LEGISLATIVE COUNCIL

Wednesday 13 February 1991

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

NATIONAL CRIME AUTHORITY

The PRESIDENT: Further to my statement yesterday concerning the resolutions passed by the Council with respect to the National Crime Authority, I have received the following letter from Mr L.P. Robberds, QC:

Dear President,

I refer to your letter dated 17 December 1990. I have sought advice as to whether section 51 of the National Crime Authority Act prohibits my communicating to the Legislative Council information acquired by me in the course of the performance of my duties as a member of the National Crime Authority. I have not as yet received that advice but as soon as it is received I will reply to your letter.

Yours sincerely (signed) L.P. Robberds, QC.

MINISTERIAL STATEMENT: CRIMINAL LAW REFORM

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

Leave granted.

The Hon. C.J. SUMNER: Last year in this Council I gave a comprehensive statement on the Government's intentions with respect to reform of the criminal law. I also tabled a number of discussion papers that had been prepared. As part of that process another discussion paper on the law of homicide has been prepared and I seek leave to table a copy of that discussion paper.

Leave granted.

The Hon. C.J. SUMNER: As was the case previously, comments and inquiries should be sent to Mr Matthew Goode, care of the Attorney-General's Department. Mr Goode is responsible for conducting the review. The deadline for submissions on this paper is 30 April this year.

MINISTERIAL STATEMENT: TANDANYA

The Hon. ANNE LEVY (Minister for Local Government Relations): I seek leave to make a statement.

Leave granted.

The Hon. ANNE LEVY: Yesterday in answering a question from the Hon. Ms Laidlaw about Tandanya I inadvertently provided an incorrect estimate of the financial worst case scenario which could have resulted for this financial year if no corrective measures had been instituted at Tandanya. As indicated in the *Advertiser* this morning, the figure pertaining to the worst case scenario should have been $500 000.

QUESTIONS

FREDERICKS, Mr R.

The Hon. K.T. GRIFFIN: Honourable members may remember that on 12 September 1990 the con man Ron Fredericks was sentenced in the Adelaide Magistrates Court. The sentence imposed was two years gaol, which was suspended on his entering into a good behaviour bond, and 360 hours community work was imposed.

Concern has been expressed to me that Fredericks is presently in Bankstown, New South Wales, out of the State jurisdiction, and is in fact up to his old tricks of selling various schemes. A number of questions have been asked of me about his community work order and whether or not he has complied with the terms and conditions of the bond, which is the basis, of course, for the suspension of the period of imprisonment. My questions to the Attorney-General are:

1. What community work is Fredericks required to undertake?

2. When is he required to undertake that work, and how much, if any, has been served so far?

3. What supervision is imposed to ensure that the work is done?

4. Can the Attorney-General indicate whether or not Fredericks is in breach of the terms of his bond by leaving the State of South Australia?

The Hon. C.J. SUMNER: I will refer the honourable member's question to my colleague, the Minister of Correctional Services, and bring back a reply.

TANDANYA

The Hon. DIANA LAIDLAW: I seek leave to make an explanation before asking the Minister for the Arts a question about Tandanya and travel overseas.

Leave granted.

The Hon. DIANA LAIDLAW: Last August, when it was initially mooted that five representatives of Tandanya would visit the Edinburgh Festival and other European capital cities, it was envisaged that the trip would cost $50 000. On 9 August in this place the Minister confirmed that the trip would be funded in part through sponsorship, with the air fares being donated by Qantas and with funds coming from a Commonwealth Aboriginal agency, but said 'The remainder of the necesssary funds are expected to be raised from the sale of art works.' On 18 September during the Estimates Committee the Minister advised that sales of art works did occur in Edinburgh, although she did not know the extent of such sales.

Against this background, I was surprised to learn a fortnight ago, as I suspect taxpayers generally were surprised, that the cost of the trip had blown out by $30 000 to $80 000. According to the Chairman, Mr Copley, the chief reason for the blow-out is the fact:

When the exhibition arrived in London it was hit with a VAT (valued added tax) of $25 000 which wasn't budgeted for.

This revelation alone is very surprising, as I was able to discover after one brief telephone call to the British Consulate in Sydney that it is a standard practice in Britain to apply a value added tax on works of art entering that country for the purposes of sale. I wonder why Tandanya's senior management did not make similar inquiries or was not aware of this basic fact.

Members interjecting:

The Hon. DIANA LAIDLAW: Yes, it seems to go from bad to worse. Meanwhile, in an interview with Mr Keith Conlon on 4 February, Mr Copley stated that Tandanya still has the exhibition in its possession—a statement which seems to contradict the Minister's earlier advice that sales of works of art did occur in Edinburgh. I therefore ask the Minister the following questions:

1. How much did Tandanya's overseas trip cost?

2. Were any of these costs offset by the sale of works of art?

3. If no works of art were sold, how does the board plan to pay for the balance of the costs of the trip, and did the board receive a full refund of the $25 000 value added tax?

The Hon. ANNE LEVY: I think there were four questions there. How much did the trip to Edinburgh cost? I don't know, Mr President.

The Hon. Diana Laidlaw: Still don't know?

The Hon. ANNE LEVY: The board of Tandanya does not know. They are trying to get the figures together. I had a meeting with some members of the board this morning when they indicated that they want the full accounting for the Edinburgh trip completed within a week. I gather it is a very complicated matter. The figures that have—

Members interjecting:

The Hon. ANNE LEVY: Do you want the answer or don't you?

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: No, I do not know the cost of the trip, because I can get that information only from the board of Tandanya, and the board has told me that it does not know the full cost of the trip. As I understand it, works of art were sold in Edinburgh, but the entire exhibition was not sold. Quite a number of paintings, which are currently in London, still remain unsold.

The Hon. Diana Laidlaw: What proportion was sold?

The Hon. ANNE LEVY: I do not know the proportion that was sold. I was informed that some works of art were sold; others which were not sold are currently in London. It is of course true that, if any of the works of art are brought back to Australia, VAT tax will be refunded therefor. The VAT tax, as I understand it, applies only to works that are actually sold in the United Kingdom so that, if the remaining works of art are returned to Australia at some stage, a refund will be made of the VAT tax that was paid on those items. It is matters such as this that are apparently complicating the determination of the total cost of the trip to Edinburgh. What were the honourable member's other questions?

The Hon. DIANA LAIDLAW: If no works of art were sold, how was it planned to pay for the balance of the costs of the trip?

The Hon. ANNE LEVY: Questions relating to what the board intends to do I will refer to the board. I cannot answer on behalf of the board; that is a matter for it.

The Hon. DIANA LAIDLAW: As a supplementary question, is the Minister aware whether Tandanya pre-purchased the entire exhibition prior to taking it to London so that substantial funds of Tandanya have been channelled for that purpose or whether the exhibition has simply been lent by artists and Tandanya will gain commission on the sale of those works? In addition, the Minister indicated that:

> If the remaining works of art are returned to Australia, Tandanya would receive a refund on the VAT tax.

Will the Minister inquire of the board whether or not it is intended that the works will return to Australia or that they will stay there semi-permanently—whether or not they are sold—and what would be the calculation of the storage costs of holding those works of art in London?

The Hon. ANNE LEVY: I understand that the works of art are not the property of Tandanya, but I will check with the board on that matter.

The Hon. DIANA LAIDLAW: Is it proposed that all the works of art remain if they are unsold, even if they are other artists' work?

The Hon. ANNE LEVY: As I understand it, the works of art are currently at South Australia House in the Strand in London, but questions relating to what plans there are for their return to Australia or when that will occur I will refer to the board.

TEACHER RATINGS

The Hon. R.I. LUCAS: I seek leave to make a brief explanation before asking the Minister representing the Minister of Education a question on the subject of contract teacher ratings.

Leave granted.

The Hon. R.I. LUCAS: I have been contacted by a number of contract teachers who are furious at what appears to be a deliberate strategy on the part of the Education Department to downgrade teacher ratings, which the teachers believe is designed to prevent contract teachers from obtaining departmental employment in 1991. The downgrading of teacher ratings in most cases brought to my attention is considerably at odds with the assessments that the teachers have obtained at recent school postings.

I will cite briefly two cases reported to my office recently to illustrate what is going on. The first, in which a teacher was downgraded from a rating of 3, excellent, to a rating of 1, a teacher meeting basic requirements only, involves a highly experienced female primary schoolteacher with a special education tertiary degree, experience in English as a second language and experience in developing classroom-based behaviour management policies. I will quote two of the accolades that this teacher has received from schools at which she has taught, as follows:

> She is a most willing and professional teacher of the highest calibre. I commend Mrs . . . in the highest terms for future employment in schools.

Another highly satisfied principal commented that she:

> . . . has shown a great depth and variety of skills and knowledge and has been responsible in releasing teachers from all levels of the school and in most curriculum areas. We have been pleased to have had a teacher with such a high degree of competency on our staff.

This reportedly talented teacher, one of the type that one would have thought the department would be clamouring to retain, has had her rating downgraded by the department from excellent to one of meeting basic requirements.

The second case relates to another female primary schoolteacher, one highly competent in Italian. This teacher has received a rating of 2 for languages and a zero rating assessment on her general primary teaching abilities, when that was previously rated at 2. Again, the school assessment reports give no justification for this action.

Contract teachers are of the view that too much emphasis is being placed on assessment at an interview as opposed to the actual performance in the classroom. In view of these striking cases of conflict between school assessment and rating provided by the department, I ask whether the Minister will order an immediate review of the contract teacher rating system to determine the reasons for what appears to be widespread downgrading of teacher ratings. Is this program of downgrading being done in such a way to unfairly disadvantage competent teachers seeking employment?

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

STATE BANK

The Hon. I. GILFILLAN: I seek leave to make a brief explanation before asking the Attorney-General a question on the State Bank.

Leave granted.

The Hon. I. GILFILLAN: Members may recall that I first asked a series of questions of the Government about the financial operations of the State Bank on 5 September 1989, approximately 1½ years ago. I believe it is appropriate to mention this because the Premier has apparently forgotten that problems relating to the bank were on the public record that long ago. At the time I raised a number of State Bank issues such as the bank's exposure on the Remm project, its involvement through its wholly-owned subsidiary Beneficial Finance Corporation in the East End Market project, the bank's involvement with the Hooker Corporation and the potential for financial disaster for the bank through such an aggressive involvement in the property market.

