## LEGISLATIVE COUNCIL

Wednesday 15 February 1989

**The PRESIDENT (Hon. Anne Levy)** took the Chair at 2.15 p.m.

The Clerk (Mr C.H. Mertin) read prayers.

## MINISTERIAL STATEMENT: Mr TERRY CAMERON

**The Hon. C.J. SUMNER (Attorney-General):** I seek leave to make a statement.

Leave granted.

**The Hon. C.J. SUMNER:** On 7 April 1988 the Premier was asked a question seeking an investigation into alleged activities of Mr T.G. Cameron in the building industry. On 12 April 1988 the matter was referred to the Commercial Division of the Department of Consumer Affairs for investigation through normal procedures by the Secretary to the Minister of Consumer Affairs. As no further report was made to the Premier, a reasonable assumption was drawn that there was no need for further follow up.

I am now advised that the following action took place. Mr K. Smith, an investigation officer with the department, was requested to conduct an investigation. On 27 May 1988 Mr Smith prepared an interim report to the Acting Senior Registrar giving details of information obtained to that date. Mr Smith requested that he be given more time to investigate the matter and prepare a full and comprehensive report. The Acting Senior Assistant Registrar undertook some further investigations and attempted to undertake a comprehensive search of all departmental records. As the information relating to the matter was not readily available delays occurred.

The matter of the report was raised with the Acting Senior Assistant Registrar on occasions by normal reviewing procedures. At no stage was the Minister of Consumer Affairs, the Commissioner for Consumer Affairs or the Manager of the Division made aware of the issue or of the delays which had occurred in the preparation of the report. The Commissioner regrets these delays and has instituted measures to ensure that all matters will be fully investigated immediately.

I have also asked the Commissioner for Public Employment to undertake an investigation into the procedures followed by the Commercial Division of the Department of Public and Consumer Affairs and any reason for the delay in following up the interim report of the investigating officer and failure to notify the Manager of the Division, the Commissioner for Consumer Affairs and the Minister for Consumer Affairs.

## MINISTERIAL STATEMENT: PRIVACY

**The Hon. C.J. SUMNER (Attorney-General):** I seek leave to make a statement.

Leave granted.

**The Hon. C.J. SUMNER:** The purpose of this statement is to acquaint the Parliament and the public with recent initiatives undertaken by the Government in respect of privacy and privacy-related matters.

This statement also serves to convey to members information that is relevant to legislative measures that are before the Parliament. I refer to the private member's Bill dealing with freedom of information, introduced by the Opposition, and the private member's Bill dealing with a proposed Privacy Commission introduced by the Australian Democrats.

2. Background

Clearly, this is not the first time that I have addressed these matters. In this regard, I would refer to my pronouncements in speeches to the Legislative Council on 3 December 1986, which outlined the Government's plans to establish a scheme of access to personal information (see *Hansard* 3 December 1986 pp. 2631-2636) and more recently on 24 August 1988 (see *Hansard* 24 August 1988 pp. 482-483) when I took the opportunity to reaffirm the Government's intentions in this area and provided an update on relevant developments.

3. The Government's decisions

On 19 December 1988 Cabinet issued two administrative instructions that will apply, subject to certain exempt authorities, to the whole of the public sector.

(i) The first administrative instruction, entitled the 'Information Privacy Principles Instruction', definitively states 11 information privacy principles whose terms are drawn largely from those recommended by the Australian Law Reform Commission's 1983 report No. 22 on privacy. These principles cover the collection and storage of, access to, correction, use and disclosure of personal information, as well as ensuring the maintenance of anonymity of record subjects in the products of research. 'Personal information' is defined to mean information or an opinion, whether true or not, relating to a natural person or the affairs of a natural person whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

There is a positive obligation imposed on all principal officers (for example, chief executive officers) of public sector agencies to ensure that the principles are implemented, maintained and observed by their agencies.

Furthermore, the Privacy Committee (which I will discuss in more detail shortly) will oversee these duties and functions. The principal officers of agencies will be required to report to the committee on action taken to ensure that the principles are adhered to, as well as the action taken to rectify any shortcomings or deficiencies identified by the committee.

(ii) The second administrative instruction, entitled the 'Access to Personal Records Instruction', confers on people the right to apply for access to personal records, about themselves, held by public sector agencies.

A 'personal record' is defined to mean a document containing information or an opinion relating to an applicant or the personal affairs of an applicant and includes a document containing information or an opinion relating to a deceased person, or the personal affairs of a deceased person, to whom an applicant was related.

Exemptions from the obligation to grant access to personal records are based on those that apply in the Commonwealth and Victorian freedom of information legislation. They are also based on what is essential to maintain the Westminster system of government and on what is necessary for the protection of essential public interests and of private and business affairs of persons and organisations outside State Government. There are 13 categories of exempt documents ranging from Cabinet and internal working doc-

uments to those that affect enforcement of the law and the protection of public safety through to documents affecting the economy, legal proceedings or the personal privacy of persons other than the applicant. The instruction provides for the right of a person to have amended or corrected personal information that is incomplete, inaccurate, irrelevant, misleading or out of date.

If an agency fails to make a decision or refuses to correct a record, the applicant may either apply to the principal officer for an internal review of the decision or apply to the Ombudsman (or where the agency is the Police Department, the Police Complaints Authority) for assistance.

The public sector agencies to which the Cabinet decisions will not apply are identified in a schedule to each of the administrative instructions. Presently, the State Bank of South Australia, the State Government Insurance Commission and the Worker's Rehabilitation and Compensation Corporation are exempt from compliance with the instructions, primarily on the basis of the commercial or industrial sensitivity and confidentiality attaching to their operations and functions.

Finally, it should be noted that both Cabinet Administrative Instructions will come into effect on 1 July 1989. The lead time until commencement is considered both necessary and desirable to enable all relevant public sector agencies to make appropriate administrative arrangements to cater for the new regimes.

4. Privacy Committee

To oversee the implementation and monitor the progress of the Cabinet administrative instructions there will be established, by proclamation, the Privacy Committee of South Australia. This committee of four persons is to ensure (among other things) that there is an acceptable level of compliance by the public sector when the two Cabinet Administrative Instructions come into operation on 1 July 1989. All affected agencies will be required to report to the Privacy Committee annually on such matters as the number, nature and cost of requests for access to personal records as well as the actions taken by them to ensure that there is acceptable compliance with the instructions in respect of all their data-handling applications. Members should note that the Police Department—and members of the Police Force—will be bound by identical regimes which, it has been determined by Cabinet, will be promulgated by the Commissioner of Police in the form of General Orders pursuant to the provisions of the Police Regulation Act 1952.

The Privacy Committee—the public sector watchdog in these matters—will in turn be required to report annually to the Attorney-General regarding the nature and extent of compliance by the public sector with the instructions. It should be noted that these developments are really only a start. The former *ad hoc* Privacy Committee in its May 1987 report recommended that, once these privacy regimes are in place for the public sector, similar (though suitably adapted) regimes ought to be implemented in the private sector. Again, it will be the role of the new permanent Privacy Committee to provide assistance, advice, expertise and, where possible, resources to the private sector to enable these proposals to be implemented. The relevant public sector experience, in any event, should provide the leadership and foundation to facilitate the necessary adjustment to private sector privacy practices. The role envisaged for the Privacy Committee is therefore one largely of education and persuasion rather than coercion.

Members should note that the Cabinet instructions dealing with information privacy principles and access to personal records will not operate in a vacuum. Generally speaking, an aggrieved citizen will be able to take his or her complaint to the Ombudsman or, in the case of administrative acts or omissions of members of the Police Force, the Police Complaints Authority. Those authorities possess the necessary statutory powers of investigation, report and coercion in respect of relevant agencies or instrumentalities. In other words, the regimes established by the Government will in no way lack necessary teeth.

5. The Handbook

As foreshadowed by me on 24 August 1988, a detailed handbook on the information privacy principles and access to personal records has been finalised by the Attorney-General's Department. Nearly 150 copies have already been distributed to public sector agencies. I seek leave to table a copy of the handbook in this Chamber.

Leave granted.

**The Hon. C.J. SUMNER:** The handbook sets out in the following order:

- the information privacy principles instruction;
- Explanatory notes to the information privacy principles instruction;
- the Access to personal records instruction;
- Explanatory notes to the access to personal records instruction;
- the possible consequences, to the public sector, of non-compliance with the instructions;
- a description of what happens where an applicant for access is an employee of an agency;
- a description of the relevant law of defamation and qualified privilege;
- the role of the Crown Solicitor;
- relevant forms that are contemplated to be used by agencies; and
- a bibliography of other useful source materials.

6. Administrative Officers

Affected public sector agencies have furnished, or are continuing to furnish, names of officers in the agencies who will be expected to administer the instructions. A comprehensive directory of officers is being compiled by the Attorney-General's Department. Nominations to membership of the Privacy Committee are being sought, and that body will shortly be fully operational with its work being supported by the appointment of a permanent full-time project officer in the Attorney-General's Department and a 12-month appointment of an administrative officer in the Department of Personnel and Industrial Relations. As well, a half-time clerical officer will be appointed to the Attorney-General's Office to service the secretarial and clerical needs of the committee. One of the first duties of the Privacy Committee, supported by its officers, will be to furnish to the Treasurer a consolidated report to advise on the appropriate resource allocations for each public sector agency after the committee has considered submissions from all agencies regarding their needs.

7. Conclusion

In conclusion, I summarise recent developments in this area, at the instigation of the Government, as sensitive and responsible and they carry with them the full panoply of accountability in both political and administrative terms. From 1 July 1989 the citizens of South Australia will have their rights to privacy regarding personal information better respected and assured, at least in so far as the public sector is concerned. The next step will be to persuade and give assistance to the private sector to do likewise and, importantly, the Government believes that these aims can be achieved without unnecessary expense or delay and within an existing administrative framework that can adequately

cater for the types of concerns that have been raised from time to time by members of this Parliament.

## QUESTIONS

### Mr TERRY CAMERON

**The Hon. M.B. CAMERON:** I seek leave to make a statement before asking the Attorney-General a question about Mr Terry Cameron.

Leave granted.

**The Hon. M.B. CAMERON:** I listened with some interest to the ministerial statement of the Attorney-General. It is of some interest, as it was clearly stated yesterday by the Premier, that the matters referred to in the investigative report were private and would not therefore come to the attention of the Government.

A question was asked in April 1988 in the Lower House—and I distinctly recall the Attorney-General complaining in the Council about answers to questions not having been received 10 days after they were asked—but it is now February 1989 and a long time since that question was asked. I suggest that the information that the Opposition brought before the House would never have come to its attention if we had not done so, because it is clear that there never was any intention to answer this question—

*Members interjecting:*

**The Hon. M.B. CAMERON:** One can draw conclusions as to the reason for that. It is now obvious that a report was prepared in the Department of Public and Consumer Affairs, under the control of the Attorney-General—

*Members interjecting:*

**The PRESIDENT:** Order!

**The Hon. M.B. CAMERON:** —on the matter of the activities of Mr Terry Cameron. Parts of this report should be read into *Hansard* so that it is there for the public to see. I quote from a letter of 7 April 1988 to Mr Beattie, the Acting Registrar from Mr K. Smith, Investigation Officer as follows:

> Mr T.G. Cameron has been heavily involved in the building industry, to my knowledge since 1976. In the Willunga council area alone up until 1978 approximately 50 homes were built by Mr Cameron and/or partnerships and incorporated companies, Mr Cameron was and still is associated with. Willunga council advised that they were unable to locate some files in relation to Mr Cameron's building activities.
>
> Mr Cameron has never at any time held a builders licence. Tarca Investments Pty Ltd, of which Mr T.G. Cameron is a Director, held a general builders licence for approximately one year, but were never nominated as the builder on any applications to the Willunga council. A photocopy of a large number of applications for approval to build lodged with the Willunga council is evidence of the various names of companies and partnerships Mr Cameron is and was associated with. The majority of houses built were not built or supervised by the holder of a general builders licence. Mr Cameron used a builders name and licence number without that person's consent and there was not any written contracts between the parties. Inspectors of the Builders Licensing Board had threats made against them whilst they were monitoring the Builders Licensing Act in the various council areas, by persons associated with Mr Cameron.

**The Hon. R.J. Ritson:** Threats of violence?

**The Hon. M.B. CAMERON:** I do not know what the threats were. The letter continues:

> Tarca Investments Pty Ltd, B.J. Cameron Investments Pty Ltd, and P.N. Keogh Pty Ltd are three of the companies which Mr Cameron is a Director who have been involved in unlicensed building work. On checking with Corporate Affairs Office there was no evidence that the various names and partnerships mentioned on council applications were registered.

They are very serious allegations contained in what is called an interim report. I imagine that normally they would be matters referred back to the asker of the question in the House—certainly within the 12-month period. Will the Attorney-General say what steps the Attorney-General took to ensure that the parliamentary question asked of the Premier in April 1988 with respect to Mr Terry Cameron was examined by the Department of Public and Consumer Affairs with a view to providing answers promptly? I emphasise the word 'promptly'. Did the Attorney-General receive a copy of the interim report and, if so, when?

Was a copy forwarded to the Premier? What other action did the Attorney-General take? If the Attorney-General did not receive a copy, can he explain why a report of this nature, which was prepared in answer to a question in Parliament, was not drawn to his attention, particularly a report of such a serious nature?

**The Hon. C.J. SUMNER:** The answer to questions 2 and 3 is 'No' in each case. When this question was asked of the Premier, it was dealt with in the normal way in the Attorney-General's Department. The question was referred from the Attorney-General's office to the Department of Public and Consumer Affairs. It was sent by the secretary of the Minister of Consumer Affairs to the relevant departmental officer. The interim report, which required further action to be taken and which was referred to in the Parliament both yesterday and today, was prepared by Mr Smith, as has been outlined, and was provided to the Acting Senior Assistant Registrar of the Commercial Division in May 1988. I have already referred in—

*Members interjecting:*

**The PRESIDENT:** Order!

**The Hon. C.J. SUMNER:** —my ministerial statement to the actions taken by the Senior Assistant Registrar in relation to this matter. Clearly it is an unacceptable situation for public servants, when having questions of this nature referred to them, not to take action to have them dealt with and, more particularly, not to advise their senior officers of what had happened to the matter.

*Members interjecting:*

**The PRESIDENT:** Order!

**The Hon. C.J. SUMNER:** I do not, believe it or not, keep a personal list in my pocket of every question asked by members in this Chamber. There is a procedure established, which was followed with respect to this question, by it being sent from the Attorney-General's office to the Consumer Affairs Department. It was sent by my secretary in that department to the relevant officers for a report. That just happened as a matter of course. I have had no connection with that matter either then or since. The reality is that the interim report was prepared by Mr Smith, made available to Mr Beattie, the Acting Senior Assistant Registrar, and I have outlined what action he took in relation to the matter when he received the interim report. Clearly, although I refer to action, very little was done apart from some further inquiries being made by him.

I have indicated that Mr Beattie did not advise his senior officers of progress in the report. He did not advise the Commissioner for Consumer Affairs of what was happening in relation to the matter, and I was not advised by anyone of that report or what was happening in relation to it. As I understand it, there were some attempts to follow up the matter within the department with inquiries, but the report of Mr Smith that has now been provided was not made available to me. I was not made aware of the report in any sense. I have not disussed—

*Members interjecting:*

**The PRESIDENT:** Order!

**The Hon. C.J. SUMNER:** —the matter with anyone. The question was asked in the House of Assembly: it was not

asked in this Chamber. Obviously, there has been an unacceptable breakdown in the way in which this matter was dealt with. The public servants concerned should have followed the matter up more assiduously and, in particular, the public servants concerned should have notified the Commissioner for Consumer Affairs.

