances be limited to transporting the driver to a place where the test can be administered in much the same way as a taxi would transport the driver. Such an arrangement would still exclude the police from the existing administrative processing and storing of blood samples, and would have a reduced impact on the operation of the RBT station. We also envisage the police would be called upon very infrequently to provide this assistance. Your consideration of these matters would be appreciated. Yours sincerely, J.A. Fotheringham, Chief Executive.

The Minister may care to comment on some of the observations made in the letter, and I apologise for bringing it in so late. In fact, it only just came into my hand. In relation to this amendment, it appears to me that the Minister has acknowledged the point raised by the Hon. Diana Laidlaw and has supported in principle the suggestion that something needs to be done. I indicate that I support the Minister and the Government in opposing the amendment in its current form. Notwithstanding that, I invite the Minister to make any comment that she feels appropriate on the RAA letter.

The Hon. BARBARA WIESE: First, I thank the honourable member for his support in opposing this amendment, because I believe that we will be able to develop a much more effective proposal to deal with the concern that has rightly been outlined. Secondly, with respect to the issues raised by the RAA in the correspondence that has been provided to the Hon. Mr Gilfillan, it should be pointed out that the first issue, relating to the provision of oral advice to motorists, was a matter which was taken up by the Hon. Ms Laidlaw in an earlier amendment and which has been agreed to by the Government.

The second issue, relating to the facilitation of transport to allow for a blood test to be undertaken if that is the desire of the motorist, was also taken up, at least in part, by the amendment which has already been passed and which was moved by the Hon. Ms Laidlaw. The amendment that she moved deals with the situation that may occur in country areas in particular, where it could be different for an individual to arrange transport for themselves to a doctor (or, in future, a nurse) who may be able to take a blood test for them. It prescribes that, in circumstances that are outlined in this amendment, the Police Force must transport, or arrange for the transport of, a person to such a place.

As I indicated in speaking to that amendment, it was my understanding that it was the intention of the police that, once these new measures came into place and in circumstances where there was no other choice, they would continue to provide transport for persons in these circumstances, and they therefore have no objection to having this prescribed in legislation.

I think that the amendment satisfactorily covers the circumstances that could arise in country areas. I would not like to see that broadened to include arrangements to make that available in the metropolitan area, because I do not think

the special conditions will apply in a metropolitan area. I believe that it will be possible for individuals to arrange their own transport to have a blood sample taken. So, I believe that the amendment that has been carried goes far enough and recognises the special circumstances that may apply in country areas and also that it provides the sort of balance for which the police are looking and which frees them from the obligation of having to provide a taxi service to people who wish to challenge the breath test at a random breath testing station, thus freeing the police to get on with the job that they are there to do, namely, to continue with breath testing and keeping our roads safe.

As to the third point relating to regulations, I will look at the concerns that have been raised by the RAA, and that matter will be taken into consideration when the draft regulations are firmed up.

The Hon. DIANA LAIDLAW: Having written to the RAA when this Bill was first introduced, I received a reply from Chris Thompson, Traffic Engineer, dated 18 August which was very similar to the expressions in the letter received today by the Hon. Mr Gilfillan from the General Manager of the RAA. It was on the basis of that advice and other advice from the AMA and the Nurses Federation that the amendments have been moved today. I apologise to the Hon. Mr Gilfillan that I did not get them filed earlier, as a result of which he may not have had time to consider them today but, when I learnt from the Minister that she was prepared to accept all but one of the amendments, I honestly thought that he was irrelevant to the process and that we did not need him.

Therefore, I did not intend to alert him to what was going on and thought that the Minister and I would deal with this very neatly in this place. We have, in fact, dealt with it very neatly, although we do now welcome the honourable member's presence in the Chamber to contribute to this debate.

With respect to my last amendment, I thank the Minister for indicating that this matter of compulsory blood tests is being addressed. It was first raised by the Director of Public Prosecutions with the Attorney-General in February, and I am sorry it has taken six or seven months to address. I take the Minister on her word and trust that something will be done about this very quickly, because it is an omission that we could be addressing at this time if there were majority support in this place.

New clause negatived.

Title passed.

Bill reported with amendments; Committee's report adopted.

The Hon. BARBARA WIESE (Minister of Transport Development): I move:

That this Bill be now read a third time.

The Hon. DIANA LAIDLAW: I would very much like to thank the officers who have helped me in the briefing on this Bill. It is a relatively small Bill, but it has substantial ramifications. I was concerned to receive advice on the Bill, because of the issue of individual rights, so I would like on the record that I appreciate their assistance and the Minister's offer of that assistance.

Bill read a third time and passed.

ADJOURNMENT

At 5.5 p.m. the Council adjourned until Wednesday 8 September at 2.15 p.m.