I remind members that the Attorney-General took the opportunity of castigating me for questioning the business-making decisions of the bank and its board. The Attorney-General claimed at the time that the bank was very successful and took no more risks than other banks, and that it was achieving real benefits for the entire State. I will quote from his answer of 5 September, as follows:

> I would have thought that it was obvious that its more aggressive and entrepreneurial approach to banking has achieved real benefits for the State of South Australia.

Just over a month later, on 24 October 1989, I placed on notice 11 detailed questions which specified my concerns about the financial dealings of the bank. I think it is appropriate to highlight the types of questions asked by detailing one of them, as follows:

> *(a)* Did the State Bank group lend the failed National Security Council of Australia money?
> *(b)* If yes, is the amount approximately $30 million?
> *(c)* If not, what is the amount?
> *(d)* On what security did the State Bank group lend the failed National Security Council the loaned money?
> *(e)* How many of any such loans to the National Security Council of Australia does the State Bank group expect to have repaid and when?
> *(f)* How much did the bank provide in its annual accounts 1988-89 for potential losses on that transaction?

In addition, I asked similar questions of the Attorney- General on Remm, the East End Market development, Hooker Corporation, the bank's annual accounts, Equiticorp, Interchase, the Brisbane Myer complex and the level of the bank's exposure on all these projects. The bank sued me at the time. When I mentioned it in my preamble to the question, the Attorney-General was recorded in *Hansard* as calling out, 'Hear, hear!', implying, I assume, that he felt it was very appropriate for a member raising such questions to be threatened with Supreme Court action for defamation.

The Hon. C.J. Sumner: What happened to the writ?

The Hon. I. GILFILLAN: It cost me $2 500 and by then I signed a letter which settled the matter. It certainly was not to the advantage of South Australia that I was shut up, I tell you that.

The Hon. C.J. Sumner: You aren't shut up in the Parliament.

The Hon. I. GILFILLAN: There was no intervention by the Government to protect my position. The Attorney stated in this place:

> ... the State Bank is a respectable and responsible instrumentality which ... does a very good job for South Australia.

However, the Attorney pledged to place my questions before the Premier and bring back replies. At the time, he said:

> I will refer the questions to the Premier and bring back a reply in due course. I will draw that matter to the attention of the Premier, but obviously I do not know how long it will take to get the information together.

He added:

> I will refer the honourable member's questions to the Premier today and ascertain whether a reply can be brought back within the constraints of time imposed by the honourable member.

I have not received any replies to my questions and it now seems that my real and proper concerns of 1989 have become the crisis of 1991, with the bank's having lost almost $1 billion. It is quite pathetic for the Premier and the Government to say, with the wisdom of hindsight, that actions could have been taken. I am repeating to this Chamber in this explanation that the information and clues to the trouble that was fast occurring were put before this place explicitly by me in questions, and I believe that the indifference and hostility to my questions by the Attorney in this place reflected neglect by him and the Government. I ask the Attorney: did he place my questions before the Premier, as he gave an undertaking to do? Did he pursue the Premier with a request for answers, as he undertook to do? Did my questions get immediate investigation by the Government and the State Bank and, if not, why not?

The Hon. C.J. SUMNER: When I am asked questions on behalf of another Minister, the system is that I undertake to refer them to that Minister, and that happens or should happen as a matter of course within my office. I can only assume that it happened in this case.

The Hon. I. Gilfillan: Assume that it did happen?

The Hon. C.J. SUMNER: I assume that it did, yes. What happened following that, I am not in a position to say. In particular, I cannot answer what investigations were carried out, but I can examine the honourable member's question and see whether any further answer can be given. Obviously, at the end of 1989, the State Bank had in its audited reports produced a reasonable profit in the year preceding that, and while the honourable member raised certain questions, there was nothing that I was aware of at that time to indicate that the situation would deteriorate to the extent which it obviously did as a result of the downturn in the property market.

However, the general question which the honourable member raises is still one which is of major concern, and that is the extent to which individual transactions of the State Bank can be the subject of parliamentary questioning and answers in the Parliament. If you want to shackle completely the State Bank in its competitive position, you can try through the Parliament to seek information about particular loans. Obviously, if you do that and the Government or the bank responds to it, it may be that that is in breach of the confidentiality provisions of the bank. Certainly, it is not something that a private bank would do. One thing on which bankers have generally prided themselves is the confidentiality of their clients' business affairs. You will probably find it in codes of ethics for bankers: that the business affairs of their clients should be private.

Whatever standard is established for private banks, apparently, is not one that the Hon. Mr Gilfillan thinks should apply to the State Bank. Clearly that would place the bank in an uncompetitive position. If potential customers feel that anything they do in their relations with the bank can end up before the Parliament—

The Hon. I. Gilfillan interjecting:

The PRESIDENT: Order!

The Hon. I. Gilfillan: Didn't you listen to the question?

The Hon. C.J. SUMNER: You asked the question about a whole range of people.

The Hon. I. Gilfillan interjecting:

The PRESIDENT: Order! The honourable Attorney-General has the floor.

The Hon. C.J. SUMNER: All I am saying is that, if you have a situation in which the business affairs of individual clients of the State Bank can end up being laid out in Parliament, you will not have many customers left, and you might as well query whether the State Bank is in a position to carry out its functions. Of course, the same problem arises with respect to any royal commission that has to be established. There is a major problem in general principle with how you deal with the confidential relations between a bank (in this case, the State Bank) and its clients, whether it be before a royal commission or by way of questions asked in Parliament.

That is the point that I was making previously when I answered the questions asked by the Hon. Mr Gilfillan. However, I will refer these questions to the Premier to see whether he can add anything further to what I have already said.

The Hon. I. GILFILLAN: As a supplementary question, I remind the Attorney that on 24 October he said, answering my question—

The Hon. C.J. Sumner: That is not a supplementary question.

The PRESIDENT: Order!

The Hon. I. GILFILLAN: —'I will refer the honourable member's questions to the Premier today.' He did not say 'office'—nothing to do with what will happen in the future. I ask again whether the Attorney will answer the question I asked him, which had nothing to do with the delicacy of answers. Did my questions get investigation at that time by the Government and by the State Bank? If not, why not? The Attorney-General totally ignored that question and chose to answer it in his own pathetic, evasive way.

The Hon. C.J. Sumner: That is not a supplementary question.

The PRESIDENT: Order!

The Hon. I. GILFILLAN: My supplementary question is: answer the original question.

The Hon. C.J. SUMNER: The honourable member has abused the Standing Orders in monumental fashion by the ruse of asking a supplementary question and then becoming involved in abuse in a manner contrary to Standing Orders. I will now answer the questions that the honourable member asked previously, and will repeat the answers I have already given, because the question was answered. I do not know whether those matters were investigated at the time. I said that they were referred, I assume to the Premier, in the normal way.

The Hon. I. Gilfillan: You said you'd refer them that day.

The PRESIDENT: Order!

The Hon. C.J. SUMNER: I assume that they were referred to the Premier in the normal way. I outlined the practice with respect to questions directed to me in relation to matters within other Ministers' portfolios. The questions are referred as a matter of course by my staff to the relevant Minister. In this case, I assume that that occurred.

HEALTH DEVELOPMENT AUSTRALIA

The Hon. BERNICE PFITZNER: I seek leave to make a brief explanation before asking the Minister of Tourism, representing the Minister of Health, a question about Health Development Australia.

Leave granted

The Hon. BERNICE PFITZNER: Health Development Australia (HDA) is a joint venture between SGIC and Government funded Health Development Foundation (HDF). HDA is involved in the fitness industry, and health club operators in the private sector have been critical of HDA providing unfair competition with the support of SGIC and HDF. It was also reported in the *Advertiser* on 6 February 1991:

(a) that HDA lost nearly $500 000 in 1989-90;

(b) that HDA was responsible for SGIC being involved in the financially troubled Titan Co., with a loss of $1.5 million;

(c) that the failed Lady's Choice health club at Holden Hill is negotiating to operate as an HDA franchise club.

In view of these facts I ask:

1. What is the current status of HDA in relation to SGIC and HDF—if HDF, which provides the health component, is no longer involved in HDA?

2. Can HDA related fitness clubs be recommended with confidence by medical practitioners who are frequently asked to advise on health and fitness activities?

3. What is meant by an HDA franchise club? What is its implication in comparison with other fitness clubs?

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

STATE BANK

The Hon. L.H. DAVIS: I seek leave to make an explanation before asking the Attorney-General—

Members interjecting:

The Hon. L.H. DAVIS: If you were watering they would be withering and dying. I seek leave to make an explanation before asking the Attorney-General a question about the State Bank.

Leave granted.

The Hon. L.H. DAVIS: I direct my question to the Attorney-General as Leader of the Government in this Council and as a senior Minister in the Bannon Government. Citizens of South Australia first learnt of the calamitous financial problems of the State Bank on Sunday 10 February. Yet eight months earlier financial analysts were forecasting savage cuts in bank profits. Six months ago—in fact, in early August 1990—the ANZ Bank revealed that its second half profits for the six months to 30 September were to be slashed by at least $100 million because of an increased level of bad debts. In other words, ANZ was getting the message out to shareholders seven weeks before the end of its financial year.

Financial commentators observed at the time that ANZ had obviously felt it had a duty to advise its shareholders of the significantly changed circumstances. We saw that both Westpac and the National Bank advised their results for the financial year ended 30 September and made full disclosure of provision for bad and doubtful debts and revealed the significantly deteriorating conditions. That was some four months ago. In other words, the private sector banks hung their dirty washing out in public many months ago.

We saw the magnitude of the disaster of the State Bank revealed in a table in the *Advertiser* on Monday 11 February in an analysis of the asset growth and size of five banks: the National Bank, ANZ, Westpac, the Commonwealth Bank and the State Bank of South Australia. It was noted that the asset growth in the State Bank had been about five-fold over a period of just five years, whereas those other four banks mentioned had growth rates varying between barely double and perhaps 2.5 times. To put it in perspective for

the Attorney-General before I direct my question to him, the State Bank of South Australia has $2.5 billion of the $10.9 billion in non-accrual loans of those five banks. That represents 23 per cent of the non-accrual loans of those five banks, yet the State Bank has only 5.5 per cent of the assets of those five banks. In other words, the non-accrual loans are four times the size of the aggregate of those banks.