*The Hon. R.I. Lucas interjecting:*

**The PRESIDENT:** Order!

**The Hon. C.J. SUMNER:** It is clear that in this case the public servants have been responsible for not attending to this matter with the required expedition, and that just happens to be the fact of the matter.

*Members interjecting:*

**The PRESIDENT:** Order! I remind the Council that repeated interjections are out of order, and that applies to all members.

*The Hon. R.I. Lucas interjecting:*

**The PRESIDENT:** Including the Hon. Mr Lucas.

**The Hon. C.J. SUMNER:** One would have expected that, if the relevant public servants were concerned about delays, they would have notified their superior officers and sought advice as to what should happen in relation to the matter. They did not do that, and that is to be regretted. Such behaviour and lack of attention to their duties is clearly unacceptable.

**The Hon. K.T. GRIFFIN:** My questions are to the Attorney-General on the subject of Mr Terry Cameron. First, does the Attorney-General regard the public of South Australia as being so gullible as to believe that, because no report was made to the Minister following referral of the parliamentary question relating to Mr Cameron to the Department of Public and Consumer Affairs, it was a 'reasonable assumption' that there was no need for further follow-up of such a serious matter? Secondly, what was the cause of the delays, referred to by the Attorney-General in his ministerial statement, in pursuing the investigations by the Acting Senior Assistant Registrar? Thirdly, what measures have been taken to ensure that all matters are fully investigated immediately?

**The Hon. C.J. SUMNER:** The reality is that this report of Mr Smith's was not drawn to the attention of the Commissioner for Consumer Affairs, to the Minister, or to the Premier. One would have expected that, had there been a matter of concern relating to Mr Cameron and had a report of this kind been prepared that clearly required further investigation, that would have been drawn to the attention, in the first instance, of the public servant responsible, that is, to the Commissioner for Consumer Affairs. The simple fact is that it was not and it should have been.

*The Hon. L.H. Davis interjecting:*

**The Hon. C.J. SUMNER:** I certainly have not spoken to Mr Cameron about the matter. The question was not asked in this Chamber. It was followed up through the normal procedures.

**The Hon. L.H. Davis:** So there were no concerns about the allegations?

**The PRESIDENT:** Order!

**The Hon. C.J. SUMNER:** I am not concerned about the allegations. If there is evidence to prosecute Mr Cameron, he will be prosecuted—it is as simple as that. I emphasise that at this point in time—

**The Hon. L. H. Davis:** They just had drinks down at Trades Hall.

**The PRESIDENT:** Order! The Hon. Mr Davis will cease interjecting.

**The Hon. C.J. SUMNER:** The situation is that certain allegations have been made. The question remains whether there is evidence to back up those allegations, and that must now be ascertained. I have explained in my ministerial statement the delays which have occurred in dealing with this matter. The delays were caused in the office of the Acting Senior Assistant Registrar, Mr Beattie. He did not give the attention that he should have given to the report by Mr Smith. I believe that if he had had genuine concerns about the matter and about whether he had the resources to deal with it, he should have referred it to the Commissioner for Consumer Affairs. Clearly, the matter should have been referred to the Commissioner for Consumer Affairs for advice and appropriate attention. Needless to say, the Commissioner has now undertaken to ensure that the matter is expedited, that the issues raised by Mr Smith are properly investigated, and that appropriate action is taken if necessary.

**The Hon. M.B. CAMERON:** Does the Attorney-General accept ministerial responsibility for the failure of the Department of Public and Consumer Affairs to provide answers to the question asked in another place, and to provide the people of this State with the necessary information to ensure that people are able to examine the answers to that question within the appropriate time period, namely within 12 months?

**The Hon. C.J. SUMNER:** Yes.

## STATE CLOTHING AUTHORITY

**The Hon. I. GILFILLAN:** I seek leave to make a brief explanation before asking the Attorney-General, as Leader of the Government in the Council, a question—

*Members interjecting:*

**The PRESIDENT:** Order! The Hon. Mr Gilfillan is requesting leave. I cannot hear what he is requesting leave for.

**The Hon. I. GILFILLAN:** I am seeking leave to ask a question of the Leader of the Government in the Council relating to the State Clothing Authority.

Leave granted.

**The Hon. I. GILFILLAN:** In the depths of today's *Advertiser* appeared a bombshell article identifying a near $500 000 loss by the State Clothing Authority last year—in one year. The article, which is very short, reads:

> A lack of flexible work practices and rigidity in staff numbers have been identified as major reasons for the State Clothing Authority running at a loss of more than $250 000 last financial year.
>
> And in many cases, the authority was forced to take work at non-economic prices to keep staff actively employed.
>
> The problems are outlined in the authority's annual report tabled in State Parliament yesterday which shows that in the year ending 30 June 1988 the authority made a trading loss of $496 000.
>
> Government subsidy reduced that loss to $227 000.
>
> Among the problems outlined were:
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> - A lack of sales, particularly from the Government sector.
> - Turnover of experienced, key staff at Whyalla.
> - A lack of regular, accurate and timely financial management information for decision-making purposes.
> - A requirement to compete for Government contracts against 'very aggressive private sector companies' while not having private sector markets on which reasonable returns could be made.
> - A lack of flexible work practices and rigidity in staff numbers in times of depressed demand.

That is surely a blueprint for disaster in any terms, and certainly as far as the taxpayers of this State are concerned. This unit has had a long and chequered history. Many in the community are curious as to whether its continuing survival is based largely on its existence in Whyalla, the electorate of a very influential member of this Parliament.

The report having been tabled yesterday, I ask the Attorney-General as Leader of the Government in this place: in

the light of this devastating result for the last financial year's trading, will the Government cut its losses and sell the State Clothing Authority or those of its assets which are saleable? If not, what justification does the Government have for continuing an operation which threatens a massive drain on taxpayers' funds and which operation, as was outlined in the report, can be adequately covered by the private sector?

**The Hon. C.J. SUMNER:** That is a matter of general Government policy. I will refer the matter to the appropriate Minister and bring back a reply.

## ENTERTAINMENT CENTRE

**The Hon. L.H. DAVIS:** I seek leave to make an explanation before asking the Minister of Tourism a question about an entertainment centre.

Leave granted.

**The Hon. L.H. DAVIS:** Late last month my colleague the Hon. Peter Dunn and I visited the Derwent Entertainment Centre situated on an attractive waterfront site just minutes from the centre of Hobart. This centre comfortably accommodates 6 000 and can accommodate 8 000 sitting and standing for rock concerts.

Frickers and Hansen and Yuncken, two South Australian based companies, were unanimously selected for the design and construction of the entertainment centre following a nationwide competition. The contract was for a fixed price and within a fixed time. The Derwent Entertainment Centre will be opened next month—in March—on schedule, having been completed in just 79 calender weeks from the time of acceptance of the offer, and only 70 building weeks. The centre was also completed within budget—only $10.6 million, excluding the cost of land and financing costs. It is a magnificent centre which has already received widespread acclaim for its design, flexibility and practicality. There are no pillars or posts, and no seat is more than 38 metres from the front of the stage.

In August 1987 Premier Bannon announced that he had abandoned plans to build the entertainment centre promised during the 1985 State election. That was a $60 million project which was alleged to have blown out to as much as $100 million in 1990 dollar terms. Immediately following this announcement by the Premier, Frickers and Hansen and Yuncken, which at the time had been selected for the design and construction of the Derwent Entertainment Centre, submitted a proposal to build a first class entertainment centre for the South Australian Government to seat at least 8 000 persons for a fixed price of about $25 million, excluding land and car parking costs.

That offer also included a proposal to manage the centre on behalf of the Government. If that proposal had been accepted, the South Australian centre would have been completed before the end of 1989. It has become apparent that the South Australian Government has behaved quite differently from the Tasmanian Government in planning for an entertainment centre. The Government of Tasmania invited submissions for the design and construction of an entertainment centre based on a fixed sum of money and certain basic specifications. In 1985 Premier Bannon set no limit on the cost of the entertainment centre. The Premier announced a Rolls Royce entertainment centre and has had to back down and, 3½ years later, has settled for a centre that will cost half that amount in real dollar terms.

There is also widespread criticism within the building industry that, by not putting the design and construction of the proposed entertainment centre out to tender, the State Government will simply not be getting the best value for its money. Inevitably, in a tender situation, pencils are sharpened when there is competition, and building industry sources claim that there is the potential to save millions of dollars by putting the contract out to tender. These facts taken together raise a number of serious questions. My questions are as follows:

1. Why was the Frickers and Hansen and Yuncken proposal of August/September 1987 to design and construct an entertainment centre for $25 million not taken seriously by the Bannon Government given that they had been successful tenderers for an entertainment centre in Hobart?

2. Secondly, why has not the Bannon Government nominated the amount available for an entertainment centre, indicated the broad specifications and invited tenders for the design and construction of the entertainment centre, thereby providing the potential to save several millions of dollars for the tax payers of South Australia?

**The Hon. BARBARA WIESE:** As the honourable member has indicated, the successful proposal for design of an entertainment centre submitted by Hassell and Partners was found to be a design which, when economic circumstances changed, the State Government felt could not be proceeded with. For that reason, as was announced at the time, the Government took steps to ascertain whether or not it would be possible to fulfil the commitment to build an entertainment centre, albeit a centre which was less expensive than the original successful design.

In order to achieve that end, the Grand Prix Board was asked to investigate the matter and was given a fairly broad brief in doing so. That course was taken to ensure that all aspects of the matter could be investigated with new eyes, given the economic circumstances, and with a view to coming up with a proposal that the State could afford. As a result, it was possible for the Grand Prix Board not only to look at the existing design proposals that had been put before the Government but also to investigate other alternative sites in addition to the Hindmarsh site, which had been selected as an appropriate site by the previous committee established for this purpose. A number of options were examined during the course of the investigation, including the various proposals that were put by a number of potential developers, of whom Frickers was one, as I understand it.

Also, a number of sites and financing options were investigated by the Grand Prix Board. One of the options that it was hoped might have proved successful was to encourage some private sector involvement in the development of an entertainment centre. If that had been possible, it would have meant a very considerable reduction in the funding requirement on the part of the State Government. All the options investigated during the course of the past 12 months or so eventually led to the recommendation to the Government, which has now been accepted, that the original site at Hindmarsh was, after all, the most appropriate site for the development of an entertainment centre.

It was also recommended that it would be cost effective to re-engage Hassell and Partners to modify the design work that they had originally prepared for the Government, and they offered to do that at their own cost. Of course, that would mean considerable savings in the design work made available to the Government. Because Hassell and Partners have already been through the process of designing the original entertainment centre, they also have an enormous range of expertise and skills in this area which will be used as the development of the centre takes shape. Therefore, it was the Government's view that to have Hassells involved in the redesign of the centre at their own cost was in our

interests because it would significantly reduce the overall cost of providing an entertainment centre for the people of South Australia.

In relation to the tenders for the construction of the entertainment centre, it is my understanding that, in fact, tenders will be called at the appropriate time, in the usual way. Therefore, I am not sure why the honourable member is suggesting that we would not be following that procedure.

**The Hon. L.H. Davis:** I am talking about tendering for the design and the construction.

**The Hon. BARBARA WIESE:** I am telling the honourable member that we are using the original designers because it is cheaper.

*Members interjecting:*

**The PRESIDENT:** Order!

**The Hon. BARBARA WIESE:** It is cheaper in the long run for us to use the original designers and that is the decision that has been taken. As I understand it, tenders will be called in the usual way, at the appropriate time, for the construction of the entertainment centre. The total cost for an entertainment centre will be significantly lower than it otherwise would have been. In the meantime, investigations are taking place as to how revenue might also be maximised on the site with the granting of commercial and other concessions which would enable the income for the whole site to be much greater than it otherwise would be with an entertainment centre standing alone. All in all, this has been recommended as the most cost effective option for us to provide an entertainment centre, and we are getting on with the job.

## SELLICKS BEACH MARINA

**The Hon. M.J. ELLIOTT:** I seek leave to make a brief explanation before asking the Minister of Tourism, representing both the Minister for Environment and Planning and the Minister of Aboriginal Affairs, a question about the Sellicks Beach marina site.

Leave granted.

**The Hon. M.J. ELLIOTT:** I have been approached by a number of people, including Aboriginal people, from the Sellicks-Aldinga area about a beach party that has been planned for this coming weekend at the Sellicks Beach marina site. Over $500 000 of ratepayers' money has been spent by the Willunga council on an EIS, which included a survey by an archaeologist. Aboriginal sites were recorded, and a plan showing land ownership was included. One month after the public submission time closed, a drainage channel was excavated by the council through one of those identified sites on land under the control of Parks and Wildlife, with no consultation undertaken with Parks and Wildlife, the Kaurna people or the Heritage Branch. Apparently the council cannot be prosecuted under the Heritage Act, which does not come into force until 1 March. The Planning Act does not apply to drainage works by councils, and, the area not being a dedicated reserve under the Parks and Wildlife Act, no prosecution can be made. A beach party is now planned for Sunday, and, in the hope of getting many people there, there are to be rides, sideshows, inflated castles, a 'Miss Beach Girl' competition and an 'Iron Man' competition.

The concern of the people who are interested in Aboriginal sites is that the party is to take place not only on the beach but also on land which is considered to be of great significance. Will the Minister undertake to investigate whether such activities will be taking place in areas which are acknowledged, even by the council, to be Aboriginal sites? If that is likely, will the Department of Environment, or whatever is the responsible department, withdraw that land from the council's use?

**The Hon. BARBARA WIESE:** I understand that the beach party to be held at Sellicks Beach at the weekend is being hosted by the Boating Industry Association of South Australia, and that the council is not involved in hosting the party.

On the question of sites of significance for Aboriginal people, I understand that as part of the environmental impact assessment process that is under way for the proposed residential and marina development at Sellicks Beach, that is one issue that is being examined. Whether there has been any result from those investigations, I do not know. I shall be happy to refer the honourable member's questions to my colleague. I am sure that, if he feels that action needs to be taken before the weekend to protect the sites that have been identified as being of significance to Aboriginal people, he will take such action.

## SAYTC

**The Hon. DIANA LAIDLAW:** I seek leave to make a brief explanation before asking the Attorney-General a question about industrial bans at SAYTC.

Leave granted.

**The Hon. DIANA LAIDLAW:** From 7 a.m. last Monday staff at SAYTC—the South Australian Youth Training Centre—imposed an indefinite ban on the admission of young offenders. The staff felt compelled to take such action following a decision by top bureaucrats in the department, endorsed by the Minister, to ignore a staff request to move a violent youth into a more suitable security block. The staff are furious that the Minister of Community Welfare has refused to act on their genuine concerns for their own safety and that of other young residents in the unit. The bans at SAYTC have been fully supported by staff at SAYRAC—the South Australian Youth Remand and Assessment Centre.

When I asked the Minister of Community Welfare last Monday to explain why there has been no action on the staff's concerns, my worries on their behalf were dismissed as being exaggerated. I understand that the Minister's office informed various journalists in Adelaide that an amicable solution was being finalised. That was two days ago. However, I assure members that no solution has been reached.

In the meantime, two young offenders, sentenced by the Children's Court on Monday and Tuesday, have been caught up by these bans. Rather than being admitted to SAYTC, which would be the normal practice, they are being held at Holden Hill Watchhouse behind bars—and one is a 16-year-old-girl.

No doubt this situation will be further aggravated today and tomorrow when Magistrate Grasso hears cases involving alleged young offenders at Elizabeth and Port Adelaide. As the court meets on only one day each week at each site, traditionally there is a heavy sentencing rate of offenders admitted to SAYTC on Wednesdays and Thursdays.

Does the Attorney-General agree that a police cell is an appropriate place to detain young offenders for indefinite periods? What action does he propose to take to ensure that this practice is discontinued during the period that SAYTC and SAYRAC staff have imposed bans on the admission of young offenders?

**The Hon. C.J. SUMNER:** It is not desirable for young people, or anyone else, to be placed for long periods in police cells. This matter is before the Industrial Commission

and discussions are proceeding. If those discussions break down, the Government will have to consider further what action is possible to resolve the matter.

## ATTORNEY-GENERAL'S DEPARTMENT

**The Hon. K.T. GRIFFIN:** I seek leave to make a brief explanation before asking the Attorney-General a question about the Attorney-General's Department.

Leave granted.

**The Hon. K.T. GRIFFIN:** I understand that the Crown Solicitor, Ms Branson, is soon to move to a new position. It has been suggested to me that the new position will be called 'Crown Counsel'. I understand that the current Deputy Crown Solicitor, Mr Kelly, will then become Chief Executive Officer of the department on a salary similar to that of Ms Branson, and that the office of Deputy Crown Solicitor will be abolished.

The Opposition has been told that these moves have been made necessary by serious staff dissatification with the administration of the department over a long period. This culminated in six senior lawyers threatening to resign—a threat averted only with the offer of significant salary increases.

Over the past four years, recurrent spending by the department has increased by 97 per cent. Over the same period, the department has grown in size by 60 positions but, even with these extra resources, the department has been unable to handle all of the Government's legal work. For example, the Government Workers Compensation Office has had to engage seven private legal firms to handle its work and the cost of these arrangements for the first nine months in which they applied was more than $33 000. In the 1988 budget papers, reference was made to a management restructure in the Crown Solicitor's Office occurring in 1987-88, so it appears that the latest proposal represents another restructuring within the department. My questions are:

1. Is there to be a major restructuring at the senior officer level in the Attorney-General's Department?
2. Why is that occurring?
3. What is the new structure?
4. What costs are involved in such restructuring?

**The Hon. C.J. SUMNER:** I know of no staff dissatisfaction within the Attorney-General's Department, particularly the Crown Solicitor's Office, except that which has arisen over the salary levels of lawyers in Government service. The honourable member may or may not be aware that, at present, there is great demand for lawyers. That demand has meant that lawyers, including young lawyers, in private practice are paid at quite reasonable rates of remuneration by some firms. One of the problems with respect to Government lawyers as with other areas in which there is great demand, such as computer programmers, is to ensure that they are retained in Government service despite the discrepancy in earnings between the private sector and the public sector. For that reason, negotiated salary packages have been entered into with some senior staff in the Crown Solicitor's Office.

As far as I am aware—and I assert this without any qualms—the Crown Solicitor's Office is very well run. It is an exceptionally good section, staffed by people of considerable legal and administrative talent, many of whom would command greater salaries in the private sector. We are fortunate to retain them in the Public Service of this State. We were fortunate in being able to attract one of South Australia's most eminent Queen's Counsel (Mr John Doyle, QC) as Solicitor-General for this State. It is rumoured—

*The Hon. K.T. Griffin interjecting:*

**The Hon. C.J. SUMNER:** Just a minute. It was rumoured that he was considered for the recent High Court vacancy which was filled by the appointment of Justice McHugh. In my view, Mr John Doyle, QC, has the capacity to fill that position; maybe one day he will receive senior judicial appointment. He is comparatively young, at the age of 43, and he is a lawyer of recognised exceptional abilities, and we are very fortunate to have a person of his calibre as Solicitor-General.

**The Hon. K.T. Griffin:** He is not part of your department.

**The Hon. C.J. SUMNER:** No, he is not. His is a statutory appointment, as the honourable member well knows.

**The Hon. K.T. Griffin:** He is paid a judge's salary.

**The Hon. C.J. SUMNER:** He is paid a judge's salary; that is right. I am making the general point in response to the honourable member's comments about dissatisfaction (which is non-existent) that he was attracted to work as Solicitor-General in this State. The Crown Solicitor is also a lawyer of great talent, as indeed are the senior officers in the Crown Solicitor's Office. Discussions are proceeding with respect to the reorganisation in the Crown Solicitor's Office and it is probable that the position of Deputy Crown Solicitor will be abolished, that Ms Branson will retain her position as Crown Solicitor, and that the Deputy Crown Solicitor will become the Chief Executive Officer of the department. That is being done by mutual arrangement between the two of them. Ms Branson wishes to concentrate on her legal duties and does not want to be burdened by the administrative responsibilities which hitherto have been part of the Crown Solicitor's Office. That proposal was put to me by the officers concerned and I have agreed to it in principle. Some details must be sorted out before finalisation of the matter and, if that does proceed, as I have indicated, an appropriate announcement will be made in due course.

**The Hon. K.T. GRIFFIN:** By way of a supplementary question, I ask: Is that the only restructuring proposed in the Attorney-General's Department? Can the Attorney-General indicate what costs are involved in any restructuring?

**The Hon. C.J. SUMNER:** I am not aware of any other restructuring that might be in the contemplation of the Chief Executive Officer. The costs are not great and will depend to some extent on the determinations of the Remuneration Tribunal. The abolition of the position of Deputy Crown Solicitor has made funds available for the appointment of a Chief Executive Officer who is not the Crown Solicitor.

## STATE CLOTHING CORPORATION

**The Hon. J.F. STEFANI:** I seek leave to make a brief explanation before asking the Minister representing the Minister of Health a question about the State Clothing Corporation.

Leave granted.

**The Hon. J.F. STEFANI:** Yesterday the Attorney-General tabled the 1987-88 annual report of the State Clothing Corporation, showing an operating loss of $496 000 for the year. This loss was recorded despite the fact that the Government gave a grant of $269 000 against the operating costs. The factory is located in Whyalla, which is in the electorate of the Hon. Mr Blevins. In 1988, the Auditor-General highlighted several areas of concern. The factory produced seven months of stock valued at $282 000 without supply orders to keep the factory workers busy. There was nothing for them to do.

**The Hon. R.J. Ritson:** Someone said, 'Let's make socks.'

**The Hon. J.F. STEFANI:** Exactly! In addition, the corporation has extended the factory building and installed plant and equipment to the total value of $246 000 on the basis that future production orders would be received, although no specific contractual term existed with Kimberly-Clark Australia. To assist this defunct operation, the Central Linen Service has further provided a loan of $272 000 at a preferential inter-government department rate of 13.8 per cent interest.

In spite of the substantial operating losses recorded over many years by the State Clothing Corporation, the Treasurer (Mr Bannon), through his financial mechanism, SAFA, has approved the conversion of a $600 000 loan to a non-interest bearing non-repayable capital sum. This means that $600 000 of the taxpayers' money has been written off in a losing venture. SAFA has further provided a $661 000 loan and the Chairman of the State Clothing Corporation has forecast further losses unless the Government provides an additional $350 000 subsidy—

**The Hon. M.B. Cameron:** A year.

**The Hon. J.F. STEFANI:** A year—and directs Government departments to place orders on its own factory. These orders are presently supplied at more competitive rates by private enterprise (including Bedford Industries) through the tendering system administered by the Department of Services and Supply. The public of South Australia, including West Coast farmers, have a right to know of the preferential deals which the Premier is willing to arrange for his pet project and to satisfy his Minister from Whyalla.

*The Hon. L.H. Davis interjecting:*

**The Hon. J.F. STEFANI:** Indeed. The people have the right to know whether these losses are continuing. Because the information which I have been requesting since November last year has been denied to me, I will now formally request answers to the following questions:

1. Will the Minister confirm that the factory is currently operating at a loss?

2. What are the operating results for the period 1 July 1988 to 31 January 1989?

3. What are the amounts of grants or other write-off Government subsidies received by the State Clothing Corporation from the Government since 1 July 1988?

4. Have additional orders been received from any Government department as a result of any Government directive or other administrative action directing the State's requirements to be supplied by the State Clothing Corporation? If so, from which departments have orders been received?

5. Have further orders been received for the manufacture of disposable overalls? If so, what is the value of these orders?

6. Has the level of stock been reduced and, if so, what is the current value of stock and how many months supply does it represent?

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

## ME SYNDROME

**The Hon. J.C. BURDETT:** I seek leave to make an explanation before asking the Attorney-General, representing the Treasurer, a question about the ME syndrome.

Leave granted.

**The Hon. J.C. BURDETT:** On 8 November 1988, during the Committee stages of the debate on the Appropriation Bill, I asked a question about the ME syndrome (myalgic encephalomyelitis). As reported at page 1308 of *Hansard*, I referred to the symptoms of the ME syndrome as follows:

> . . . an extremely distressing condition involving fatigue, weakness, muscular weakness, pain, twitching and spasm, skeletal or joint pain, urethritis, burning, itching, numb skin, paralysis and a further list which is twice as long.

On page 1309, I referred to the fact that 'there are over 6 000 sufferers in South Australia,' and I said:

> A distinguished South Australian researcher, Dr Mukherjee, who is a world leader in research into the condition, says that what is necessary for the research to continue is an up-to-date electron microscope at the IMVS . . .

This would cost about $500 000. I also said that the former Minister of Health (Dr Cornwall) had said at a meeting of the ME Syndrome Association in March of 1988:

> As you know, the question of available time with an electron microscope has been a matter of discussion for more than nine months. Senior staff of the Institute of Medical and Veterinary Science have been asked to pursue all practical avenues of addressing this need, and to include the purchase of any necessary equipment as a top priority in the 1988-89 capital works program. I believe it is important that this research work is finalised.

My experience of the former Minister is that he would not make semi-promises such as that unless he knew that the goods could be delivered. In fact, it is clear that at present such a microscope will not be purchased. Many members of the ME Syndrome Association have written to the Treasurer and been referred by him to the Minister of Health. I have a typical reply of 19 January 1989 which states, among other things:

> As you may be aware, funds of approximately $40 000 were allocated by the IMVS in 1987-88 to enable the research project to proceed. Regrettably, a request for an electron microscope costing almost $½ million to be funded in 1988-89, was not able to be met.
>
> The fact that the electron microscope was not able to be funded in 1988-89 is unfortunately a recognition of budgetary reality. The IMVS did place it among its top five priorities for capital equipment, but only two items were able to be funded this year. Both were items of equipment which are vital to the daily service needs of the IMVS (e.g. for testing purposes).

The research project said to have been funded in the previous year at a cost of $40 000 has not proceeded, and the electron microscope could be used for many other purposes, such as cancer research. My questions are:

1. In light of the need for this machine and of the fact that there is a viable research program available under Dr Mukherjee, will the Treasurer reconsider his decision not to fund the project?

2. What happened to the $40 000 allocated in 1987-88 for the research project which did not proceed?

**The Hon. C.J. SUMNER:** I will refer those questions to the Minister concerned and seek the appropriate replies.

## WHEAT TRADE DEREGULATION

**The Hon. M.J. ELLIOTT:** I seek leave to give a brief explanation before asking the Minister of Tourism, representing the Minister of Agriculture, a question about wheat trade deregulation.

Leave granted.

**The Hon. M.J. ELLIOTT:** The Federal Labor Party is presently pursuing wheat trade deregulation, in particular by possible abolition of the Wheat Board. The Federal Liberal Party may support this proposal and therefore it may occur. There is grave concern among wheatgrowers—in fact it is almost unanimous—that the loss of the Wheat Board will mean that Australian growers will have to compete with other Australian growers on a world market which is already highly stressed because of the subsidies of the EEC and the United States, as well as a great excess of

grain. Will the State Government intervene on behalf of the grain growers of South Australia against the Government's current stand on wheat trade deregulation?

**The Hon. BARBARA WIESE:** I will refer that question to the Minister of Agriculture and bring back a reply.

## BICYCLE HELMETS

**The Hon. DIANA LAIDLAW:** I move:

That the Council take note of the petition presented on 14 February 1989 calling for the wearing of helmets to be compulsory for all bicycle riders.

The petition contained five signatories only and I have moved this motion today in order to highlight that the organisers of the petition in fact collected 915 signatures but, regrettably, 910 of them (which I have in my hand) were on forms which did not comply with the Standing Orders of this Chamber. I am not passing the buck, but I was not the person who forwarded a petition of this style to these students. However, I made a commitment to them that I would forward these petitions on to the Premier for his information and said that I would raise this matter in this Council as a private member's motion. However, I note that, in speaking to this matter, the views I express are my own and not those of my Party because the Liberal Party has yet to determine its view in detail.

For my own part, I am firmly convinced of the value of making it compulsory for all bike riders, not only children, to wear safety helmets. I appreciate, however, that various people at various times have raised a number of objections to and highlighted a number of constraints on the introduction of the compulsory wearing of bicycle helmets, and they include issues such as availability, cost, acceptability, storage facilities and the like. I will address those matters shortly.

The petition was the initiative of students in years 7 and 8 at Scotch College, an initiative undertaken last year after a friend in year 7, a boy well respected for his academic and sporting skills and his friendly manner, was tragically killed when knocked off his bike. The students of MacLeod House felt it was very important that this sad loss did not go unnoticed and they wanted, if it was at all possible, for something positive to arise out of this tragedy. They decided that the best way to highlight their concerns was to initiate this petition. I am very keen to help them realise their objective which is to make the wearing of helmets compulsory for all bicycle riders.

Last year 10 pedal cyclists were killed in South Australia and a further 875 cyclists were injured. In recent years the number of cyclists reported killed or injured in South Australia each year has averaged over 700. During this period, three-quarters of the deaths have resulted from head injuries, while many of the cyclists injured received head injuries and, as a result, now suffer permanent brain damage, cerebral palsy, intellectual disability or loss of sight. The cost of head injuries to our community each year is considerable, amounting to millions of dollars in hospital and rehabilitation services. The cost of supporting neuro trauma victims alone is estimated at $200 000 per annum per person. With these figures one should also consider the diversion of health care resources and loss of earnings plus the devastating effect on families of the death or serious injury of a victim of a bicycle accident.

Over the past 10 years there has been an increasing number of calls from a variety of sources throughout Australia for the use of safety helmets by bicycle riders. One of the early comments on this issue was contained in the recommendations of the May 1978 report entitled 'Motor Cycle and Bicycle Safety' by the House of Representatives Standing Committee on Road Safety. That committee recommended that:

Cyclists be advised of the safety benefits of protective helmets by publicity or other suitable means—with the possibility of requiring cyclists to wear helmets to be kept under review.

In 1984 evidence from field studies conducted by Dorsch, Woodward and Somers for the National Health and Medical Research Council, Road Accident Research Unit at the University of Adelaide indicated the risk of death from head injury to be 14 to 19 times greater for unhelmeted pedal cyclists relative to helmeted, depending on the helmet type. I am informed that this Adelaide-based study is respected as the first scientifically and statistically credible evaluation demonstrating that helmets provide valuable protection. Incidentally, the study was conducted with the excellent cooperation of bicycle clubs throughout South Australia.