The Hon. Anne Levy: As a proportion.

The Hon. L.H. DAVIS: Yes, as a proportion. That puts the financial disaster in some perspective. My question to the Attorney-General is, given the public comment on mounting bad debts in the private sector, given the very flat management structure in the State Bank, where there are regular meetings of executives of the State Bank and regular consultations with Treasury and given the Premier's admission that as far back as early September 1990 he was aware of difficulties in the State Bank, why was it that six men with black bags from J.P. Morgans—one of whom came from overseas—could find in one week what no-one else could find in five months? Why was that the case? Does the Attorney-General, with his experience in Government and as a senior Minister of the Bannon Government, have any explanation?

The Hon. C.J. SUMNER: I can only assume that the honourable member wants a royal commission into this matter. Perhaps he has not been communicating with his colleagues or reading the newspaper because, if he had been, he would have noted that there have been calls for parliamentary inquiries and royal commissions into issues related to the State Bank, one of which related to information given by the State Bank Board to the Government during the period to which the honourable member has referred.

The Premier put on the record yesterday his view of the meetings that he had with the bank during that period, and I refer the honourable member to that statement. In any event, as I understand it, the issue that the honourable member has raised would be covered by the terms of any royal commission. I suggest that, if he has anything to say about it, he might care to say it to the royal commission at the time that it is established.

DRIVERS' LICENCES AND VEHICLE REGISTRATION

The Hon. PETER DUNN: I understand that the Minister for Local Government Relations has a reply to my question of 13 November 1990 about drivers' licences and vehicle registration.

The Hon. ANNE LEVY: I seek leave to have the reply inserted in *Hansard* without my reading it.

Leave granted.

The Minister of Transport has informed me that it is generally the practice that registration and licensing authorities throughout Australia do not forward renewal notices to persons who are residing in another jurisdiction. This is an informal agreement between the States. Accordingly, Motor Registration as a matter of policy does not forward a renewal notice where the postcode indicates that the person may be residing outside of the State.

Strict guidelines are followed which require an applicant for a driver's licence or motor vehicle registration to lodge both proof of identity and proof of residence in South Australia. As a general rule, applications showing an interstate address would not be accepted. An interstate address is usually received as a result of a change of address notification during the currency of a registration or licence period.

It is recognised that there are circumstances where it is appropriate to forward renewal notices to persons with an out-of-State postcode. This practice is already followed for motor vehicle registration renewal notices. Re-programming of the Motor Registration computer system will need to be undertaken to ensure that renewal notices for drivers' licences will be forwarded to all licence holders who reside in South Australia. This work will be undertaken as soon as resources permit.

The records for all motor vehicles and drivers' licences showing an interstate postcode will be checked by Motor Registration. Where licence holders and motor vehicle owners with an out-of-State postcode can be identified as possibly living within South Australia, action will be taken to ensure renewal notices are prepared and sent when due. Until the computing changes mentioned are introduced, a manual system will be implemented to ensure drivers' licence renewal notices are forwarded where a new application is received or a change of address is recorded for a resident of South Australia who receives their mail via an interstate postcode.

PASTORAL RENTAL

The Hon. PETER DUNN: I understand that the Minister for Local Government Relations has a reply to a question I asked on 21 November 1990 about pastoral rental.

The Hon. ANNE LEVY: I seek leave to have the reply to the question inserted in *Hansard* without my reading it.

Leave granted.

The Pastoral Land Management and Conservation Act 1989 determines that rents will be set and paid annually, paid in arrears and set by the Valuer-General. The Pastoral Board does not set rents. The Pastoral Act states that rents will be determined as either fair market rental, set by valuation principles, or maximum rent, set by formula in the Act. The lessee pays the lesser amount.

In setting the fair market rent, valuation principles take into account:

- sales evidence
- rental evidence
- comparisons with other States
- market factors, such as wool and meat prices, production costs, demand for properties, inflation and CPI
- individual features of the lease which are benefits or disabilities, such as capacity of the land to carry stock, numbers of stock carried in the previous year, distance from markets and facilities and lack of water.

The value of improvements is not included. Through the use of valuation techniques, an individual price is set for each lease as the fair market rent. The Act sets out a maximum rent, calculated by a specific formula, which can be paid each year. The 1990 price maximums are 80c for sheep and $2.40 for cattle.

The maximum increases by CPI + 10 per cent each year. The rent is based on either the 20-year average stock level, or current stock numbers from the stock return on 30 April, whichever is the lesser. The Valuer-General's Office has issued a special information bulletin on pastoral rents. This detailed information was circularised to all pastoral leaseholders by the Pastoral Board during December 1990.

DESERT PASSES

The Hon. PETER DUNN: I understand that the Minister for Local Government Relations has a reply to a question I asked on 5 December 1990 about desert passes.

The Hon. ANNE LEVY: I seek leave to have the reply to the question inserted in *Hansard* without my reading it.

Leave granted.

My colleague the Minister for Environment and Planning has advised that, concerning access to the Simpson Desert Reserves, she has already informed Mr Neyman that the closure of the Macumba Track is based on flood damage, public safety and its use by tourists being in conflict with the management of Macumba Station.

It is proposed to introduce the desert parks pass from date of issue in 1992. The pass fee is not a taxation-type collection. All funds from the pass are used on the provision of maintenance, visitor facilities and visitor services in the 7.3 million hectare desert park system of the State's north-east. The level of fee is set at providing a minimal level of service to the park-using public.

LOCAL GOVERNMENT ELECTIONS

The Hon. J.C. IRWIN: My question, which is in four parts, is directed to the Minister for Local Government Relations and concerns the postponement of council elections.

1. Will the Minister provide the reasons and the documentation from Woodville, Hindmarsh and Port Adelaide councils as to why she has suspended council elections due in May this year in those three council areas?

2. Did any of the councils involved provide a petition from 20 per cent of its electors as evidence of community support which is still a requirement in the Act if a proposal is not a ministerial proposal?

3. Why did the Minister support the bypassing of phase 1 of the commission's own guidelines, designed as it was after considerable consultation and a committee of review report?

4. Does the Minister expect an advisory commission decision by 1 July this year, which happens to be the time when half the Government's funding for the Local Government Bureau cuts out?

The Hon. ANNE LEVY: I received a proposal relating to the amalgamation of the three councils of Port Adelaide, Woodville and Hindmarsh late last year and, under the provisions of the Local Government Act, I immediately transmitted that proposal to the Local Government Advisory Commission. I do not know the actual date, but I did earlier this year receive a request from the committee established by the three councils to act on their behalf in such matters for the elections scheduled for May of this year to be postponed, under the provisions of the Local Government Act.

The provisions of the Act relate to the fact that, where a proposal has been transmitted before a particular time and the Local Government Advisory Commission is unable to bring its report before a particular day of the week in the month of March, then the elections may be suspended. I, therefore, inquired of the Local Government Advisory Commission whether it expected to have its report complete by that particular day in March. I received a reply from the commission, indicating that it did not expect to have its report completed by that particular date in March and that this thereby satisfied the conditions of the Local Government Act for postponement of the elections and recommending that I suspend the elections in March.

I do not have a copy of that correspondence with me, but I am quite happy to provide a copy to the honourable member if he wishes to see it. Having received a recommendation from the Local Government Advisory Commission that the elections in May should be suspended, I then took the appropriate action and suspended them. I can perhaps indicate that they are suspended for a time, which will be a maximum of 12 months if amalgamation does not go ahead. If amalgamation does go ahead, the time of the first election for the new council will be recommended as part of the report from the advisory commission. I am certainly happy to provide a copy of that correspondence from the three councils and from the Local Government Advisory Commission to the honourable member.

AUTOPSIES

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Attorney-General a question about autopsies.

Leave granted.

The Hon. M.J. ELLIOTT: I had a telephone call late last year from a woman whose husband died in 1974 and an autopsy had been performed. Apparently, it was confirmed that he had considerable iron pigmentation in his tissues owing to impaired liver function, but there were no other significant findings. She had applied for a war veteran widows' pension, but that was denied, and after that she said that she had thought little more about the cause of death for some time.

She was later contacted by Legacy and asked to reapply, which she did, and at this time the autopsy report came to light again and it was decided that he had suffered from a genetic blood disease, haemachromatosis. Apparently, this was noted in the autopsy findings but not listed as the cause of death, and she had not been notified as such. I have checked with the Coroner today, and apparently information of autopsy results are not routinely given to relatives. As a result of this lack of knowledge there has been no surveillance or treatment of their children, now grown up, of course, two out of five of whom are suspected of having that same genetic disease. This woman is rather keen that, when genetic diseases are discovered, it be mandatory that notification of that disease be made to the relatives so that any appropriate steps can be taken if necessary. Will the Attorney-General follow up this matter?

The Hon. C.J. SUMNER: I will make some inquiries and bring back a reply.

AIDS

The Hon. R.J. RITSON: I understand that the Minister of Tourism, representing the Minister of Labour, has an answer to a question that I asked on 6 September concerning AIDS and WorkCover.

The Hon. BARBARA WIESE: I do have a reply to that question and I seek leave to have it inserted in *Hansard* without my reading it.

Leave granted.

In response to the honourable member's question, the Minister of Labour has advised that the situation under the legislation at present is that the WorkCover scheme is a workers compensation scheme to compensate workers or their families for disabilities (including, in certain circumstances, diseases) suffered by the worker.

Where the disease is accepted as compensable the worker's medical, rehabilitation and associated costs are paid by WorkCover. Where the compensable disease causes incapacity for work the worker is entitled to weekly payments (income maintenance) from WorkCover.

If the worker suffers a permanent disability which is compensable, the worker is entitled to a lump sum (in addition to the weekly payments referred to above) for compensation for non-economic loss, sometimes referred to as 'pain and suffering'. The amount of that lump sum is determined by reference to the Third Schedule of the Act or, where the disability is not listed in that table, by having regard to the nature of the disability and the extent to which the worker's ability to lead a normal life has been impaired by the disability. The amount of the lump sum is up to a maximum of the 'prescribed sum', being $80 800 in 1990, which is indexed annually.