In 1985 an extensive analysis of children and road accidents by a B. Elliott for the Office of Road Safety, the Federal Department of Transport, highlights:

The value and importance of pedal cyclists wearing safety helmets appears beyond question at this time.

In Victoria, child, pedestrian and bicycle safety has been investigated fully by the Social Development Committee of the Parliament of Victoria. In its first report on the subject in December 1986, the committee recommended:

. . . that mandatory helmet use by cyclists be introduced as soon as possible.

Certainly in South Australia, and I believe elsewhere in Australia, the Road Trauma Committee of the Royal Australasian College of Surgeons has repeatedly advocated the need for bicycle helmet usage, and eminent surgeons have done likewise, including a person who would be known to most of us, Dr Donald Simpson, and also Dr Donald Beard. I understand that the helmet wearing rate in South Australia is about 40 per cent, and this represents an enormous increase over the situation of a mere five years ago. The largest increase in usage has been recorded amongst primary school students and adults. Today most primary schools and an increasing number of secondary schools require students travelling to and from schools to wear helmets. However, teachers with whom I have spoken in recent months bemoan the fact that outside of school hours so many young people will not wear their helmets.

The student of Scotch College who died was knocked off his bike early on a Friday evening well outside of school hours. He had earlier ridden home from school wearing his helmet but, on arrival, took it off and went out riding with his mates. In South Australia, as in other States, relatively little success has been achieved in persuading secondary students to wear helmets. This is a matter of considerable concern because of the large involvement of teenage cyclists in bicycle accidents.

In Victoria, the Road Traffic Authority has sought to address this issue by undertaking an exploratory study of high school students' attitudes to the use of bicycle helmets, and I will quote from that committee's findings. The authority actually commissioned a consultant psychologist to undertake this study of the attitudes of high school students. The findings were as follows:

1. Peer group pressure, or fear of peer group disapproval, is the major deterrent to helmet use. The study found that most of this disapproval was school based and that most of the respondents would regard compulsory use at either school or State level as providing them with a legitimate excuse to wear a helmet.
2. Students expressed dislikes of the 'look' that helmets give their wearers. The impression of 'big headedness' that is forced

onto helmet design by the need to include energy absorbing materials in the helmet was particularly criticised.

Respondents also identified some existing helmet brands with helmet use by primary school age children, and were derogatory about them on this basis. The study found that there was a need for a range of helmets diverse in colour and design.

3. The success of helmet promotion with primary school age children and adults has worked against attempts to encourage teenagers to use helmets, as helmet use has become identified to some extent with these other groups which have images [and that is people such as members in this Parliament] which are undesirable to teenagers.

The RTA found that those are three reasons why teenagers will not wear helmets. If one recalls their teenage years, certainly those reasons are quite easy to understand. Besides these social and psychological factors of peer group pressure, perception of design and colour, and identification of helmet wearing with 'out' groups, additional criticisms which have been presented to me relate to problems of helmet design, such as ventilation, weight and the movement of the helmet on the head so that it may impair vision, or be uncomfortable.

Cost also has been raised from time to time as a factor limiting the universal wearing of bicycle helmets. My office has determined that helmets in South Australia cost between $45 and $89, depending on the brand. There is no doubt that such a range of costs is substantial, and it can represent up to 25 per cent of the cost of a bicycle, which compares to the relatively, low percentage cost of restraints in cars. Besides the initial outlay, additional costs may also be incurred, for example, the need to replace helmets for growing children, the need for multiple helmets for families in which there are a number of bicycle riders, and the replacement of lost or stolen helmets.

During my inquiries about cost, several sources suggested to me, with some confidence, that as the helmet market expanded economies of scale would enable approved helmets to become cheaper. Other suggestions for reducing costs included a rebate or subsidy scheme to the purchaser, the bulk purchase of helmets by school groups, or assistance to households eligible for State transport concessions.

I believe that each one, or at least a combination, of those suggestions could well serve to reduce the financial burden for young families, or for families who are least able to afford bicycle helmets if they or their children ride bicycles. However, overall, I do share the view of the Victorian Parliament Social Development Committee, which comprises members of all Parties, namely, that 'We do not consider that costs should be an insurmountable inhibition to increased helmet usage.'

Like the 915 people who signed the petition in its various forms calling for the compulsory wearing of bicycle helmets, I am steadfastly of the view that this issue should be addressed as a vital road safety measure along the lines of South Australia's compulsory seat belt legislation, our blood alcohol legislation for motorists and, more recently, legislation for motorboat drivers and our mandatory helmet legislation for motor cyclists. In this regard, it is interesting to reflect on the fact that many of the philosophical and practical reasons that were raised concerning the introduction of seat belts in cars, or even helmets on industrial sites or for motor cyclists, have all, with time, dissipated, or we have found that the use of those restraints or safety devices has become acceptable, whether it be in the workplace or on the roads.

Certain people to whom I have spoken on this subject of compulsory wearing of bike helmets have cautioned me that legislation should not be introduced until there is an appropriate level of public acceptability. Certainly, the Police Force is one group that has cautioned me in this regard, and I accept that they should not be expected to enforce a law that did not enjoy the confidence of at least the majority of the community. A variety of figures has been nominated as a level of public acceptability—30, 40 or 50 per cent—and I suppose that that is a matter of judgment. At the present time I understand that in South Australia the voluntary usage figure is about 40 per cent, and I believe that, as a result of speaking to members of bicycle clubs, that is a high rate of voluntary usage.

As I stated earlier, we still have this difficulty with teenagers and, in this regard, I do acknowledge the launch by the Minister of Education on 31 January last of a bicycle helmet resource kit which was presented in a fashion that would make a helmet for a teenager be perceived as a fashion item. The kit complements a resource and video kit that was made available to schools last year to encourage the wearing of bicycle helmets. I understand that about 40 per cent of bicycle commuters voluntarily wear helmets. I believe that in this climate our efforts should be directed towards the introduction of measures designed to reduce or remove the barriers to mandatory helmet use. However, I remain strongly of the view that the mandatory use of helmets is the only realistic means of increasing wearing rates. This view was certainly shared by the signatories to the petition which I presented in the Council yesterday and by those 910 people to whom I referred. I earnestly hope that the Legislative Council will note their call for the mandatory wearing of bike safety helmets.

Before I conclude my remarks, I would like to note, as I hope other members of this Council will do also, the efforts of these students of Scotch College to initiate and follow through something in which they believe very strongly. I suspect that all of us in this place spend a lot of time with youth and with a lot of other groups in the community who feel very powerless, who feel frustrated by our over-bureaucratic system of Government in this State and this country, and who really feel that it is hardly worth making any effort at all to fight for anything in which they believe because they will not get anywhere.

I am proud of the efforts that these kids of Scotch College have made. It has been exciting for me to have been associated with their energy, their commitment and their resourcefulness to pool together to organise something which they believe would be for the common good and which they hope can be achieved by a change in our State laws and practices to ensure the introducton of the compulsory wearing of bike safety helmets. I hope by bringing this matter before the Council in this manner that I will help them in their efforts, and that before too long their goal will be realised.

**The Hon. I. GILFILLAN:** I am delighted to second the motion. In rising to support the motion I commend and congratulate the students of Scotch College on their initiative, and I recognise the importance of the petition. In some ways it is a pity that the motion is no more than just a recognition, in that it does not really bite the bullet in pushing for the compulsory wearing of bicycle helmets.

The issue has been around for many years. The Democrats and I were significantly involved with this matter some three years ago when Adelaide neurosurgeons pushed for the compulsory wearing of bicycle helmets, particularly for schoolchildren. At that time the media gave the issue quite some prominence, and I am sure that that has in part led to the Hon. Diana Laidlaw's current enthusiasm for the cause.

It is a long process to persuade people that the loss of life and debilitating injuries caused needlessly to cyclists—particularly young cyclists—not wearing helmets results in

an enormous cost to our community. We as legislators are morally obliged to take every step to reduce or, if possible, to eliminate that.

The Cyclists Protection Association, of which I am a member and, I am delighted to say, many members of this Parliament are now honorary members, intends to hold a public forum on the matter. At an executive meeting of the Cyclists Protection Association last night the following motion was passed by six votes to two:

That the wearing of helmets by pedal cycle riders should be compulsory in the fullness of time, at a cost which does not unreasonably impose on people of lower incomes.

It is interesting that that motion reflects several of the major misgivings held by some members of the public about the mandatory wearing of helmets. Much of the Hon. Diana Laidlaw's material reinforces the main thrust of my contribution and the arguments which, in part, I will be repeating.

With sensible practical analysis, people recognise that, until helmets are generally accepted in the community, any legislation would be futile. The rate of use of helmets is over 40 per cent—this figure is generally accepted, but counting actual helmets on heads shows that this figure has probably increased and may be as high as 48 per cent in general use on public roads. It is my personal opinion that this is very close to the breakthrough level at which there will not be substantial public reaction against the next step, which is to legislate to make the wearing of helmets obligatory.

The second major objection is cost, particularly as families with many children and those on lower incomes could be up for quite a high cost. Unless the helmets are properly and sensibly designed, parents may face repeated costs as their children grow. Both of those objections should now be at the point of resolution by a determined Parliament. It is unfortunate that we have not maintained a strong momentum to encourage much wider use of bicycles as a form of transport right across all age groups.

It is not hard to see the benefits which would flow in relation to the greenhouse effect, reducing the demand on Australia's petrochemical resources (in particular, petrol) and car parking and general costs to the community of roadworks and maintenance would be dramatically reduced. That momentum needs to be pumped up and I think that this debate may go some small way in achieving that goal. However, I am not optimistic when I see the funds that the Government has set aside for the State bicycle committee, which is involved in safety as well as all other aspects of bicycling. In 1982-83 funding for that committee was $190 000, but in the past two years it has been reduced to $160 000. When the inflation factor is considered that is an effective reduction of 50 per cent. That does not indicate the enthusiasm of a State Government sponsoring and supporting more and safer bicycling. The Democrats—and I in particular—support the move to make the wearing of bicycle helmets mandatory and any legislation that is moving towards that goal would be guaranteed of our support.

The Hon. Diana Laidlaw has already had inserted in *Hansard* material about bicycle helmets. However, I believe that there will be some interest in looking at this debate and I would like to make some further points because, although it is unlikely that we will have legislation enforcing the wearing of helmets, I believe that the publicity surrounding this, and the initiative eventually taken by the State Government, will continue to gradually increase the number of people who are looking for bicycle helmets. It is significant to note that in March last year the Cyclist Protection Association prepared a draft specifically to encourage parents to get helmets for their children and the wider use of helmets. That draft was sent to the Road Safety Division of the Department of Transport for review and report back. That was duly done and it is a credit to the Cyclist Protection Association's initiative that much of what was in that report has emerged in material circulated particularly by the Minister of Education in the kit.

Some points in relation to the selection of helmets should be mentioned because, unless the helmets chosen are satisfactory and work, there is no point in compulsion to wear them, and certain disadvantages in some models of helmet will make it very difficult for anyone, parent or others, to expect the wearer to continue to wear the helmet. They are uncomfortable, heavy and not well ventilated.

The Cyclist Protection Association has compiled some comments in relation to the selection of helmets. Because of their diligent research and the authenticity of their material, I would like to read certain parts of their document into *Hansard*:

A guide to choosing a helmet

The wearing of a hard shell helmet may save you, or someone you care for, from death or serious brain injury if involved in a cycle accident. The range of helmets available can be confusing.

What to look for in a bicycle helmet

1. Hard outer shell in combination with an energy absorbing rigid foam inner lining: The protective abilities of these features can only be judged by reference to tests such as those carried out for AS 2063.1—

which is the Australian Safety Code—

or the American testing procedures under ANSI 270.4 or by the Snell foundation. So-called 'shell-less helmets' available on the market, which consist of rigid foam without a hard outer shell, are designed specifically for either the very young child or for the competitive racing cyclist. These special purpose helmets do not offer the same degree of protection as hard shell helmets, especially against penetrating impacts by sharp objects, and so are not recommended for use by adults engaged in recreational or commuting cycling.

2. Light weight with effective ventilation: Weight and ventilation are critical if you or your child are going on a cycling trip of any length. A helmet which is too hot or too heavy is only going to discourage the cyclist from using a helmet.

3. Nape straps which join at the rear of your head: These are important as they are the most effective method of preventing the helmet tilting forward over the cyclist's eyes. Make sure the helmet cannot be removed by pulling upwards and forwards from the rear.

4. Double D-ring fastening system: Although not the only system, it is the most reliable and the least prone to breakage. The quick release buckle of plastic or nylon is comparatively bulky and should be repositioned if it rides on the chin.

5. Adjustable padding to give custom fit: As heads and helmets come in different shapes and sizes, the facility to custom fit a helmet is an important factor. Shop around and try on several brands to see which fits your head best. Sponge padding with velcro fastenings allow fractional fits. A good fit feels comfortable, yet is snug enough to not have the helmet wobble or shift position when you shake your head.

6. Light coloured outer shell: A white or yellow shell colour enhances visibility for cycling in traffic and also reflects rather than absorbs heat.

7. Impairment of hearing and vision: Make sure that the straps do not cover your ears and that lateral vision is unimpeded. If you wear glasses or sunglasses when cycling, check that they fit comfortably when wearing a helmet.

8. Cost: The price of good quality helmets ranges from about $45 to $100, which is a small price to pay to reduce the risk of permanent brain damage or death.

In relation to the testing standard, the association states:

As 2063.1 is a general purpose standard covering lightweight protective helmets. Currently it is the only Australian standard against which bicycle helmets are tested. While this Australian standard provides adequate tests for absorption of impact energy and resistance to penetration, the Cyclist Protection Association believes it is inadequate in several aspects which are relevant to cycling.

In addition to the levels of protection specified by AS 2063.1 the association believes that for cycling use a safety helmet must have—

*(a)* a maximum mass of around 600 grams,
*(b)* effective flow through ventilation, and
*(c)* an adequate fore/aft retention system.

The above three factors are not adequately considered by the current standard AS 2063.1.

To illustrate the inadequacies of the current standard, one helmet has received approval from the Standards Association even though it has a mass of over 200 grams, no allowance for ventilation and, even when done up, can be removed from most heads by pulling at the rear and in an upward direction.

This Australian standard is currently under review. It is hoped that a specific standard for bicycle helmets will be produced that will provide a reliable guide to choosing a helmet.

There are two American testing standards—

which I have already outlined. The report continues:

Some helmets which have passed the ANSI 290.4 or Snell tests have not applied for testing under AS 2063.1. However, in most respects these standards can be considered as equivalent.

Finally. I unashamedly put into this comment a recommendation for the support of members. The association's document states:

The CPA is a group of volunteers working toward improving the cycling environment for all types of cyclists. It campaigns for the adoption and implementation of policies conducive to cycling, produces information leaflets, issues a regular newsletter of cycling news, maintains a library of cycling publications and much more.

I ask all those who have accepted the honorary membership offered to all members of Parliament to become involved, to exercise their membership and to support the initiative to get more people using bicycles in Adelaide and in South Australia generally.

I reiterate the support of the Democrats and of the Cyclist Protection Association for the main thrust of this motion, which is to move towards the acceptance of the compulsory wearing of bicycle helmets. In comments made last night in the debate at the Executive, some of the points made were that the helmet improves visibility and protection. In fact, in winter or in cool weather it also improves insulation. Some people regard insulation as a help in the summer, especially for a light-coloured helmet.

The major argument which impressed me, and which all honourable members should consider, is that it is not an issue of individual liberty whether or not to wear a helmet; it is a community issue. Injuries caused by the failure to wear a helmet become a social responsibility because of the cost of treating the patient and in some instances the ongoing care for a paraplegic or a quadraplegic. There is also the enormous human suffering within the immediate family.

Many people believe that we shall eventually have the compulsory wearing of bicycle helmets because it will save lives and serious injury. I suggest that it is better that it should be sooner rather than later. I urge the Council to support the motion. In the fullness of time, which I hope will not be too far down the track, I trust that we shall have legislation to make mandatory in South Australia the wearing of bicycle helmets by cyclists.

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

## CHILD PROTECTION POLICIES

Adjourned debate on motion of Hon. Diana Laidlaw:

1. That a select committee of the Legislative Council be established to consider and report on child protection policies, practices and procedures in South Australia with particular reference to—
   *(a)* provisions for mandatory notification of suspected abuse;
   *(b)* assessment procedures and services;
   *(c)* practices and procedures for interviewing alleged victims;
   *(d)* the recording and presentation of evidence of children and the availability and effectiveness of child support systems;
   *(e)* treatment and counselling programs for victims, offenders and non-offending parents;
   *(f)* programs and practices to reunite the child victim within their natural family environment;
   *(g)* policies, practices and procedures applied by the Department for Community Welfare in implementing guardianship and control orders; and
   *(h)* such other matters as may be incidental to the above.
2. That the committee consist of six members and that the quorum of members necessary to be present at all meetings of the committee be fixed at four members and that Standing Order No. 389 be so far suspended as to enable the Chairperson of the committee to have a deliberative vote only.
3. That this Council permit the select committee to authorise the disclosure or publication, as it thinks fit, of any evidence presented to the committee prior to such evidence being reported to the Council.

(Continued from 30 November. Page 1726.)

**The Hon. DIANA LAIDLAW:** I shall conclude my remarks in support of the motion that I moved on 30 November last year that a select committee of the Council be established to consider and report on child protection policies, practices and procedures in South Australia. At that time I stressed that the Liberal Party viewed the abuse of children as a vile, odious act that must be pursued with diligence, care and commitment to protect children and to redress the actions of offenders. I repeat our stand in that regard.

The Liberal Party has taken this initiative purely and simply to provide Parliament with an opportunity to confirm whether or not our child protection practices are serving the best interests of children. I firmly believe that every member of this place, and members in the other place, would like to claim with confidence and pride that, in the interests of children, South Australia's child protection laws are above reproach. The select committee, which I have moved to set up, would provide honourable members with such an opportunity.

The Liberal Party acknowledges that child abuse is a highly complex area of practice which can involve great difficulties for workers in reaching the right balance between protection for children and unjustifiable intervention within the family. Of necessity, this complex background and environment of child abuse demands that the issues and the people with whom child protection officers have contact are treated with dignity, integrity and extreme sensitivity. Yet we find that for some time there has been widespread disquiet—in fact, anger—about the State's child protection policies, practices and procedures. Regrettably, we are witnessing an intense community backlash, essentially because the Bannon Government and successive Ministers of Community Welfare have not insisted that reporting and response procedures should be above reproach. As such, the credibility of the Department for Community Welfare's focus on child abuse has been undermined in the eyes of the community. I defy anybody—particularly any member of this place—to suggest that such a situation is in the best interests of children in this State.

The *Four Corners* program, which was featured last Monday evening, was the latest instance in which public concern was expressed about South Australia's child protection practices—or, as that program described our practices, the child abuse industry. I am not sure how many members saw that program. For those who did not, I would recommend that it should be compulsory viewing. Peter Couchman, who was responsible for compiling the program, was uncompromising in his harsh judgments on practices and policies, on the procedures for validating allegations of abuse and on the reversal of the onus of proof in child abuse proceedings in this State. Without doubt, the current regime seems to assume that one is guilty until proven innocent.

The *Four Corners* report follows equally damning national reports presented in the *Bulletin* magazine in a cover story on 27 September entitled 'A Child Abuse Backlash', and an

earlier report by the *60 Minutes* television program also presented in September. On each occasion Ministers of Community Welfare have sought, both in this place and outside, to damn the reports, as being misinformed, distorted and without foundation. I am not sure how many more times Ministers with responsiblity for community welfare in this State believe they can cry wolf and proclaim their innocence. They would have us all believe that the claims and concerns expressed in these national programs and the worries that have been voiced by community groups and by various correspondents on our local television programs and in our print media are without foundation, baseless and out of touch.

It concerns me a great deal in this matter of child abuse that the State Government seems to assume that no-one is entitled to make any critical analysis or scrutiny of child protection in South Australia, unlike any other subject with which I am familiar, be it Aboriginal health, the South Australian Timber Corporation, adoption or firearms. It seems that we in this Parliament and the media can canvass, consider and critically analyse any other subject. However, when it comes to child abuse, for some reason—I am not sure whether the Government is nervous, defensive or wants to hide the real situation—the Government will not tolerate any doubts being raised about current practices and policy. That situation should make all members extremely nervous and encourage us even further in our resolve to ensure that, as I indicated earlier, we can say with confidence that our child abuse practices and procedures are above reproach.

I acknowledge the presentation of the Cooper report, which was released by the Minister of Community Welfare in December after I gave notice of this motion. Members may not have received copies of that report, as they have been very hard to obtain. I am absolutely aghast at the number of organisations, including SACOSS, Catholic welfare and the Marriage Guidance Council, which have sought my help to obtain copies of this vital report. My office has been busy photocopying that report for countless community organisations in this State which are concerned about the well-being of children because, for some reason, the Department for Community Welfare and the Minister's office cannot produce sufficient copies to cater for community interest in this subject. It is a particularly sad reflection on the department and the Minister that they appear to be reluctant to encourage debate and comment on and consideration of these very important issues.

The Cooper report highlighted a number of major concerns in the administration of child welfare practices in this State. It focused on the well-being of children of teenage parents or parents under the age of 18 years, but there is no doubt that the recommendations throughout the report have an impact beyond the well-being of children of that specific parental age group. The Cooper report stated that more than 60 per cent of DCW staff covered in the study did not have professional qualifications, and there was very little assurance of quality service.

Dr Cooper found that insufficient emphasis was placed on preventive programs in the area of child protection and that junior DCW officers received insufficient supervision from senior staff. The last point is not necessarily surprising because, as the Hon. Mike Elliott, representing the Democrats, has highlighted in this place and elsewhere, senior staff within DCW have been leaving the department in numbers that reflect sadly on the morale and working conditions within the department. There is no question that, for some time, some well-meaning staff within DCW have not had sufficient years of experience to deal with some particularly difficult situations, yet they have been without the professional support of senior staff to help them in their very taxing responsibilities.

The Cooper report also indicated that services have been poor to bearable and that the quality of services could not be assured. I was astounded at the statement of the Chief Executive Officer of the Department for Community Welfare when contacted by the *Advertiser* for comment on this major report, which was commissoned by the Government. Ms Vardon stated:

> The State's trainers of social workers (Flinders University and the South Australian Institute of Technology) have paid only scant attention to child protection care.

I accept that statement in part but I find it offensive because it is yet another example of everyone else but the department and the Minister being at fault with respect to the decisions that they make about the protection of children. As I said before, I do not know how long the department, successive Ministers and the Bannon Government collectively can go on kidding themselves that they alone are right in this matter, that they know how to address this matter, that they cannot be questioned on it and that, if anything is wrong, it is always someone else's fault, not theirs. This example of buck-passing, of blaming the social workers and their trainers rather than looking at the practices within the department itself, is yet a further sad example of the depths to which child protection practices in South Australia have fallen.

Something is certainly wrong and it is the responsibility of members of this place to do something about it. On behalf of the children and families of this State, we have a responsibility and a duty to investigate what is going on. When I last spoke, I highlighted a few concerns, which I will refer to again briefly before touching on two or three other issues that I wish to canvass. I raised a variety of concerns associated with the Government's current focus on child abuse, particularly the provisions relating to mandatory reporting of a reasonable suspicion of abuse which, in South Australia, involves a much more extensive class of persons than in any other State.

The provisions are so broad that they virtually amount to an imposition of mandatory reporting upon the community at large. This statement cannot be attributed to me but is one that has been made by community organisations with increasing regularity in recent months. I also outlined the wisdom of such a broad insistence on classes of persons to report when the resources were not available or allocated to training all persons within the classes of persons required to report with the skills to recognise abuse.

Those who saw the *Four Corners* program last Monday would recognise that a nightmare was perpetrated upon a family when a woman reported a suspicion of abuse following a phone call from a mother who had simply sought advice over the telephone on behavioural problems which she was experiencing with her two young children. The result of that innocent phone call was a nightmare for this family, and it is still being felt strongly by all members of the family two or three years later.

I highlight the concern that, while the number of allegations of abuse has increased between 1981-82 and 1986-87 from 474 to the massive figure of 4 027, the percentage of substantiated cases over this period fell from 90.8 per cent to 25.65 per cent. I believe that this matter also requires further investigation by the Parliament, for these figures would appear to suggest that there are major problems in which allegations are being both reported and acted upon.

Terms of reference *(c)* and *(d)* of the select committee call for an investigation of the practices and procedures for interviewing alleged victims and for the recording and presentation of evidence of children before the courts. I refer

briefly to the issue of videotaping of evidence. The final report of the task force on child sexual abuse of October 1986 came down strongly in favour of the use of videotaped interviews during the investigation stage. That report states:

In its discussion paper, the task force canvassed the use of a videorecording of the child victim's statement at the committal and to replace evidence in chief at the trial. During its consultation process the task force was also advised of the value of videorecordings at the investigation stages of a case.

The task force was advised that a videorecording of the child victim's statement can be made early in the investigation so as to reduce the number of interviews the child must give. In addition the task force was made aware of a system currently operating in some States of the United States whereby a videorecording of a child victim's statement is made by the police and is subsequently shown to any identified alleged offender.

Some of the submissions received indicated that the advantage of making a videorecording of an early interview with the child is that the tape can be used instead of having to reinterview the child every time somebody wants to talk to him/her.

On that score, I add that anybody who has taken an interest in this whole issue of child protection would recognise that one of the horrors for these children is being reinterviewed by a variety of sources, whether it be DCW, the police, or SARC or possibly, for the satisfaction of parents, further interviews with psychologists, psychiatrists and doctors. So, reinterviewing is a matter of concern to people who take an interest in the well-being of these children.

It was a very strong view of the members of this task force that the use of videotaped interviews at the investigation stage would be of considerable benefit in trying to promote the well-being of children who are alleged victims of abuse. The report notes:

The task force was interested in the evidence from the United States that videorecordings of a child's early statement tend to prompt guilty pleas when viewed by the defendant and his counsel. It appears that the defence takes the view that a child who performs well on the videorecording will perform equally well in court. In addition, it appears that the impact of the videorecording may actually result in offenders confronting their guilt and admitting to the offence, even where the case against them is not strong.

The task force highlighted a further ground which would be of considerable benefit to children if we in this State had videorecording of interviews of children at an early stage.

Those statements were made in October 1986. Last year, in mid-1988, we found that the Deputy Chief Executive Officer of the Department for Community Welfare forwarded a direction to staff indicating that guidelines had not yet been developed on the taperecording of interviews, and that until such guidelines were developed recordings could damage the department's case if strict legal requirements were not complied with. That statement was made in 1988 at least 18 months after the task force had strongly spoken in favour of videorecording, yet the department had not at that stage developed guidelines for ordinary taperecording of statements, let alone videotaping.

In December last year, I received a reply from the Attorney-General which indicated that I should be pleased to learn that the department had recently established, in cooperation with the South Australian Child Protection Council, a working party to consider the issue surrounding audio and videorecording of evidentiary interviews. So, two years after the task force has reported, the department and the Child Protection Council are just starting to consider this issue.

My personal view is that that time lag is absolutely unacceptable when we know quite confidently that the use of video and audio recording of interviews would be of considerable benefit in proving the guilt or otherwise of an alleged offender and would take a lot of pressure off the alleged child victim. That matter should also be looked at further by this Parliament, especially as it may require extra resources to implement.

On the subject of videotaping of interviews, I note a letter forwarded to the Hon. Peter Duncan from the Judge Administrator of the Family Court of Australia, South Australian Registry, in February 1988 indicating that the judges are very much in favour of the videotaping of interviews between children and their psychiatrists. Judge Murray notes:

I interpose here that I am very much in favour of judges who hear custody cases being able to view videos of all interviews with children especially where the case is a difficult one.

Such an initiative has the support of judges in this State and I cannot understand why the department, under the direction of the Government, has taken so long to take up this issue.

The validation of child abuse is an equally controversial subject. I doubt that any member in this place has escaped hearing about the Cleveland inquiry held in the United Kingdom which focused on the work of Dr Marietta Higgs at Middlesborough Hospital.

That Cleveland inquiry found that Dr Higgs had been mistaken in many of her findings and that, of 121 children whom she had identified as being sexually abused, 98 were later returned to their parents. The technique used by Dr Marietta Higgs is one that is used regularly in South Australia at SARC and, I assume, also at the Adelaide Children's Hospital unit. If one pursues judgments on many of these cases, one would see that a lot of faith in South Australia has been placed on this anal dilation test, the very same test which has been discredited in Britain and which was discredited on the *Four Corners* report on Monday night. Dr Kieran Moran of the Prince of Wales Hospital in Sydney, when asked on the *Four Corners* program about this test, stated:

When we see this condition of gaping anus, it tells me nothing basically. If I see this condition by itself with no other indicators, I cannot interpret it and neither, I think, could anybody interpret it.

Yet, in judgments as late as last October and November, the same test was being used as the indicator for child abuse in South Australia. I could refer members to a number of judgments, but I just mention the Thompson one.

There is a whole range of other issues which I will not explore at length at this time, but there is no doubt that they need further investigation. The lack of services to offenders is one matter which should be of concern to members. We should also be looking at the issues of long-term support to victims of abuse and support for parents in trying to come to grips at an early stage with behavioural parenting problems so that they can ensure that their family life is on a stable and nurturing basis where they can in fact take care of their children.

There is a range of other issues such as training, protective behaviour courses in schools and the evaluation of those courses. Consideration should also be given to whether such protective behaviour courses place responsibility on the children for their own safety rather than placing it on parents and helping those parents exercise that responsibility. In addition, the advocacy of children before the courts is another issue that should be considered by members of this Parliament.

I would also like to see us look at the issue of this proposed amalgamation of the Queen Victoria and Adelaide Children's Hospitals in trying to establish a more preventive approach to child abuse by having persons skilled in recognising signs of abuse within the casualty section of that hospital. In this way, we could help families help themselves before a crisis actually arose that could possibly force that family apart forever.

I have outlined some of the concerns that the Liberal Party in this place has with respect to child protection policies and practices. Certainly I have not outlined them in an extensive fashion because it is impossible in this place to have the time to note all the literature, concerns, correspondence and judgments that express concern about what is happening in respect of the wellbeing of children in this State at the present time. I believe most sincerely that this select committee would help us say with confidence and pride that, in the interests of kids in this State, we do have the best practices. I believe that that is a claim which all of us would wish to make but which, I regret, we are unable to make at the present time. I hope that the motion will have the support of the Council.