The worker has the right at common law to sue the employer for damages for non-economic loss arising from the compensable disability if negligence can be established. (The employer is insured by WorkCover against any such liability arising from a compensable disability.) The amount awarded by a court in such a common law action for damages is limited to 1.4 times the prescribed sum (1.4 × $80 800—$113 120), and the court must make due allowance for any lump sum paid or payable by WorkCover for non-economic loss as referred to above.

On the death of a worker as a result of a compensable disability, WorkCover will pay the spouse a lump sum equal to the prescribed sum ($80 800) less any amount already paid to the worker for non-economic loss as referred to above. A dependent spouse is entitled to weekly payments of 50 per cent of the notional weekly earnings of the deceased worker, and a partially dependent spouse is entitled to a lesser percentage, having regard to the extent of the dependency. A dependent child is entitled to weekly payments of 12.5 per cent of the deceased worker's notional weekly earnings, and a dependent orphan child, 25 per cent.

As can be seen from the above, the WorkCover scheme already provides extensive benefit to a worker and his/her family where the worker suffers a compensable disability or disease that arises from employment. This includes the lump sum for non-economic loss of up to $80 800 to compensate for 'the nature of the disability and the extent to which the worker's ability to lead a normal life has been impaired by the disability'.

Although this payment is made to the worker and not to the spouse, such a payment would provide some compensation to the family for the severe psychological and social disruption to the family as referred to by the Hon. R. J. Ritson.

The issue of extending the WorkCover scheme to cover a spouse or partner who contracts a disease from a worker who contracted the disease from employment is a very complex issue. It is certainly beyond the scope and intention of the WorkCover scheme, which is designed to compensate the worker and his/her family for disability or disease suffered by the worker. Disability or disease suffered by the worker's family, spouse or partner is a significant extension of the concept and may not be included in the current scheme.

Many difficulties can be envisaged with such a proposal to extend the scope of the scheme. For example, how many partners would be eligible, where the worker may have a number of successive partners, casual partners, etc. There are privacy issues to be considered in attempting to prove the likelihood of having contracted the disease from the worker or to eliminate the possibility of other causes. It would be extremely difficult to prove either way. This would also add significant costs to the scheme, costs which are not included in the current scheme. This is not to trivialise the issue but to suggest that there would be significant policy, economic and practical difficulties to implement such an extension of the scheme.

In summary, whilst my colleague shares the concerns of the honourable member for the spouse or partner who contracts AIDS from a worker with occupationally contracted AIDS, he does not consider it to be an issue to be dealt with under a workers compensation scheme. If it is to be dealt with at all, it should possibly be as a separate community issue to provide support or compensation for the victims of AIDS generally.

PRAWN FISHERY

The Hon. M.J. ELLIOTT: I believe that the Minister of Tourism has an answer to a question I asked on 17 October about the prawn fishery.

The Hon. BARBARA WIESE: I seek leave to have the reply inserted in *Hansard* without my reading it.

Leave granted.

In relation to the question raised, I refer the honourable member to the ministerial statement concerning the Gulf St. Vincent Prawn Fishery, given on 20 November 1990.

WINE GRAPE INDUSTRY

The Hon. M.J. ELLIOTT: I believe that the Minister of Tourism has a reply to a question I asked on 14 November about the wine grape industry.

The Hon. BARBARA WIESE: I seek leave to have the reply inserted in *Hansard* without my reading it.

Leave granted.

In response to the honourable member's question, the Minister of Agriculture has advised that SA Brewing's recent acquisition of Penfolds Wines from the Adelaide Steamship Co. Ltd (Adsteam) provides it with an estimated 36 per cent share of the $1.3 billion Australian wine market. The South Australian Government does not believe that SA Brewing now controls more than 50 per cent of the wine industry grapegrower returns. In fact, with the mobility of wine grapes, grape must (crushed grapes) and wine throughout Australia, wine grape prices, which influence wine grapegrower returns, are determined by the Australian market, not only the South Australian market.

The Seppelt-Penfolds group will be in a position to dominate some segments of the wine market but it is not yet clear if this will have a negative or positive effect on the wine industry. For example, the Seppelt-Penfolds group will now be in a position to control 70 per cent of sparkling wine production in Australia through the Great Western, Minchinbury, Seaview labels. However, competition between these products has been intense over the years with prices at very low levels (Minchinbury, Seaview and Great Western sparklings have sold at the $3.99 discounted price since 1967). Consolidation of these labels within the Seppelt-Penfolds group may result in a more stable market with realistic prices providing a more satisfactory return to all winemakers and growers.

It is understood that the Trade Practices Commission is satisfied that SA Brewing's purchase of Penfolds does not breach the Trade Practices Act, although it would obviously consider any complaints that may arise from this takeover.

COORONG

The Hon. M.J. ELLIOTT: I believe that the Minister of Tourism has an answer to a question I asked on 21 November about the Coorong.

The Hon. BARBARA WIESE: I seek leave to have the reply inserted in *Hansard* without my reading it.

Leave granted.

In response to the honourable member's questions, the Minister of Agriculture has advised that Ministers have not been extensively involved to date but a working group chaired by a Department of Agriculture officer, and with members from the Departments of Engineering and Water Supply, Mines and Energy and Environment and Planning, will undertake the following tasks:

- review extent of land degradation from flooding and dryland salinity
- undertake groundwater modelling studies to determine effect of drainage on groundwater levels and surface salinisation
- review environmental issues including wetland maintenance and Coorong salinity effects of drainage
- determine the benefit—cost ratio for drainage or other control works within a set terms of reference established for the working group.

Additionally, officers of the Departments of Fisheries, Environment and Planning and Lands have been involved in discussions with the proponents and the proposal has been discussed with interested parties through the South Australian Fishing Industry Consultative Panel (SAFICP).

The urgency of the issue of land degradation is recognised by the Government but real and long-term solutions are needed, and the benefits and costs of any drainage system need to be determined.

LANGUAGES IN SCHOOLS

The Hon. M.J. ELLIOTT: I believe that the Minister for Local Government Relations has a reply to a question I asked on 24 October about languages in schools.

The Hon. ANNE LEVY: I seek leave to have the reply inserted in *Hansard* without my reading it.

Leave granted.

The Minister of Education has informed me that languages policy in South Australia is coherent and contains detailed implementation planning.

The implementation of this policy is being managed through the:

- languages, other than English, mapping and planning project (LOTEMAPP)
- curriculum development in a number of languages
- extensive training and development programs for languages teachers
- collaborating with the ethnic schools sector and the tertiary sector.

Australian and overseas research endorses the Education Department's position on languages education. The acquistion of another language is more effective when it begins in the early years of schooling. Not only is pronunciation of the target language easier to acquire, but attitudes towards multiculturalism and acceptance of differences are most effectively dealt with at an early age. Language programs are based on guaranteed minimum weekly exposure to ensure the development of proficiency.

The development of LOTEMAPP will address the issue of continuity from junior primary, to primary, to secondary schools wherever possible. The South Australian Education Department, in collaboration with the tertiary sector, is developing strategies to ensure adequate supply of appropriately qualified languages teachers when such need exists.

SHACK SITES

The Hon. M.J. ELLIOTT: I believe that the Minister for Local Government Relations has an answer to a question I asked on 6 December about shack sites.

The Hon. ANNE LEVY: I seek leave to have the reply inserted in *Hansard* without my reading it.

Leave granted.

My colleague the Minister of Lands has advised that the management plan prepared by the City of Port Augusta includes proposals for monitoring of the ecosystem and research on razor fish along the western shoreline of the shack site area. An environment survey of the existing use of the shack site area is not proposed prior to approval and implementation of this management plan.

The implementation of the management plan will require subdivision of the existing leased areas to enable the issue of certificates of title as part of the freeholding process. All steps relating to this subdivision will occur in consultation with the relevant authorities and in line with the planning requirements of the South Australian Planning Commission.

The Blanche Harbor Shack Management Plan has been developed over the past 10 years during a process of extensive consultation with the council, community and relevant Government authorities. The plan itself has been revised to take account of matters requiring further detail, such as waste disposal. The relevant Government authorities will be asked to provide comments during the planning and subdivision of the land. A further period for public comment is not considered necessary.

TANDANYA

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Minister for the Arts a question about Tandanya.

Leave granted.

The Hon. DIANA LAIDLAW: I understand that one of the original reasons for the State Government agreeing to fund the establishment of Tandanya some two or three years ago was that it was proposed that Tandanya would be an institution that would provide strong support and encouragement to South Australian artists, in terms of both exhibitions and sale of products through retail centres and in workshops. I was therefore interested to read a statement by Mr Copley a few days ago that:

> The board has decided to change the name from the Aboriginal Cultural Institute to the National Aboriginal Cultural Institute.

As I understand it, the Federal Government has never provided funds for Tandanya. Would the Minister advise the Council whether she was consulted on the change of the name, incorporating the term 'national'? Is she aware if such a change of name does now involve a change of policy by Tandanya to provide stronger support on a national basis, rather than having a South Australian focus? If so, will the South Australian Government be changing its approach through the Department for the Arts to the funding of Tandanya if it is no longer actually providing the support once envisaged for South Australian Aboriginal artists?

The Hon. ANNE LEVY: I was not consulted regarding the change of name, nor do I know whether the name change has been consequently registered through the provisions of the Associations Act. I am not aware of any change of policy with regard to the change of name. In fact,

I would very much doubt if there had been a change of policy.

The funding from the South Australian Government, not only to Tandanya but also to any organisation, is of course for the development and progress of various art forms within South Australia or to benefit South Australians; that has always been and will continue to be the basis on which any funding is provided by the South Australian Government.

The Hon. DIANA LAIDLAW: As a supplementary question, as the Minister has indicated in answer to that question that she was not consulted on the change of name, and as she has indicated in answer to all other questions I have asked in recent days that she was not aware of certain developments at Tandanya, in the interests of Tandanya and of Aboriginal Australians generally, will she make a ministerial statement to this place outlining information about recent developments at Tandanya so that I do not have to continue to try to weed out information on this matter and so that this concern about the financial crisis at Tandanya does not continue to limp along, day by day? Surely we should be entitled to some statement on this matter from the Government, when so much is at stake, both in terms of financial concerns and from the point of view of the dignity and respect of the Aborigines.