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

## CANNABIS RELATED OFFENCES

Adjourned debate on motion of Hon. K.T. Griffin:

That this Council notes with concern the recent directive to police officers that they may only enter one offence per expiation notice for cannabis related offences and requires the Government to take urgent action to allow multiple offences per notice to apply in future as it has in the past.

(Continued from 16 November. Page 1556.)

**The Hon. K.T. GRIFFIN:** I will speak to close the debate. This matter has been on the Notice Paper since September 1988, and I appreciate the contributions which members have made. This motion reflects a concern about amendments to the directions to police officers in relation to the way in which expiation notices for cannabis related offences will in future be prepared and issued limiting each notice to one offence. In moving this motion, I expressed a concern that this would have two possible consequences. First, it would affect the statistical data in relation to these sorts of offences because of the inclination of police officers to complete only one notice rather than a series of notices for separate but related offences. It would also have the effect of allowing offences which are separate but related not being pursued because of the time taken to complete each particular expiation notice. I still believe that this Council ought to note with concern the directive, and I would urge the Council to support my motion.

The Council divided on the motion:

Ayes (9)—The Hons M. B. Cameron, L.H. Davis, Peter Dunn, K.T. Griffin (teller), J.C. Irwin, Diana Laidlaw, R.I. Lucas, R.J. Ritson, and J.F. Stefani.

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

Pair—Aye—The Hon. J.C. Burdett. No—The Hon. T.G. Roberts.

Majority of 1 for the Noes.

Motion thus negatived.

## INDUSTRIAL AND COMMERCIAL TRAINING ACT AMENDMENT BILL

Adjourned debate on the question:

That the Council do not further insist on its amendment.

(Continued from 14 February. Page 1873.)

**The Hon. M.J. ELLIOTT:** As the Hon. Mr Gilfillan said when speaking to the debate, the Democrats sympathise strongly with the intention of the amendment which is to protect trainees from any conditional coercion to join a union in order to receive training. However, discussions with the Chairman of the Commission (Graham Mill), and others, have made it clear that the amendments, having more to do with industrial relations than with education, are inappropriate to this Bill, which deals with training, developing skills and educating trainees. The Democrats therefore no longer insist on the amendments, as we believe that the issue should be dealt with elsewhere if it arises.

**The Hon. K.T. GRIFFIN:** I appreciate the support, at least in principle, from the Australian Democrats for the proposition which deals with the question of compulsory membership for trainees who receive the benefit of the provisions of this Bill. It is disappointing that the numbers will not allow this to be included in the Bill. However, I recognise that, if the Council were to insist on its amendment, because the conference of managers of both Houses was unsuccessful the Bill would then be laid aside.

A dilemma therefore arises in dealing with this Bill. The Opposition would still want to insist upon the amendment, because it believes that it is not just a matter of industrial relations, but a matter of rights for trainees and others who would benefit from the provisions of the Bill. We do not support the argument that it is essentially an industrial relations matter. One would hope, however, that an opportunity will arise in the future, on the basis of the numbers which have now been identified in the council, for this principle to be enshrined in the law, and to have a much more general application than merely to the Industrial and Commercial Training Act.

In view of the indication from the Australian Democrats that they will no longer insist upon the amendment, and that that will mean that the majority of the members of the Council will therefore not be insisting on the amendment, I do not intend to call for a division, should the question be lost on the voices.

Motion carried.

## LAW OF PROPERTY ACT AMENDMENT BILL

In Committee.

Clause 1—'Short title.'

**The Hon. C.J. SUMNER:** A number of questions have been raised in relation to this Bill, and I will attempt to answer them. The Hon. Mr Griffin asked whether new section 40 is intended to allow a person holding a power of attorney to contract with himself. The intention of the amendment is to ensure that a person can enter into contracts with himself and one or more other persons.

The honourable member queries what is meant by 'separate capacities'. The word 'capacities' in section 40 refers to the character in which one does something. It is suggested that the present section 40 (3) should be retained so that a person can convey land to himself. The amendment is not intended to prevent this, and, when 'capacity' is interpreted in the sense that I have just used it, it does not. Because of the possible difficulties in interpreting the section I have on file an amendment which I trust will make its meaning clearer.

The honourable member points out there is a typographical error in section 41 (5) and this should read 'indenture or deed', not 'indenture of deed'. I agree. The honourable member suggests that since delivery is unnecessary the ref-

erence to delivery in new section 41 (5) *(b)* should be deleted. The suggestion is that it should be sufficient for the document to express it to be signed by a deed. That is in fact the effect of 5 *(a)*; 5 *(b)* is merely giving an alternative method of indicating that the document is a deed.

The Hon. Mr Griffin's next point is that a document should not be deemed to be a deed merely because it is executed by a company under seal. The answer is that it is not. New section 41 (1) *(b)* provides that a body corporate executes a deed by affixation of the common seal, but new section 41 (5) provides that a document is not a deed unless:

*(a)* the instrument is expressed to be an indenture or deed;

*(b)* the instrument is expressed to be sealed and delivered, or in the case of an instrument executed by a natural person, to be sealed; or

*(c)* it appears from the circumstances of execution of the instrument or from the nature of the instrument that the parties intended it to be a deed.

The Hon. K.T. Griffin suggests that section 41 (5) *(c)* opens a pandora's box. Section 41 (5) *(c)* requires intention of the parties that the instrument is a deed. This intention must be coupled to the circumstances of the execution or the nature of the instrument. This is sufficient criteria.

The Hon. K.T. Griffin suggests the heading to section 41aa should be amended to refer to 'conditional execution of instruments.' I agree, and will take the matter up with the Clerk.

The honourable member is concerned that section 41aa (3) *(a)* would allow the first party to wait for an inordinate amount of time while the second party makes up his mind. Section 41aa (4) allows a party to recall execution of the instrument at any time prior to fulfilment of a condition.

Section 41aa (5) is queried. This section implements recommendation 7 of the Law Reform Committee and I am satisfied that the reasoning of the committee is correct. The committee said:

> The party relying on the condition to defeat the claim of another party should not be permitted to do so where the other party or a person claiming under him has acted on that instrument or relied on its execution without actual notice of the condition. In such circumstances, the absence of actual knowledge should entitle the latter to act upon and in relation to such an instrument as if no such condition had been imposed.

The Hon. K.T. Griffin queries the meaning of 'another party'. In section 41aa (5) *(a)* 'another party' refers to the other party to the instrument. The honourable member thinks there should be some clarification on when a document executed by a company is a deed. New section 41 (5) expressly sets this out.

The honourable member suggests that land agents will change their contracts to contracts executed conditionally. The Bill does not deal with conditional contracts, but only with conditional execution of contracts. The Hon. K.T. Griffin suggests that the words 'deeds or other' should be deleted from clause 4 (2) *(a)*. I agree, and will move an amendment accordingly. In order to ensure that there is time for the public to become acquainted with the new law I will move an amendment to insert a proclamation clause in the Bill.

**The Hon. K.T. GRIFFIN:** I thank the Attorney for those responses. Over the recess I further considered the matter and sent out the various observations to other practitioners. Only in the past few days I have received a six page memorandum from a Mr Bernie Walrut, who would be well known to the Attorney-General for his very careful and responsible observations on stamp duties and other areas of the law which impinge upon documentation.

In his memorandum Mr Walrut is suggesting—and I tend to agree with him—that the original Bill and the amendments do not really address all of the issues. With Mr Walrut's concurrence, I intend making a copy of the memorandum available to the Attorney-General. I would have done that earlier but, as I said, I have received the document only in the last few days. As a result it may not be possible to deal with the whole matter today. By way of conclusion, Mr Walrut states:

> In conclusion, the original amendment and the further amendment are inadequate. Section 40 should provide that:
>
> *(a)* A person can contract with himself and another or others;
>
> *(b)* A person can contract with himself in two different capacities including in his personal capacity. If this amendment is made then query whether the contract must be in writing and some formality complied with. Such a provision should not abrogate the rules relating to the voidability of the contract where there is a conflict of interest;
>
> *(c)* All covenants and provisions that are implied in like arrangements or contracts are to be implied in any such arrangements or contracts;
>
> *(d)* A person can convey to himself and another or others any property whatsoever and unless required by some other provision of the Act or any other Act the conveyance need not be in writing;
>
> *(e)* A person can convey to himself in differing capacities, again possibly subject to like restrictions as mentioned in *(b)*;
>
> *(f)* A person who has contracted or conveyed to himself in different capacities may sue himself in such capacities and should be required to apply to the court to provide directions as to how the various interests are to be represented;
>
> *(g)* As far as possible the legislation should follow that of the other States in this area; and
>
> *(h)* Any use of the expression 'two persons or parties' should be clarified so that there need only be:
>
> (i) only at least one person not in common on both sides of the arrangement; or
>
> (ii) the same party on both sides but constituted by two or more persons.

Those conclusions are significantly abbreviated on the total memorandum that Mr Walrut has made available to me. The memorandum reflects some concerns about section 40 which arise from his personal experience with the State Stamp Duties Office in particular. He says that there have been some difficulties with the Federal Taxation Office. To his knowledge, in one instance the Federal Taxation Office has attempted to impugn a transaction on the basis of the inability in South Australia of a party to contract with himself and another. He draws attention to other matters, though not in such detail, in a covering letter. He observes that the amendments to the Stamp Duties Act suggested by the Law Reform Committee in support of the proposed sections do not appear to have been adopted.

The Law Reform Committee, in paragraph 14 of its report, says:

> The Stamp Duties Act should be amended to provide that an instrument is liable to duty according to its terms notwithstanding the existence of any conditional execution, but if any such condition is not fulfilled the Commissioner shall on proof of the circumstances cancel the stamp on the instrument and refund any duty paid.

The Taxation Commissioner has tried on one or two occasions, where there has been a cancelled stamp, to reduce the refund by 5 per cent. There is concern in this instance that, in the application of the new section 40 or other aspects of the Bill, such a deduction is not proposed or sought to be made by the Commissioner of Stamps.

The Law Reform Committee, in its report, refers favourably to section 68(a) of the Companies (South Australia) Code in relation to the execution of a deed by a corporation. I understand that similar provisions do not apply to other bodies corporate in the special legislation applying to them.

Mr Walrut has made the point—and I agree with it—that if the Bill is to pass—and in principle I agree that it should—consideration should be given to incorporating section 68(a) of the Companies (South Australia) Code in other areas of corporate law to cover all bodies corporate, other than those incorporated by statute.

Another point made by Mr Walrut is that in practice most memoranda of transfer are delivered to the purchaser fully executed for stamping, but for that purpose only, on the basis that the transfer, which would ordinarily take place at the Lands Title Office, is already stamped by the vendor or purchaser, as the case may be. That condition is usually set out in a letter, not in the instrument. Releasing the transfer in this manner may be risky for the transferor if the proposed amendment is adopted because the transferor is placed at greater risk by doing so.

Those are three additional matters, with the detailed memorandum of Mr Walrut. As I received them only in the past day or two, I have not had a chance to have them copied. However, I will do so and have them made available to the Attorney-General for consideration. It is preferable to do that than to read the whole thing into *Hansard*.

On the basis that we want to get this provision amending the Law of Property Act right and not cause any unintended consequences which might be detrimental to the parties, I commend the memorandum to the Attorney-General for consideration before we proceed with the Committee stage of the Bill.

**The Hon. C.J. SUMNER:** It appears that I will have to report progress, to enable me to consider the matters raised by the Hon. Mr Griffin.

Clause passed.

Progress reported; Committee to sit again.

## STATE TRANSPORT AUTHORITY ACT AMENDMENT BILL

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Disclosure of interest.'

**The Hon. K.T. GRIFFIN:** I move:

Page 1, line 20—Leave out '8' and insert '6'.

The amendment is to ensure consistency with other provisions in the principal Act. It is designed to ensure that, in relation to disclosure of interests, the fine is consistent with other provisions of the legislation.

**The Hon. C.J. SUMNER:** The Government has no objection to this amendment.

Amendment carried; clause as amended passed.

Clause 4—'General functions of the authority.'

**The Hon. K.T. GRIFFIN:** I move:

Page 1, lines 23 to 27—Leave out paragraph *(a)*.

Paragraph *(a)* deals with section 17 of the principal Act concerning the powers of the State Transport Authority. I do not want to relate the whole of the argument that I advanced for this amendment during the second reading debate. Basically, I drew attention to my concern and that of the Opposition at the extent of the power being granted to the State Transport Authority to promote or arrange for the formation of companies to carry out functions on behalf of the authority or functions related to those of the authority and to exercise any other incidental or related power or function.

The concern that I expressed was that the State Transport Authority was essentially established for the purpose of providing a public transport system and its functions should be limited to that. It may be necessary as an incident to that primary objective to hold a share in a strata unit or a strata corporation which might be related to the parking of vehicles, but that is a very limited extension of its functions. The way in which paragraph *(a)* is drafted would allow the State Transport Authority to embark upon a range of adventures which are unrelated to the primary function of providing a public transport system.

Because of a general concern that statutory authorities should not be allowed to embark upon those adventures without some very compelling reason, I believe that the amendment ought to be carried. From the Minister's second reading explanation it was clear that the primary reason for this was advice from the Crown Solicitor that the State Transport Authority probably did not have power to hold an interest in a strata unit or a strata corporation. I am not convinced of that but, if that is the principal concern, it ought to be addressed specifically and not generally as is proposed in the Bill. If it is of concern that the STA does not have the power to hold an interest in a strata unit or a strata corporation, we will facilitate that by a specific provision in the Act.

My amendment will delete the general power to hold shares in companies and, subsequently, in the next amendment, will give to the authority the power to hold an interest in a strata unit or a strata corporation for the purposes of enabling it to carry out its specific function.

One other aspect which ought to be commented upon is that the STA has substantial losses and incurs substantial losses by the nature of its activities each year. It would be quite unsatisfactory for a body such as that, in an attempt to recoup some of those losses by unrelated activities, to be able to take an interest in a company whose functions bear no relation to the principal objective of the STA.

**The Hon. C.J. SUMNER:** The Government opposes this amendment. The Hon. Mr Griffin is under a misapprehension when he says that this would empower the State Transport Authority to arrange for the formation of companies to carry out functions unrelated to those of the authority. The Bill specifically says that the powers of the authority will be clarified to provide for a function to promote, or arrange for, the formation of companies, to carry out functions on behalf of the authority or functions related to those of the authority. It is clearly intended that there should be the power to carry out functions which are related to those of the authority.

A further safeguard, in any event, exists in the Bill since the Government's approval is required for any acquisition by the authority of shares in a body corporate or the like. I would have thought that that was adequate protection. Ultimately, it comes down to a policy matter, which I believe ought to be left in the hands of the Government, as to whether these powers are exercised in any particular case. The Government has been concerned to ensure that Government authorities can be involved in commercial operations which will make their activities more viable, and thereby reduce the cost to the taxpayer.

The extent to which statutory authorities should be involved in activities of that kind is a matter of policy for the Government and if for some reason the activities of the authority are not satisfactory the Government must obviously bear the responsibility at the appropriate time. The important factor is that opportunities should be taken by Government agencies to commercialise where possible. There is sufficient safeguard in the Bill before the Council: the Governor's approval is required and that ought to be protection to ensure that the State Transport Authority does not engage in activities of its own initiative which may be ill-advised.

The Crown Solicitor has advised that it is necessary to clarify the power of the STA to hold shares and the Bill before Parliament does that, but ultimately whether that power should apply to the promotion, arrangement and formation of companies is a matter of policy and will have to be determined by the Council. As it is a matter of policy, I believe it ought to be left in the hands of the Government of the day. That is why I oppose the amendment proposed by the Hon. Mr Griffin.

It is further noted that the Bill before the Parliament proposes to delete section 17 (3) *(d)* of the current Act and substitute the words 'exercise any other incidental or related power or function'. The Hon. Mr Griffin's amendment seeks to delete these words so that there would be no express incidental power. Normally such a power would be implied; however, the express deletion of the previously expressed power may rebut any implication that the power should be implied. The advice of the Crown Solicitor therefore is that either the current provision 'exercise any other power that is reasonably necessary for or incidental to the performance of those functions' or the power in the amendment Bill before us, 'exercise any other incidental or related power or function', be retained. So, if the Hon. Mr Gilfillan decides to support the Hon. Mr Griffin's amendment, I suggest that the matter will have to be re-examined or it may be that no necessary incidental power will exist for the State Transport Authority in the future.

**The Hon. I. GILFILLAN:** I did not pick up the second point that the Attorney made earlier in his remarks. He referred to clause 4 *(a) (d)* which refers to the functions relating to the authority. He then referred to a second point as being argument allaying the fears raised by Mr Griffin. What was the second clause to which the Attorney referred?

**The Hon. C.J. SUMNER:** The second point related to whether or not the so-called incidental power would remain if the Hon. Mr Griffin's amendment was supported. If the Democrats support the Hon. Mr Griffin's amendment we may have a problem; if they do not, then there is no problem.

**The Hon. I. GILFILLAN:** My question might have been confusing. From listening to the remarks, I believe that a point was made to which the Attorney may wish to refer. The intention of the amendment appeals to me and I believe that the wording of clause 4, which the Attorney believes provides some restraint on the areas into which the authority can move, is as follows:

> promote, or arrange for, the formation of companies to carry out functions on behalf of the authority or functions related to those of the authority;

My reading of that is that the Bill, if passed in its present form, would authorise the authority to form companies to carry out virtually any function it wished, and I have not yet seen or been persuaded that there is any restraint on that. If that is the case, if it is the Government's policy that any authority is to be authorised to form companies and do anything that in its own mind it decides to do, it is a bizarre policy and one that I have not heard this Government espouse.

At this stage I intend to support the amendment based on the interpretation of its effect as I have understood it. If there are complications further down the track in that the authority would be restricted in undertaking proper matters, I hope that we can address that in due course. Certainly, I have no sympathy with opening the door for the authority to take up shares or form companies in matters not related to the functions it should fulfil.

**The Hon. K.T. GRIFFIN:** Section 17 (1) of the principal Act provides:

> *(a)* to provide public transport services and to conduct operations for or related to the provision of public transport services;
> *(b)* to establish, maintain, extend, alter or discontinue public transport systems;
> and
> *(c)* such other functions—
> (i) as are incidental or ancillary to the foregoing;
> or
> (ii) as may be assigned to the authority by the Minister.

What the Hon. Mr Gilfillan has just referred to is really that power. The Minister can assign any function the Minister likes to the authority under that particular provision of section 17, and there is no control by Parliament in respect of that function granted by the Minister to the authority. In effect, it is unlimited. The Attorney-General says that, if the Bill stands as it is, no share or other interest in the capital of a body corporate will be acquired without the approval of the Governor.

I would suggest again that there is no public accountability by the authority in the way in which that provision is to be exercised, because the Governor will approve on the advice of the Governor's Ministers. That is not a matter which has to be publicised, nor is it a matter which is subject to any review. I am trying to say that the STA has specific functions in its capacity to get out into the other areas of its activity and hold shares in companies. We want limits on that. The specific problem which has prompted that part of the Bill relates to interest in a strata unit or strata corporation which resulted from the North Terrace property of the STA in particular but which may also relate to the strata titled parking stations near key points on STA routes. The authority is to have that power, if my amendment is carried.

The Attorney said that, if my amendment is carried, it will remove the provision which allows the exercise by the authority of any other power that is reasonably necessary or incidental to the performance of those functions. That is not correct. That provision will stay in the Act so it will have the power to deal with those matters which are reasonably necessary for or incidental to the performance of its functions set out in the statute. I would have thought that my proposition was a reasonable one and that it did not create the problems to which the Attorney-General referred.

Amendment carried.

**The Hon. K.T. GRIFFIN:** I move:

Page 2, line 1—Leave out paragraph *(a)* and insert paragraph as follows:

*(a)* an interest in a strata unit or a strata corporation.

This amendment, which follows on from what has just been carried, allows the authority to acquire an interest in a strata unit or a strata corporation.

Amendment carried.

**The Hon. K.T. GRIFFIN:** I move:

Page 2—

Lines 4 and 5—Leave out all words in these lines and insert 'but no other shares or interests in the capital of a body corporate'.

Lines 6 to 8—Leave out subsection (6) and insert subsection as follows:

(6) The Authority cannot acquire any security issued by a body corporate except with the prior approval of the Governor.

The amendment to lines 4 and 5 is again consequential and relates to proposed new subsection (6). There is no limit on the authority of the State Transport Authority to acquire an interest in a strata title but, where a security or interest is issued by a body corporate other than shares which it will still be empowered to acquire, it can only acquire those securities with the prior approval of the Governor. So, it retains that format in relation to securities which previously

in the Bill the Government had applied to shares and other interests.

Amendments carried; clause as amended passed.

Clause 5—'Acquisition of land.'

**The Hon. K.T. GRIFFIN:** I move:

Page 2, line 16—Leave out 'or related'.

This amendment deals with section 18 of the principal Act, which allows the State Transport Authority, in accordance with the Land Acquisition Act, to acquire land that is required for the establishment, extension or alteration of a public transport system. However, the amendment in the Bill allows the authority also to acquire land for any incidental or related purpose. I am always nervous about extending powers to compulsorily acquire land. Already they are exercised for a wide range of purposes, some of which may well be disputed and with which I would raise some question. The Bill seeks to broaden the power of the authority to allow the acquisition compulsorily of any land for an incidental or related purpose.

Personally, I would be happy if the whole clause went out and we just left the authority with the power that it presently has to acquire land for the establishment, extension or alteration of a public transport system. However, I suppose that providing a car park adjacent to a tramway or a busway may not be specifically within power, and that is why I would be happy to see a power given to enable the authority to acquire land compulsorily for any incidental purpose but not a related purpose. 'Related' seems to me to be much wider in its application than 'incidental'. 'Incidental' means directly arising from its principal objective; 'related' means that it could touch here and there but not necessarily be a direct incident. Personally, I would be alarmed to give the State Transport Authority power to acquire for anything other than a directly incidental purpose. That is my reason for moving the amendment.

**The Hon. I. GILFILLAN:** The Democrats oppose the amendment. It does little to the interpretation of the clause. If indeed the debate were the more substantial one—whether the subclause itself should be in or out—we feel that there is a good argument that the public transport system should be able to cater as thoroughly and effectively for the public as is possible and can see that there will be times when 'incidental' or 'related' purposes would require the acquisition of land. We do not want to restrict that in those circumstances.

**The Hon. K.T. GRIFFIN:** In view of the time, I will not formally divide on the issue if I lose my amendment on the voices. However, I indicate my concern that the Hon. Mr Gilfillan is not supporting the amendment because, in my interpretation of the two concepts, there is a significant difference between an incidental and a related purpose. As I say, I have some specific concerns about any Government agency or Government of whatever political persuasion being given substantial powers to compulsorily acquire the land of citizens. I express my disappointment that the honourable member is not prepared to accept that amendment.

**The Hon. C.J. SUMNER:** The Government opposes the amendment. I agree with the Hon. Mr Gilfillan. We do not believe that there is any basis for the fear that the Hon. Mr Griffin has attempted to indicate to the Committee. We believe that his amendment does very little and, therefore, can be opposed.

Amendment negatived; clause passed.

Clauses 6 and 7 passed.

Clause 8—'Repeal of ss. 25, 26, 27, 28 and 29 and substitution of new sections.'

**The Hon. K.T. GRIFFIN:** I move:

Page 2—

Line 30—Leave out 'Sections 25, 26, 27, 28 and 29 of the principal Act are' and insert 'Section 27 of the principal Act is'.

Line 33—Leave out '25' and insert '27'.

Lines 37 to 39—Leave out subsection (2).

Page 3, line 7—Leave out '26' and insert '27a'.

This clause, which introduces a significant change to the existing Act and law, deals with the payment of fares and charges. I am concerned that the Government Bill seeks to put the State Transport Authority in a much more preferred position over the citizen, and creates potential for greater abuse of the law when it comes to dealing with allegations that an offence has been committed. I am also concerned that the Bill in effect seeks to reverse the onus of proof in relation to an allegation that an appropriate fare or charge was not paid. The Minister's second reading explanation states that this is designed to make it a bit easier to prove that offences have occurred, but I do not think that that is sufficient argument to justify a quite significant change in the law relating to the onus of proof, even if it might be what some would regard as a minor offence but which I nevertheless regard as a serious offence, that is, failing or refusing to pay an appropriate fare or charge. In effect, I propose that we maintain the *status quo*; that the offence is still there; and that the onus of proof remains with the Crown to prove beyond reasonable doubt that an offence has been committed.

I know that may create some inconvenience by requiring the driver to be present to prove the offence if the facts are not admitted, but there are occasions when drivers can be rather brutal towards passengers, whether they are children or adults, young people or older people. Whilst there may be some good reason for some personnel to be offended by the behaviour of some passengers on buses, and whilst some members of the public may be offensive, it seems to me to be quite inappropriate to say across the board that, if an allegation is made that you, a 14 year old, have refused to pay a fare, or have not paid the correct fare, you then must prove that you did pay the correct fare.

I can see a whole range of difficulties arising as a result of that reversal of the onus of proof. However, with a driver or an inspector, the inspector has merely to note that the passenger got on at such-and-such a stop and was still on at a later stop, and had not paid a fare, could not produce the appropriate validated ticket, or had not paid the fare for that particular distance of travel. I see no great difficulty with that. Why should the law be amended so dramatically to say that, as the Crown, we merely have to allege that you have not paid the right fare, and it is all back on you to go through the trauma of appearing in court to prove that you are right and the driver or inspector is wrong?

I do not say that all drivers, inspectors or conductors have that attitude or that all members of the public who travel on public transport are angels. However, I do say that this Government amendment does open up the way for significant problems for innocent members of the public, and that concerns me. There has been no substantiation of a need for such radical change in this area of the law.

With respect to other parts of the Bill relating to the other sections which it seeks to repeal, I see no reason why we should be removing the offence of damaging or defacing property of the authority; why we should be removing the offence of behaving in an offensive or disorderly manner whilst in a vehicle operated by the authority; or why we should be removing the embargo against carrying dangerous or offensive objects or substances on an STA vehicle. All such provisions ought to remain. I know that the Summary Offences Act contains provisions for offences which might be equated to these, but I would have thought that certainly no harm will be done, but rather possibly some good in

retaining present offences. For that reason I move my group of amendments to retain the *status quo* and not to make such a dramatic change to the law, which I believe is unwarranted or, at the very least, not substantiated by the Government.

**The Hon. C.J. SUMNER:** The Government opposes the amendment. The first part of it does not constitute a dramatic change to the law and does not reverse the overall onus of proof that rests on the prosecution in proving that the offence has been committed. It does provide an evidentiary device whereby proof of that service, that is, carriage on transport, was in fact effected. If an allegation exists in a summons that the service on the bus was provided by the STA, that the fare was so much for it, that fact is assumed to be proved unless the contrary is proved by the individual.

If the amendment in the Government's Bill is not passed, the existing situation will pertain whereby it is necessary to call the driver or inspector to prove the identity of the offender and that the offender used the service. It is not a dramatic amendment to the law or a reversal of the overall onus of proof that should rest on the prosecution but rather an evidentiary device used to establish the identity of the offender and the fact the offender used the service. That evidence can be rebutted by the defendant.

The notion of deeming provisions whereby certain things are assumed, unless rebutted by the defence, is not uncommon, particularly in relation to summary offences. I therefore ask the Committee to oppose the Hon. Mr Griffin's amendment.

With respect to his other amendments relating to sections 25 and 26 as they deal with defacing STA property and disorderly behaviour, it was suggested these matters could be more appropriately dealt with in regulations, so the offences are not being removed from the law but from the principal Act. They will be placed in new regulations.

**The Hon. K.T. GRIFFIN:** I disagree with the Attorney-General. I know that provisions in the law allow certain matters to be alleged in complaints and, in the absence of proof to the contrary, that is deemed to be proved. However, in my view this provision goes much further, because it relates to the essence of the offence and deals with an allegation that a particular service was provided. Of course, that creates some problems and goes a long way towards reversing the onus of proof. Therefore, I would not agree with the Attorney-General on that issue.

I am disappointed to know that some of the substantial offences are to be included in regulations. I would have thought that defacing property was a sufficiently important offence not to be included in regulations but to be incorporated in the statute. I think that those sorts of offences ought to be in the Act and not in regulations. There is one issue which I did not address and which I realise is caught up with a bundle of amendments. Perhaps we can deal with that issue separately: that is, lines 21 to 31 dealing with expiation fees. Rather than speaking on that at the moment perhaps we might deal with the current issue and deal with the amendments to lines 21 to 31 as a separate issue.

**The Hon. I. GILFILLAN:** Assuming that we are dealing with the amendment addressed in most of the remarks, the Democrats are not persuaded to support the amendment. I have some curiosity as to why those offences outlined as defacing property and the others listed have been moved from the Act to regulations. It is not an issue of great concern, but more an issue of curiosity.

**The Hon. K.T. GRIFFIN:** If my amendments are not carried on the voices I will not call for a division.

**The Hon. C.J. SUMNER:** There is no particular magic in that. Apparently when the Bill was being drafted it was recommended by Parliamentary Counsel that it would be appropriate for offences of this kind to be contained in regulations. It is not an issue of not being offences any longer: they will be, but obviously it is not a matter of major importance.

**The Hon. I. GILFILLAN:** Why is the offence of not paying for the service still kept in the Act although the offence of defacing property has been moved into regulations? It does not seem very logical.

**The Hon. C.J. SUMNER:** I did not draft the legislation and it is not within my direct responsibility. That is the only explanation I can give. If the honourable member is not convinced he can vote against the amendment.

**The Hon. I. Gilfillan:** I have a healthy curiosity.

**The Hon. C.J. SUMNER:** That is very desirable, and I commend the honourable member on that attribute. However, apparently during the drafting of the Bill it was considered that the arrangement of the legislation would be better served if these offences were placed in the regulations. I do not place great store on that and on that issue I am happy to abide by the decision of the Committee.

**The Hon. K.T. GRIFFIN:** It may be that I might recover some lost ground. The major cause of contention in terms of the reverse onus question is the amendment to lines 37 to 39 which deletes the proposed subclause (2) of the new section 25. In the light of what he has just indicated, the Hon. Mr Gilfillan might be persuaded to support me on all the amendments to leave those offences in the Act and vote only against my amendment to lines 37 to 39. If someone damages or defaces property of the authority, why should that be different from offences under the Summary Offences Act which generally deal with acts of vandalism? Is the authority's property of less significance than other public or private property?

**The Hon. C.J. Sumner:** It is already covered by existing law. The Summary Offences Act covers everything.

**The Hon. K.T. GRIFFIN:** I suggest that, in view of what the Attorney-General said earlier, the Hon. Mr Gilfillan may care to support my amendments, except the amendment to lines 37 to 39.