The Hon. ANNE LEVY: I will certainly consider making a ministerial statement when the situation at Tandanya has been clarified somewhat. There are still many unknowns and ambiguities amongst the members of the board and, obviously, the source of my information regarding Tandanya is the board. It is not a Government body; it is an independent association with the same independence as the local tennis club. I have been having many discussions—

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order!

The Hon. Diana Laidlaw: You suggest that it is like the tennis club, but the tennis club does not have $100 000 in crisis.

The PRESIDENT: Order! I must say that I asked that questions should be brief and to the point rather than the tedium of five or six questions. I also find rather distracting the constant interplay between members asking the question and the response to it. I am sure members would like to see more pointed questions and answers. The honourable Minister.

The Hon. ANNE LEVY: I was indicating that the legal status of Tandanya was equivalent to that of a tennis club; I was not suggesting that Tandanya in any way resembled a tennis club and I think the Hon. Ms Laidlaw's interjections to that effect are grossly insulting to Tandanya. Departmental officers have been conducting numerous discussions with members of the board of Tandanya, as I have, and, as I indicated, many matters are still unknown to the board. We are hoping to help the board determine the answers to the many questions that they and we have regarding the administrative and financial management at Tandanya. Certainly, when some of that information is available, I will consider making a ministerial statement in the Council. I point out that the Hon. Ms Laidlaw has put 13 questions on the Notice Paper regarding Tandanya so that, when these are answered, she will obviously have a great deal more information than she has now.

CREDIT CARD THEFT

The Hon. J.C. BURDETT: I seek leave to make a brief explanation before asking the Minister of Consumer Affairs a question on the subject of credit cards.

Leave granted.

The Hon. J.C. BURDETT: In the *News* of Monday 11 February an article headed 'Daring Thefts on Cards' stated:

A highly organised gang of well-dressed thieves are fleecing executives and office staff throughout Sydney. The daring thieves have been walking into offices, stealing credit cards from jackets hanging over partitions or in cupboards in offices.

When questioned by staff they always have a reassuring and credible answer, such as they are checking computers or looking for someone on another floor. The thieves, who may include a woman, have been ripping off professionals in high-rise office blocks since last November and have a definite pattern of operation.

They target the lower north shore on Tuesdays and hit the city centre on Wednesdays, Thursdays and Fridays. Police believe they use the credit cards within 10 minutes of being stolen for purchases of about $600. The cards are then sold to another gang within 24 hours.

This gang then spends up to $5 000 on sprees and also follows a regular pattern—including taking a 55-minute lunch break. One merchant banker, whose credit card was stolen from his jacket hanging on a partition on Wednesday, said the thief struck as he was talking on the telephone one metre away. 'He was as bold as brass', he said.

A financial institution investigator has been able to detail the major gang's exact pattern. 'They go to the major departmental stores and spend up to $5 000 in three days,' he said.

'When this happens depends probably on if they have outlets for the goods—a shopping list.

'They take seven minutes between each cash register, then 13 minutes to go from one floor to another.

'And when they have made six purchases, they go out to the car to off-load the goods before returning.

'They never raise suspicion because they always purchase under the store's floor limit and then, would you believe, they always take a 55-minute break for lunch.'

It is obvious that these gangs will come to operate in other States, including South Australia. Therefore, will the Minister consider having this matter investigated and, if it is thought fit, will she have the Commissioner of Consumer Affairs issue a warning to people in South Australia who have credit cards, as most of us do, or can some other form of education be implemented to warn people to be secure about the custody of their credit cards?

The Hon. BARBARA WIESE: I certainly hope that the publicity being given to this issue by the honourable member and the newspaper does not encourage a spate of such activity in South Australia. As far as I am aware, nothing like this has happened in South Australia in the organised way that the honourable member describes and I certainly hope that nothing like that will occur here. Whether or not it is appropriate in the absence of such activity for the Commissioner of Consumer Affairs to be issuing such a warning is obviously something that the Commissioner will have to weigh up. However, I will certainly be very happy to refer the matter to the Commissioner for consideration and appropriate action.

REPLIES TO QUESTIONS

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

Leave granted.

DRIVERS' LICENCE TESTS

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

The Hon. ANNE LEVY: My colleague the Minister of Transport has advised that the situation regarding waiting times for drivers' licence tests within the metropolitan network of motor registration offices is being monitored. To minimise those waiting times some country examiners have been temporarily relocated to the metropolitan area. This

has had some positive effects on these waiting times. The Minister of Transport is not prepared to involve licensed driving instructors in the driver testing and licensing process. The Institute of Professional Driving Instructors is aware of the long-standing arrangements with commercial driving schools to accommodate these applicants. Urgent tests can usually be arranged at short notice by contacting the Senior Licence Examiner, as the Department of Road Transport has always been sympathetic to the needs of applicants requiring a licence in order to obtain employment.

AUSTRALIAN RAILWAYS UNION

In reply to **Hon. DIANA LAIDLAW** (4 December).

The Hon. ANNE LEVY: My colleague the Minister of Transport has advised that the dispute settlement procedures contained in the South Australian Tramway and Omnibus Award 1981 were negotiated and agreed to as part of the 4 per cent second tier of the national wage case decision of March 1987. This award provision was subsequently ratified by the Australian Industrial Relations Commission. Preliminary work has been done to establish similar procedures for rail operating grades and this is a reflection of the State Transport Authority and Australian Railways Union's commitment to consolidate all existing rail awards including condition matters into one rail operation award. This will form part of the restructuring/structural efficiency process. Rosters are generally posted one week prior to the commencement of the fortnight's work. However, there are occasions which result in daily amendments being made to employees' rostered work and an example of which is covering sick leave. This is a standard practice within the STA in both bus and rail operations.

STA INDUSTRIAL DISPUTE

In reply to **Hon. DIANA LAIDLAW** (6 December).

The Hon. ANNE LEVY: My colleague the Minister of Transport has advised that the STA did not have sufficient assistant guards to cover all train rosters. The Australian Railways Union has been informed of this possibility in a letter dated 10 October 1990. The shortage occurred due to natural attrition and by assistant guards registering interest for voluntary internal transfer to other areas of STA operations. On Tuesday 4 December 1990 six assistant guards commenced bus driver training as part of the voluntary internal transfer system. The STA's letter of 10 October 1990 forewarned that the STA intended to phase out all assistant guard positions on trains over the period 1 November 1990 to 6 January 1991 by encouraging staff, in part, to apply for internal transfer. Given this early notice to the Australian Railways Union, it is considered that the STA's action to allow assistant guards to commence the bus driver training school was not provocative.

The STA did not pre-empt the conclusions of the working party's deliberations. It was not until 20 November 1990 that the final terms of reference for the working party were agreed between the STA and the Australian Railways Union. The bus driver training school had been planned for some time and registration of interest for internal transfer dated back as early as September 1990. While the working party was scheduled to complete work by 5 December 1990, the work remained uncompleted due to further industrial disputation between the STA and the Australian Railways Union.

TREE POISONING

In reply to **Hon. J.F. STEFANI** (22 November).

The Hon. ANNE LEVY: My colleague, the Minister of Water Resources, has advised that the information supplied to the honourable member is quite inaccurate in two areas. First, the Engineering and Water Supply Department does not inspect or maintain stormwater drains; rather, these are the responsibility of the particular local council. Secondly, the E&WS does not poison trees in any way. Tree root intrusion into sewers, however, does involve chemical control. The E&WS currently operates two tree root inhibitor (TRI) units in the Adelaide metropolitan area. The active compound, a foam known as Sanafoam Vaporooter, is formed from the mixture of vapam and dichlobenil (both non-systemic surface active herbicides) and water. The vapam acts to kill roots it contacts while dichlobenil acts as a regrowth inhibitor at pipe joints and cracks. There is no impact on the health of the parent tree. Sanafoam Vaporooter has been approved for use by and registered with the South Australian Department of Agriculture since 1981. The process was developed in the late 1960s in California and has been used throughout the United States of America, Europe and elsewhere in Australia.

Consulting engineers Sinclair Knight and Partners conducted an investigation into the rapidity of dilution of the active constituents in Sanafoam Vaporooter at the request of the Water Quality Council of Queensland. They concluded that the concentrations of the herbicides were reduced to low levels in the sewerage system in a short period of time and that these low levels would have no detectable impact upon the performance of sewage treatment works. The herbicides were at or below the limits of detection at the outlet from the sewage treatment works. There is no possibility of discharge to any waterways. The TRI treatment is guaranteed to prevent tree root regrowth for between two to three years. It is seen as a vital weapon in the armoury of the E&WS in the effort to reduce tree root infestation of the sewerage system and the consequent chokes and blockages of Adelaide's sewers.

SOUTH ROAD CONNECTOR

In reply to **Hon. J.F. STEFANI** (5 December).

The Hon. ANNE LEVY: My colleague the Minister of Transport has advised that at present the area of Wingfield bounded by the proposed route of the Salisbury Highway-South Road Connector, South Terrace and Rafferty Street is solely reliant upon South Terrace for access. The Department of Road Transport proposes that access to this area would only be available via Wing Street following the construction of this project. During the community consultation phase of this project, which concluded on 16 November 1990, some landowners and business operators affected by this proposal suggested changes to enhance access to this area. These suggestions are being assessed, along with all others received.

Any changes resulting from these suggestions will be discussed with Enfield and Salisbury councils and their acceptance of the final scheme sought. The local community will then be directly advised of the outcome of any comments they provided. It is anticipated that this will occur before the end of February 1991. Discussions between the Department of Road Transport, the Department of Lands and Enfield City Council concerning the provision of an appropriate access to the developing industrial areas of Wingfield will be ongoing. The Department of Road Transport is well

aware of the desirability of a high standard of access to this area.

STATE BANK GROUP

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

1. That a select committee of the Legislative Council be established to:
   (a) Examine—
      (i) the financial position of the State Bank and all of its subsidiaries;
      (ii) the circumstances surrounding the high level of debt;
      (iii) the adequacy of information made available to the bank board, the Treasurer, the Parliament and the public;
      (iv) the role and function of the board and the Treasurer.
   (b) Make recommendations on any changes necessary to the State Bank of South Australia Act, including investment guidelines, accountability and reporting requirements for the State Bank.
   (c) Examine the financial position of the State Government Insurance Commission, South Australian Superannuation Fund Investment Trust and South Australian Government Financing Authority.
   (d) Examine any other related matters.
2. That Standing Order 389 be so far suspended as to enable the Chairperson of the committee to have a deliberative vote only.
3. That this Council permits the select committee to authorise the disclosure or publication as it thinks fit of any evidence or documents presented to the committee prior to such evidence being reported to the Council.

That there needs to be a full public inquiry into the problems facing the State Bank has now apparently been accepted by the Government. When I gave notice of this motion for a select committee yesterday there was no commitment from the Government to any kind of investigation beyond that to be conducted by the Auditor-General. Since then the Premier has agreed to consider terms of reference for a royal commission. I will continue to pursue my motion for a select committee until the terms of reference for a royal commission have been drawn up and are acceptable.

I feel that there are problems with a royal commission looking into this matter. Royal commissions have a capacity to go on for a long time, and the prolonged publicity surrounding it could do the State Bank some harm. There is also the issue of the other companies involved, the ones which borrowed money. Their business may be adversely affected by being associated with the commission when in actual fact there has been no wrongdoing on their part.

On the other hand, a select committee can be sure that only relevent details of direct involvement in the State Bank's problems become public. The royal commission into corruption in Queensland displayed the problems of guilt by association, with many people named in the commission having their reputation tarnished publicly before any defence or explanation could be put forward.

The explanation given by the Premier and others for the problems of the State Bank have not yet answered all the questions which need to be answered. A billion dollars is a lot of money in anyone's language, particularly in these days of recession, when many families are struggling to meet mortgage repayments. The Premier describes the billion-dollar debt as no more than a setback to his budgetary program.

The long list of savings cited by the Premier yesterday were, we are to assume, put in train before the State Bank's debt crisis became fully realised. If those cuts are now to fund the bank's rescue, what of the purpose for which those funds were being appropriated? The cost to the State will be much more than the amount which must be found to cover the rescue package from the State budget.

As a result of the State Bank's troubles, the credit ratings of the State's other financial institutions are now under review. Already SAFA is having to pay more for the money it borrows. This is a hidden extra cost to the State. That a billion dollars of bad debts is to be written off with money paid in taxes to the State Government for the provision of other services and facilities does nothing for the system which allowed this situation to develop.

It is obscene that the level of non-performing loans held by the bank was allowed to reach such an alarming level without anything being done to correct the situation. I can offer several explanations as to how this happened. The first is that the level was deliberately hidden from the Parliament, the people of South Australia and, as he claims, the Premier and Treasurer. Another explanation is that neither the bank's directors nor the bank's officers had any real understanding of the overall situation of the bank, and their ignorance over a long period allowed this situation to develop.

That State Parliament has been misled for months is undeniable, despite consistent questioning from both Opposition Parties over the true status of the bank's losses. It is because Parliament has been misled that Parliament must have the opportunity to examine not only the bank's present problems but also how those problems were allowed to develop and why nothing was done until several weeks ago.

I have already stated publicly that I welcome the Auditor-General's inquiry into the bank; none is better qualified than he to delve into the financial side of the present crisis. However, it would be a great injustice should his report be completed and leave Parliament with many questions unanswered about, to put it simply, who knew what, when and why nothing was done. It is also possible that he will not delve into surrounding matters to the extent to which Parliament, which has been misled over this matter in the past, may desire. Parliament has a direct interest in pursuing the reasons for which it has been misled.

I also see a great deal of value in having an all-Party committee agree on recommendations for changes to the State Bank of South Australia Act 1983 as the bank is an ongoing institution which will have to serve under Governments of all Parties. In the past, select committees have been successful at this kind of investigation. I recall only a few years ago the Timber Corporation select committee which played a useful role without turning into a political witch-hunt. Although much of what was uncovered was embarrassing to the Government, the final findings of the committee were soundly based.

The flow of information between the bank and its board, the Treasurer and Parliament needs close scrutiny. I find it unacceptable that it was only late last year that the Premier said he realised that there were potential problems when profitability estimates were being changed. I also find it unacceptable that the bank's Chairman, David Simmons, can talk about hindsight. On Sunday he said:

> It is apparent that the board's ability to oversee the effect of management decisions has been clouded from time to time by information which, with hindsight, can now be seen was inaccurate and/or misleading.

The warning bells should have been ringing long before early this year and loud enough to force some action. Despite persistent questioning from my colleague, Ian Gilfillan, and others in Parliament, until very recently, the Government's answer has been that nothing was wrong. My colleague put an extensive series of questions on notice on 28 September 1989. In those questions he asked about the State Bank's

exposure to the Myer-Remm development, the National Safety Council, the East End Market development, Hooker Corporation, Equiticorp and a number of others. Most of those names have appeared in recent days in reports of losses sustained by the bank. Those questions sat on the Notice Paper until the end of the session and then vanished—no answer was ever received.

The State Bank sued Mr Gilfillan after voicing concerns about its debt exposure and doubtful investments in a media release which listed the same organisations included in the Questions on Notice. The bank appeared to be more willing to sue than pursue the matters raised. How convenient to use a court injunction to suppress concerns about the possible financial difficulties of the bank, with the State Government's knowledge, and, when the extent of the difficulties is finally revealed, claim that nothing was known about them. At his Sunday media conference David Simmons said:

> I believe the bank has used confidentiality in the past as a very easy way of not discussing things.

The bank has also used litigation to prevent other people discussing things. It has been general knowledge in the business community since at least September 1989 that the State Bank had exposure to several large and risky ventures. The questions asked in Parliament did not come from thin air; they followed meetings with concerned South Australian business people and wider stirrings of concern about the bank's rapid growth, its exposure to some troubled investments and its low provision for debts. In a *Business Review Weekly* article in August 1989, it is noted that the State Bank loaned up to $84 million to the failed Equiticorp and National Safety Council.

The article says that the bank's provision for debts was low compared with the provisions made by its competitors. It says that only .46 per cent of average receivables was set aside, compared with the 1.8 per cent held by the State Bank of New South Wales and 1.39 per cent by the ANZ. The article was sounding a warning. It was written after the bank had acquired more than $13 billion of assets in five years. It quotes an economist as saying, 'It has not been operating sufficiently efficiently to finance its own expansion. It has to go to the Government to raise the money it is spending on expansion in all directions.'

On Sunday, the Premier said, 'Nobody, nobody, forecast or foreshadowed the full extent of this problem. The moment they did, we dealt with it.' Yet clearly the problems had been foreshadowed from at least late 1989. The Premier says he did not know the extent of the bank's problems until only a few weeks ago when J.P. Morgan reviewed the bank's situation and in only a week uncovered extreme debt problems. That it took another company to go in and find the problems is incredible. Why did not the Premier heed the earlier wide concern? He had the resources of the Treasury which could have easily analysed the true situation.

What was the bank doing with its own staff? How could it be that no monitoring of the bank's position done internally had revealed the extent of the non-accrual loans—up to 11.6 per cent of the bank's total assets compared with less than 3 per cent for other major banks? The investment portfolio of the bank reads in part like a who's who of fallen corporate cowboys and failing or questionable property developments, an astounding number of which have occurred outside South Australia. Many of them have occurred in the areas mentioned in my colleague's Questions on Notice in late 1989.

I have already mentioned the value in having an all-Party committee examine the State Bank Act with particular attention to the prescribed roles of the board and Treasurer. The Premier has consistently stated that as Treasurer he is limited in his relationship with the bank by the State Bank Act. He said in Parliament yesterday that the Act does not give him the power of direction or interference. That is true, but I suggest that he chose his words very, very carefully. Certainly the relationship needs to be re-evaluated. However, the Treasurer is conveniently ignoring section 15 of the State Bank Act which does give him the power to submit suggestions to the board which the board, under the Act, must consider. Anyone who reads section 15 would quite plainly see that it does entertain the Treasurer maintaining an active role. There is adequate scope in the Act for the Treasurer to provide suggestions to the board, and an obligation on the board for it to consider those suggestions.

The board has the ultimate responsibility for running the bank. The apparent failure of the board to be aware of the accumulation of bad debt over a significant time is inexcusable. In the State Bank of South Australia Act 1983, neglect of duty is grounds for the dismissal of a board member under clause 9 (2) *(a)*. The composition of the board needs to be reviewed, with consideration given to including people with relevant banking experience. The social responsibilities of the board must not be ignored, but not at the expense of proper management.

A wide-ranging advisory committee could be one way of ensuring those statutory and social responsibilities are carried out. The number of political or 'reward' appointments made to the board should also be scrutinised. I have listed in my motion other State Government institutions into which I feel an inquiry must be held for at least preventative reasons. It is likely that a royal commission, if set up, will deal only with the State Bank. If that is the case, I will continue to pursue this section of my motion for a select committee to determine the extent to which SGIC, SASFIT and SAFA are exposed to debt and their involvement with the State Bank in loans which have now been written off.

While we have no reason to believe that SGIC is in any difficulty, a number of things may need to be looked at. It held many equities at the time of its last annual report which have suffered significant losses in value, including Adelaide Steamship, Bennett and Fisher, Elders Resources, First Radio, Tooth and Co. and a number of others. SGIC may be facing problems through its exposure to property investments about which doubts have been raised, for example, the Terrace Hotel and Riverside office building. It may have to buy, at a cost of $520 million, the Stock Exchange Plaza in Melbourne, which it insured and which is struggling to attract tenants. SGIC has lost money through its involvement in the Titan gym equipment manufacturer and its foray into the fitness industry with Health Development Australia centres.

SASFIT has taken losses from Quintex and has considerable exposure to Interchase, the owner of the Myer Centre in Brisbane, with latest reports suggesting it could be making further loans to that company. I am concerned about the way in which SAFA is used to bail out and cover the deficiencies of other Government institutions. SAFA has been used to play a role in the restructuring of debts of SATCO and Woods and Forests, which debt has been converted into equity in both bodies.

The State Clothing Corporation has also been rescued from debts, once again with debt being converted to equity, when it could no longer service those capital requirements. The transactions have actually been mere transfers of debt from one Government instrumentality to another. There is no suggestion that any of these institutions, or perhaps any other State Government institution, has acquired the debts

or has the difficulties that are currently faced by the State Bank. We should remember the warnings that we had some 16 months ago about the State Bank that went unheeded for so long. Since there are matters of considerable concern with some of these other State Government institutions, it would be extremely foolhardy of us not to take a close look at those to ensure that we do not have the State Bank situation repeat itself further down the track. Quite frankly, our State could not tolerate that sort of occurrence again.