**The Hon. I. GILFILLAN:** Provided that the interpretation of the amendments is accurate—and I can only go on what I have heard in the debate—I should be happy to do that. It will give us a chance, if there is more substantial argument to oppose the amendments—and I shall listen to the Government's argument—possibly to come back. I shall follow the procedure suggested by the Hon. Mr Griffin. I shall oppose his amendment to new subsection (2), which is the so-called reverse onus, but support his other amendments, which I understand maintain the *status quo* for the other offences.

**The Hon. C.J. SUMNER:** The only other argument that I can offer is that the offences of disorderly behaviour and defacing STA property are already covered by the general law. The argument of Parliamentary Counsel was that, that being the case, it was reasonable for them to be in regulations under the Act. It is not a matter of great moment.

Amendments carried; amendment to lines 37 to 39 negatived.

**The Hon. K.T. GRIFFIN:** I move:

Page 2, lines 21 to 31—Leave out all words in these lines.

This amendment relates to expiation fees. The proposed new section 27 gives the authority discretion to extend the period fixed for the payment of an expiation fee and to reduce the amount of the fee. That is novel when making provision for expiation fees. In the course of the second reading debate I severely criticised a proposition which gave a statutory body the power to distinguish between offenders

by allowing it to extend the time for payment. In effect, it is saying, 'In these circumstances we will reduce your expiation fee.' There are no criteria, no guidelines and no conditions. It is an executive act by a person in the State Transport Authority.

In principle I find that objectionable. Everyone ought to be treated equally. If there is to be a provision for an expiation fee, everyone ought to know where they stand. There ought to be no opportunity for mateship to be exercised in granting time for payment or a reduction of the amount of the expiation fee. That may not happen, but it offers the potential for that sort of behaviour, which I do not believe ought to be tolerated.

**The Hon. C.J. SUMNER:** The Government opposes this amendment. I am a bit surprised that there is opposition to the Government's proposal to provide that there can be an extension of time for people to pay the expiation amount. I would have thought that that was a very sensible amendment and one which would assist people who may be impecunious and have difficulty with paying immediately. If an extension was granted, it would obviate the necessity of going to court to pursue the matter. That seems to me to be a sensible proposition. As to the reduction in the amount of the expiation fee, likewise, there may be circumstances where it is reasonable to exercise a discretion and reduce the expiation fee. Presumably, it would be done only in accordance with certain established procedures. Frankly, I do not see the basis for the honourable member's objection to the Government's proposal.

**The Hon. I. GILFILLAN:** I do not support the amendment. I realise that the misgivings that the Hon. Trevor Griffin has voiced could be grounds for questioning the proposal in some other circumstances, but I believe that the area of public transport is unusual in that, principally, many of the people for whom it is catering have no other way of moving about. It seems reasonable that this is a compassionate provision and it allows the authority to reflect the condition of the individual who may have committed the offence. I therefore oppose the amendment.

**The Hon. K.T. GRIFFIN:** At the moment, without the intrusion of expiation fees, there is always a discretion as to whether any action will be taken. The tendency, where there are expiation fees, more and more is for the expiation fee notices to be issued, regardless of any compassionate grounds. In effect, this expiation fee system is offering the opportunity for a higher level of expiation notices to be issued. I do not believe that it is appropriate to give to any person within a statutory authority or Government department the power to play with the expiation fees. They are set by regulation, and a person either pays or, if there is an extentuating circumstance and the time expires, one can always make a decision not to prosecute. Where will this end up? Will we extend this principle to other areas of expiation fees—involving speeding offences or cannabis offences? I think this is an outrageous proposal and I very strongly oppose the Government's proposition. I strenuously support my amendment.

Amendment negatived; clause as amended passed.

Clause 9, schedule and title passed.

Bill read a third time and passed.

## NORTH HAVEN TRUST ACT AMENDMENT BILL

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

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

*That this Bill be now read a second time.*

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

Leave granted.

### Explanation of Bill

The aim of this Bill is to amend the North Haven Trust Act 1979 so that the North Haven Trust is constituted of the Minister for Environment and Planning. The Bill also provides for the trust to hold its property for and on behalf of the Crown. The North Haven Trust was established pursuant to the North Haven Trust Act 1979 to undertake and promote development of the North Haven Harbor Project. Since the sale of this project in 1983, it has been the aim of the trust to finalise its major activities and facilitate the eventual repeal of the North Haven Trust Act.

The Crown Solicitor has advised, however, that there are certain risks associated with the repeal and effective winding up of the North Haven Trust, particularly due to the complexity of the arrangements entered into by the trust and concerns as to whether such repeal may effect enforceability of the deed of sale or other agreements existing between the developers and the trust. It is therefore the recommendation of the Crown Solicitor that the North Haven Trust should be retained as a statutory corporation at least until the development obligations of the respective parties have been complied with, but that the North Haven Trust Act 1979 could be amended so as the North Haven Trust is constituted of the Minister for Environment and Planning.

The North Haven Trust considers that its major work has been satisfactorily completed and that the North Haven Trust Act should now be amended in accordance with the Crown Solicitor's advice. Such amendment would enable disbandment of the existing board of members, on the basis that the Manager (Mr Terry Stewart) reporting to the Minister for Environment and Planning, continues to be responsible for finalisation of all major activities as well as the residual and ongoing affairs of North Haven Trust. I commend the Bill to the House.

Clause 1 is formal. Clause 2 provides that the measure is to come into operation on a day to be fixed by proclamation, except for clause 9 which is to come into operation on the day that the measure is assented to by the Governor. Clause 3 amends the definition section by removing the definition relating to members of the trust. This amendment is consequential to the amendment proposed by clause 4. Clause 4 amends section 6 which provides for the establishment of the North Haven Trust as a body corporate consisting of five members. The clause amends the section so that the trust is instead constituted of the Minister. The clause also adds a new provision declaring that the trust's property is to be held on behalf of the Crown.

Clauses 5 to 8 are all consequential to the amendment providing that the trust is constituted of the Minister. Clause 9 inserts new section 26 into the principal Act to provide for expiry of the Act on 31 December 1993 or, if the Governor, by proclamation, fixes some earlier day for its expiry, on the day so fixed. The section empowers the Governor to transfer or distribute any property, rights, liabilities and obligations of the trust by proclamation. Such transfer or distribution may be made to or between one or more of the Crown, a Minister or Ministers of the Crown and the council, to have effect on and from expiry of the Act. There is also a provision empowering the Governor, by proclamation, to fix the boundaries of the area of the council so that the prescribed area continues to form part of the area of the council notwithstanding the expiry of the Act.

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

## TERTIARY EDUCATION ACT AMENDMENT BILL

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

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

*That this Bill be now read a second time.*

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

Leave granted.

### Explanation of Bill

It seeks to amend the Tertiary Education Act 1986 to incorporate provisions dealing with the membership, terms of reference and operations of the South Australian Institute of Languages. The Tertiary Education Act Amendment Act 1987 provided within the Tertiary Education Act 1986 for the establishment of the Institute of Languages with the membership, powers and functions and other operational matters to be prescribed by regulation. Such regulations were promulgated on 9 June 1988.

In debate on the Tertiary Education Act Amendment Bill 1987, concerns were expressed about dealing with such significant matters through regulations. It was agreed that, within 12 months, legislation would be introduced to set those matters out fully in the Act. That is the purpose of this legislation. With one exception, the Bill in effect reflects the regulations although with some drafting improvements. The exception is the proposed introduction of clause 9e (1) *(d)* which will empower the institute to provide courses other than courses leading to academic awards. This will permit the institute to be involved in the kind of inservice or professional development work such as is provided by many other professional bodies (for example, in engineering, accountancy, etc.). At the same time the institute will not be able to involve itself in formal coursework such as is presently provided by the tertiary institutions except, of course, in assisting those institutions in appropriate ways. The clause will, incidentally, provide a possible and potentially lucrative source of income for the institute.

Clauses 1 and 2 are formal. Clause 3 inserts a heading into the principal Act. It is necessary to divide the Act into Parts because the provisions relating to the South Australian Institute of Languages need to be set out separately from the other provisions of the principal Act for the sake of clarity. Clause 4 inserts a definition of 'language studies' into the principal Act.

Clauses 5 and 6 insert headings into the principal Act. Clause 7 inserts the new Part relating to the South Australian Institute of Languages. Clause 8 inserts a heading. Clause 9 makes a consequential change.

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

## BUSINESS FRANCHISE (PETROLEUM PRODUCTS) ACT AMENDMENT BILL

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

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

*That this Bill be now read a second time.*

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

Leave granted.

### Explanation of Bill

The purpose of this Bill is to increase the $50 per annum fee currently paid pursuant to section 18 (1) *(b)* to $100 per annum to cover the cost of administering the Motor Fuel Distribution Act. Licence and permit fees were originally charged under this Act but were waived by Cabinet in 1979 and replaced by a $50 fee under the Business Franchise (Petroleum Products) Act.

The Motor Fuel Distribution Act commenced in 1974 to regulate and control both the number and location of retail motor fuel outlets in South Australia. Applications for new licences and permits and any variations are heard by the three member Motor Fuel Licensing Board. Since the commencement of the Act, there has been a substantial reduction in the number of licences and permits. As at December 1974, there were 962 licences and 730 permits. By December 1987, this had reduced to 725 licences and 639 permits.

As the main purpose of the Act has now been completed, and in line with the Government's policy on deregulation, the operation of the Act was reviewed with a view to repealing the legislation. However, there is still very strong support for it to be retained, especially from the Motor Trades Association which considers the Act vital to the well-being of the industry. Apart from Esso Australia Ltd this view is also held by oil companies. In this regard both the Motor Trades Association and the Australian Institute of Petroleum (South Australian branch) have acknowledged the application of the user pays concept to maintain the Motor Fuel Distribution Act.

The current $50 fee payable by petrol retailers under the Business Franchise (Petroleum Products) Act for a Class B licence has remained constant since 1979, while CPI has increased by just over 100 per cent. Given the strong support by the industry to retain the Motor Fuel Distribution Act, this Bill seeks to increase the current Class B Licence fee from $50 to $100 per annum under the Business Franchise (Petroleum Products) Act pursuant to section 18 (1) *(b)* effective from 1 October 1989. This will generate approximately $60 000 in a full year which will fully cover the cost of administering the legislation. I commend the Bill to members.

Clause 1 is formal. Clause 2 provides for commencement of the measure. Clause 3 amends section 18 of the principal Act by increasing the licence fee for a Class B licence from $50 to $100.

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

## MOTOR VEHICLES ACT AMENDMENT BILL (No. 2)

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

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

*That this Bill be now read a second time.*

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

Leave granted.

**Explanation of Bill**

The purpose of this Bill is threefold, namely, to require a person who has been continually in South Australia for a period of three months to obtain a South Australian driver's licence, to allow an interstate visitor to drive in South Australia on a learner's permit issued in another State and to provide for a person to hold a driver's licence in only one jurisdiction.

Existing provisions of the Motor Vehicles Act recognise interstate licences held by visiting motorists but require a person who becomes a permanent resident of South Australia to apply for a South Australian licence as soon as reasonably practicable. A satisfactory and enforceable definition which determines when a person is regarded as being a permanent resident has been the major difficulty. What happens in practice is that most people moving from interstate wait until their interstate driver's licence expires before applying for a South Australian driver's licence.

Licensing authorities throughout Australia have agreed on a policy of three months residence as being *prima facie* evidence of permanent residence. Other States have introduced or are proposing to introduce similar legislation which requires a person who remains in a State for a continuous period of three months or more to obtain a licence in that State. The requirement to change over to a South Australian driver's licence within a three month maximum period following interstate relocation will not apply to defence personnel, spouses and dependants.

All other States allow a visiting motorist who holds a learner's permit issued in their home State to drive in that State. Existing South Australian legislation does not recognise interstate learner's permits and occasionally inconvenience is experienced by interstate visitors where the holder of a learner's permit is prevented from driving, and is therefore unable to share the driving with other occupants of the vehicle. South Australia has been requested by other States to adopt a uniform approach and provide for the recognition of interstate learner's permits. Visiting interstate learner's permit holders will be required to drive subject to the same conditions as the holder of a learner's permit in this State.

At present, it is possible for a person to obtain a driver's licence in more than one State. The most common reason a person will obtain more than one driver's licence is that if one licence is suspended or disqualified, the suspension or disqualification can be concealed if, upon being requested to produce a licence by a police officer, the person produces a licence issued by another licensing authority. All States have agreed to introduce legislation which will allow for a licence in one jurisdiction only.

It is proposed that a prerequisite to the issue of a licence or learner's permit be that any licence or permit issued to an applicant in another jurisdiction be surrendered and a request for cancellation of that licence or permit be made. Further it is proposed that each State will enact legislation which automatically cancels a licence or learner's permit should the holder be issued with a licence or permit in another jurisdiction.

Clause 1 is formal. Clause 2 amends section 5 of the principal Act which is an interpretation provision. The amendment inserts a definition of 'interstate licence' for the purposes of the new provisions inserted by this Bill. Clause 3 inserts a new section 75aa after section 75 of the principal Act. This provision is designed to ensure that only one licence is held by a person at any given time.

Subsection (1) requires a person who is applying for a driver's licence or learner's permit under this Act to surrender to the Registrar any interstate licence or permit held by them and provide the Registrar with a letter requesting the authority that issued the interstate licence or permit to cancel it. Subsection (2) provides that, where a licence or permit is issued to a person who holds an interstate licence or permit, the interstate licence or permit will, for the purposes of this Act, be taken to have been cancelled on the date of issue of the licence or permit under this Act. Subsection (3) provides that, where a person who holds a licence or learner's permit under this Act is issued with an interstate licence or learner's permit, the licence or permit issued under this Act will be taken to have been cancelled on the date of issue of the interstate licence or permit.

Clause 4 repeals section 97a of the principal Act and susbstitutes a new provision. Subsection (1) authorises visitors to the State who do not hold an appropriate licence issued under this Act to drive in this State pursuant to a current interstate licence or learner's permit or foreign licence for up to three months. A member of the armed forces or the spouse or a dependant of the member who is living with the member may drive in this State pursuant to an interstate licence indefinitely. Subsection (2) provides that a person who is disqualified from holding or obtaining a licence or learner's permit in any State or Territory cannot drive in this State pursuant to a licence or permit issued in another State or Territory.

Subsection (3) requires a person driving in South Australia on an interstate licence or learner's permit or foreign licence to carry and produce the licence or permit if requested to do so by a member of the Police Force, an inspector appointed under this Act or an inspector under the Road Traffic Act 1961. The maximum penalty for a breach of this provision is a $200 fine. Subsection (4) provides that, where a person drives a vehicle in South Australia pursuant to subsection (1), the interstate licence or learner's permit or foreign licence will, for the purposes of the law of the State, be taken to be a licence issued under this Act. Subsection (5) is an interpretation provision.

The schedule provides for divisional penalty references in preparation for reprint of the principal Act. Since the maximum fine and term of imprisonment for an offence must be of the same division, it is necessary to increase the maximum fines for offences against sections 124 (2) and (6), 135 (1) and 135a to match the maximum term of imprisonment that may be imposed for those offences.

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

## ADJOURNMENT

At 6.20 p.m. the Council adjourned until Thursday 16 February at 2.15 p.m.