As I indicated at the beginning, it now appears that a royal commission may be set up. We will support that but, as I have indicated, we have some reservations. I believe that a select committee has some advantages in the way in which it can protect some people that perhaps a royal commission cannot protect. I cannot help but think that perhaps the Premier jumped just a little too quickly to the royal commission path. I know that he was under immense pressure. Nevertheless, as long as we are satisfied with the terms of reference, we will support that royal commission. I repeat: let us learn some lessons from this matter. I will pursue the question of the financial position of the other Government financial institutions, and I will seek the support of other members of this Chamber in that quest.

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

LOCAL GOVERNMENT ELECTIONS

The Hon. J.C. IRWIN: I move:

That this Council calls on the Minister for Local Government Relations to allow council elections in the cities of Woodville, Hindmarsh and Port Adelaide to be held in May 1991.

My preparation to commence the debate on this motion has been set back somewhat by work I needed to complete on two Bills, one before this Chamber later today, and the other, relating to freedom of information, which is before the House of Assembly. As I am not fully prepared to continue, I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 2)

Adjourned debate on second reading.

(Continued from 5 December. Page 2334.)

The Hon. J.C. IRWIN: The Opposition supports the second reading of this Bill to amend the Local Government Act, which relates to a council's method of operation and other matters. The Bill was introduced on 12 December 1990 and laid on the table through the Christmas-January period. Because of the time available, I was able to consult with individual councils and with the Local Government Association. I welcome the opportunity to thank councils for the advice they gave me. I must say here that in the communication I have with individual councils I always look to the advice of the association as being the collective advice of all councils. I take that as the paramount advice, but I was thankful to have the opportunity to allow individual councils to vent some of their comments back to me.

The Bill provides for the introduction into the Local Government Act of a number of principles and mechanisms that aim at establishing standards of administrative and personnel resource management; the introduction of principles of administration and of personal practice; the abolition of the need to obtain a certificate of registration to be eligible for prescribed position; and the establishment of the Local Government Equal Opportunity Employment Advisory Committee.

With the dismantling of the Department of Local Government, more and more areas of administration are being handed over to local government. Councils have questioned two main aspects (and doubtless the same comments were made to the Government when formulating this legislation through the draft consultation period, which I am happy to acknowledge was quite lengthy and extensive). They have questioned the need for any new legislation now, when the Government and local government are locked in negotiating the demise of the department, and the need to establish a local government equal opportunity employment advisory committee, when local councils as employers have to abide by the existing equal opportunity legislation that is already in existence.

The two comments are linked because councils believe that they should be able to make their own locally based decisions without having to conform with what Big Brother, the State Government, has designed for them. They have the same objections to the freedom of information legislation about to be debated in another place. Individual councils are not and should not be mirrors of the other bureaucratic tiers of government. They are individual bodies, which want and need to reflect the wishes of their communities. It will be the ruin of local government if we demand that our 121 councils become clones of the State Government. Their role is different from that of the State and Commonwealth Governments and they should be left alone as far as possible to carry out and develop that role.

I can only hope for local government's sake that, at the end of the negotiating processes in July 1992, the lesson will be well and truly learnt that local government as a collective body (and the individual councils) is not the plaything of governments. Local government has a style of management and organisation different from the State Government, and the specific needs of local government must be taken into account when proposed changes to any Acts are considered.

Over the past few years changes to the Local Government Act have been made to enable local governments to achieve a sense of general competence. Changes were made to free up and deregulate procedures that previously required ministerial approval, but the Bill reverts back somewhat and gives the impression that local government is not competent. In addition, some changes impose more expenses on local government. As I said previously, there are 121 separate councils all having a different community profile. It is the responsibility of these councils to act in a manner that best suits the collective ratepayers of their areas.

The Hon. Anne Levy: It is down to 120 councils. The two Jamestown councils amalgamated on 1 January.

The Hon. J.C. IRWIN: Right; so it is now 120. The city of Marion council, for example, would have different needs to the District Council of Light. One rule for councils being the same as for State Government is denying individual councils the right to be flexible to the specific needs of their community. Each council has varying desires to improve their role in giving local communities the type of services expected from the council.

Consideration must be given to the resources available to each council, especially in relation to the more isolated regional councils having access to an array of specialist staff in those regional council areas which at present is not possible but which must be considered.

Furthermore, most councils strive for and achieve a team approach. There is no need for legislation to do this or to even attempt to do it. Award restructuring and training for staff is already in place. In 1989 the Local Government Association adopted a comprehensive policy on human resource management. I will comment specifically on the three areas of proposed change resulting from these amendments. The first is an amendment to the principles of administration and personal practice involving several changes to reflect the policy of human resource management.

In order to introduce the principles of the Act certain changes are proposed in the definitions. The Bill proposes to define the responsibility and functions of the chief executive officer, in order to distinguish it from the role of the council. It is proposed to make it quite clear that the council decides what is to be achieved and the chief executive officer will decide how to carry out those plans. The chief executive officer will be held accountable for policy implementation. I hope it is rare for so much space in an Act to be taken up with motherhood statements. I refer to new section 35a (2), for example:

> The operations and affairs of the council should be managed—
> *(a)* in a manner which emphasises the importance of service to the community;

Paragraphs *(b)*, *(c)*, *(d)*, and *(f)* are similar. Surely, it is unnecessary and a waste of space and words to spell out in legislation the obvious. The amendments proposed also include the requirement of councils to prepare, adopt and publish an annual report, which is to be made available for inspection, without cost, to the public. A council annual report is published and may also be purchased.

Turning to clause 5, under this proposal a council will have to prepare the annual report containing, as prescribed in regulations, information and documents relating to the operations of the council. This report will be made available for inspection without fee to any member of the public at the office. Again, I find it difficult to accept that a Government has to or feels it needs to demand of a council that it must in a prescribed form prepare reports for its community. The council is accountable to its people and is the best judge of what its community wants. I would be surprised if many councils did not communicate in one way or another with their people.

As to the abolition of certificates for prescribed positions, councils will have the authority to employ people who, in their opinion, have the appropriate skills and experience for the role of chief executive officer and other senior positions without qualifications set by the Act. This is designed to widen the options available to the council. Professional standards of council administration will be protected through membership and accreditation of professional bodies.

I have always believed this to be the right way to go. It is a great pity that it has taken two State Governments well over 20 years to allow it to happen. I well remember from my time in local government being frustrated by not being able to choose the best person for the clerk or chief executive officer job. In those days councils had to choose a member of their own staff if that person was properly qualified before they could look elsewhere. Without reflecting on the ability of the council staff at that time, one can well realise how detrimental that practice was. In my council's case, the retiring clerk of 32 years experience was replaced by his deputy with 20 years experience. We looked with envy at Adelaide City Council, and I think Unley council, who were courageous enough to buck the system to make it work and to win. Again, I definitely do not reflect on the competence of the people I have referred to, but I make the point that it was difficult then to get outward looking and broadly experienced clerks.

I believe there is still one major impediment to freeing up the system completely. Under the Bill's definition, 'merit' means abilities, aptitude, skills, qualifications, knowledge, experience (including community experience), characteristics and personal qualities relevant to the carrying out of the duties in question, the same as provided for in the Government Management and Employment Act 1985. This spells out in great detail a lot of commendable things, but the Municipal Officers Award still contains a preference for unionist clause. This makes a nonsense of 'merit'. I have to say also the equal opportunity principles conflicts with the principle of 'merit'.

An honourable member: Bullshit!

The Hon. J.C. IRWIN: Well, I hope that's in *Hansard*. People on both sides of the fence have a right to choice and the sooner preference clauses are removed the better in every area of employment. The Bill is long on employer responsibilities but short on freeing up the employee—not unusual in legislation that comes before us.

Clause 7 makes clear the responsibility of the chief executive officer—more motherhood—and it removes certain subsections of section 66 of the Act ((5), (5a) and (6)), which provides for qualifications, now to be provided, as I said before, by professional bodies. I accept this change but again point out the lengthy motherhood statements made in it. For example:

> The chief executive officer . . .
> *(a)* is responsible to the council—
> (i) for the execution of its decisions;
> (ii) for the efficient and effective management of the operations and affairs of the council; and
> (iii) for giving effect to the general management objectives and principles of personnel management prescribed by this Act.

Again, in clause 8 we have more motherhood statements:

> 67. The functions of the chief executive officer of a council include the following:
> *(a)* the proper organisation of the administration of the council;
> *(b)* the implementation of management plans and budgets determined by the council, and the development and implementation of other management and financial plans and controls;
> *(c)* the appropriate division of responsibilities between, and assignment of duties to, the officers and employees of the council;
> *(d)* the establishment of effective procedures to ensure that the use of resources of the council is properly controlled and audited;
> *(e)* the development and implementation of necessary management and staff training and development programs;
> *(f)* the development and implementation of health and safety programs for the officers and employees of the council.

Again, I have to ask: is the Government so paranoid and insecure about local government that it needs to send everybody back to kindergarten? Clause 8 also contains the establishment of the Local Government Equal Employment Opportunity Advisory Committee. I have already commented on local government attitude to this imposition—however worthy it is. I have no doubt that I am mirroring what local government has already told the Minister and the department. I take it that the workings of this committee will be paid for by the Commissioner for Equal Opportunity.

Why is it that section 69 *(c)* expires on 30 June 1996, as do some other sections in this Bill? I am sure there is good reason, but no explanation for this has been given, on my reading of the Minister's second reading explanation.

There are some issues of public interest on which I feel constrained to make comment, and equal opportunity is one of them. I am not so much constrained by the notion

that this is a women's issue and that mere men like me should keep out of it, but rather because the principle is right but achieving it by legislation is wrong. It is a bit like dealing with the road trauma. Everyone knows that the answer is to take cars off the roads. Although society will not come at that, it will inevitably move towards stricter rules. If I can support anything in the Fabian philsophy, it is to achieve change by evolution rather than by revolution.

One other point needs addressing, and I refer to the oft-used words 'merit' and 'equity', which abound in contemporary legislation—the Bill before us being no exception. I refer to the Minister's figures in her second reading explanation regarding equal opportunity. Already, 50.3 per cent of the local government work force is comprised of women. Some 80 per cent of the clerical jobs are occupied by women and 75 per cent of library and community service areas in local government are staffed by women.

In the Department of Local Government the budget figures on the employment status of 450 full-time and part-time employees show that 70 per cent of full-time and part-time employees are female, and this includes the Director of Local Government, as she was, and 30 per cent are male. Individual councils do not welcome or do not want another committee—the Equal Employment Opportunity Advisory Committee—to tell them what is best for their own committees. Obviously, again this Government, which stands or falls on the people's judgment about accountability, just cannot accept the thinking that other people responsible for other areas—that is, council areas—can make their own judgments about accountability in regard to how they behave in their own councils.

Councils judge their employment principles on merit. Their communities may judge it better to have more positions filled by females—for all sorts of reasons—rather than being forced to give half of those positions over to males in order to force a position—

The Hon. Anne Levy: 'Opportunity' does not mean 'quotas'.

The Hon. J.C. IRWIN: I know it does not mean that. I am saying that the communities may judge it better to have many positions filled by females—for all sorts of reasons—rather than being forced to give half of them over to males in order to force a position where more so-called 'top jobs' are occupied by females. Of course, I am more familiar with rural—

The Hon. Anne Levy interjecting:

The PRESIDENT: Order!

The Hon. J.C IRWIN: Of course, I am more familiar with the philosophy of rural councils than metropolitan councils, but I doubt whether the situation differs much. Rural areas, when in crisis or not in crisis, place great emphasis on wives and daughters being able to get a job to supplement rural incomes, and this applies to rural towns and those people living in rural towns as well. Quite frankly, I doubt whether they would be fussed about who had the top job, so long as they were competent. As I have said, councils reluctantly accept the provisions in this Bill relating to equal opportunity, but I doubt if anyone's interest will be advanced one jot by it. If it gives some people a warm inner glow and is not a cost or imposition on councils, so be it.

Clause 10 relates to the qualifications of the auditor of local governments. I propose to seek to amend this section to add another body representing accountants and auditors in South Australia, the National Institute of Accountants. This body issues a practising certificate to its members in public practice. The institute requires its members to comply with Australian accounting and auditing standards. The request to be included in clause 10 is supported by the fact that the institute is referred to by its former name 'The Institute of Affiliated Accountants' under the MOA award in the definition of 'accountant' in local government.

I am informed that not all accounting degree curricula contain auditing as a subject. I am persuaded by the advice that auditing is a specialised practice where one becomes more proficient with practice and experience. It does not necessarily follow that an accountant can easily take on an auditor's role. I am also convinced that, with the increased pressure on councils to get new funds from many different sources, including entrepreneurial activities and complicated financial arrangements, complete annual audits of councils must be a requirement.

Annual spot audits are not good enough in today's climate, and there are plenty of examples around today, in and out of local government to back up this view. A full independent audit, as the Auditor-General does with Government departments, is a must if only for a check on accountability. These audits should be published in clear, simple terms and should perhaps be part of the council's annual published report. I hope local government itself takes this on board and does it without it being imposed on it.

In conclusion, the proposed amendments, by mirroring legislation governing large Government bureaucracies, fails to recognise the specific needs of individual councils. Legislation in the manner used to deal with bureaucratic State Government departments is not the way to regulate the local government sector, made up of 120 separate units. The Bill would once again put costly and time-consuming regulations on the local government sector, which recent legislation has been trying to free up, I thought.

In the next 18 months we will see massive changes in the role of local government due to the dismantling of the Department of Local Government. It has been argued by local government that the proposed amendments should be set aside until all these changes have been sorted out. I tend to agree with that proposition. However, the amendments have been significantly altered through the consultation stage and the Government argues that the principle, if adopted, can be implemented in an individual way by individual councils. Only time will tell if that is true. With those remarks, I indicate my support for the second reading. I will raise further questions in Committee.

Bill read a second time.

WORKERS REHABILITATION AND COMPENSATION ACT AMENDMENT BILL (No. 2)

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

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

That this Bill be now read a second time.

It addresses a range of significant issues aimed at tightening the administration of the WorkCover scheme, clarifying the interpretation of the Act and restoring or reinforcing the original intent of the legislation. The early return to work of injured workers is a major focus of the WorkCover scheme and the recent review of WorkCover's rehabilitation programs has highlighted that the involvement of the employer, throughout the period of the worker's incapacity, is vital if an early return to work is to be achieved.

In recognition of the importance of the employer's role in the management of claims, this Bill includes a provision providing a right for the employer to request the corporation to review the amount of weekly payments being made to a

worker where the employer believes that reasonable grounds exist for the discontinuance or reduction of weekly payments. The corporation must undertake such a review and must advise the employer of the outcome. The employer will have a right of review to a review officer if the corporation either fails to conduct the review or if the employer is dissatisfied with the outcome of the review.

Under the current Act, employers can require the corporation to have a worker examined by a recognised medical expert nominated by the corporation. This Bill introduces a right of review to a review officer where the employer believes that there has been undue delay in responding to such a request. The review officer may give directions to the corporation to expedite the examination and the corporation must comply with such direction. It is anticipated that these changes will provide for the more effective involvement of employers in the management of claims and contribute to the early return to work of their injured workers.

Another important issue addressed in this Bill is that of fraud. At present any prosecution in relation to an offence under the Act must be commenced within six months of the alleged offence having been committed. This is quite an unrealistic time frame as WorkCover may, for example, only become aware of an offence months after it was committed. Furthermore, where an alleged offence is suspected, the investigation necessary to establish grounds for prosecution can be very time consuming. This Bill proposes a period of three years from the date of the alleged offence during which time a prosecution must be commenced. This will allow WorkCover's fraud department to be more effective in the prosecution of such offences. The powers of inspectors or authorised officers for the purpose of fraud investigation, levy audit, claims investigations and other associated functions of the corporation are to be enhanced under this Bill and will match the powers that inspectors have under the Occupational Health, Safety and Welfare Act.

The issue of overcharging and overservicing is a matter of major concern to WorkCover. The concern in this area relates to all service providers including rehabilitation as well as medical and related providers. This Bill accordingly contains provisions which will enable the corporation to reduce or disallow a payment for a service that is provided pursuant to section 32 of the Act where the corporation considers the amount to be excessive or that the service provided was, in the circumstances of the case, inappropriate or unnecessary.

To ensure the worker is not disadvantaged where such reduction or disallowance by the corporation is made, the Bill provides that the worker will not be liable to the provider for the disallowed charge or for more than the reduced charge. However, where such disallowance or reduction of charges is made, the provider will have a right of review to a review officer if the provider believes the corporation's decision is in error. This amendment is significant, as it is firmly believed by the Government that WorkCover must have the power to control and challenge effectively what is a significant component of its costs. To preserve the original intent of the Act an amendment is contained in this Bill which will better define how overtime is to be taken account of when determining a worker's average weekly earnings. Under section 3 of the current Act, overtime is excluded from the calculation of the worker's average weekly earnings, except overtime that is worked 'in accordance with a regular and established pattern'.

The Supreme Court, in a test case on this section of the Act, ruled that it was only necessary to show that overtime had been worked on a regular and established basis and not that the pattern of actual hours worked had to be regular and established. This Bill seeks to restore the original intention of the Act to exclude overtime unless the hours of overtime worked are highly predictable, that is, the hours of overtime are worked on a regular and established basis and are substantially uniform in amount.

A further condition to be included is that the worker would have continued to work the overtime if he or she had not been disabled. This again is to reinforce the notion that only overtime which forms an ongoing and predictable requirement of the job is to be included. A further related amendment in this Bill will allow the corporation to reduce weekly payments where the worker would not have continued to work overtime or the pattern of overtime would have changed so that the amount of overtime would have reduced had the worker not been disabled.

This Bill contains a further provision to tighten up the mechanisms to adjust the payment of weekly benefits by putting beyond doubt the corporation's ability to correct clerical or arithmetical errors. The Bill also contains a provision that will enable the corporation to recover amounts overpaid, but subject to regulations which will prescribe the conditions under which such recoveries can be made and in accord with the guidelines on the recovery of wage overpayments in the public sector.

This Bill also contains a number of provisions relating to exempt employers. It is intended that maritime employers who have recognised protection and indemnity association insurance (which also covers their workers compensation liabilities) will be able to apply to become exempt employers in respect of those workers covered by their protection and indemnity policies. Such exempt maritime employers will be subject to the same responsibilities as other exempt employers. This provision replaces the existing section 104, which was originally intended to provide for such exemptions, but was found to be incapable of practical application.

This Bill also proposes that the renewal period for all private exempt employers will be up to a maximum of three years rather than the fixed three year term provided for under the current Act and will thus allow the corporation to renew the exempt employer's exemption for a period of less than three years if the employer's performance is unsatisfactory. Currently the corporation is faced with the limited choice of either renewal or revoking an exemption. The ability to set shorter terms enables a middle course to be taken that puts a defaulting exempt employer on notice.

Under the current Act levy remissions for exempt employers are currently solely based on the provision by them of rehabilitation facilities and services that meet WorkCover's standards. It is proposed that the assessment of eligibility for a levy remission now take into account the exempt employer's record of claims administration and occupational health and safety and accident prevention programs as well as the provision of proper rehabilitation facilities.

The obligations and powers of the WorkCover Corporation to take over the liabilities of an exempt employer, should such an employer cease to be exempt, are to be clarified. The proposal contained in this Bill will allow the corporation the flexibility to allow an exempt employer to continue to manage claims related to the period of exemption, that is, to 'run-out' those claims where it is considered appropriate to do so.

Several changes, generally of an administrative nature, are proposed in relation to registration of employers and the payment of levies. First, it is proposed that a minimum levy be established by regulation, initially proposed to be

$50. This will be payable by all registered employers, whether or not they have employed workers during the year. The corporation currently has in excess of 5 000 registered employers who stated in their annual declaration that they did not employ during the past year. Some are registered 'just in case' they need to employ at short notice during the year. Others registered at the commencement of the scheme in 1987 when there was some confusion regarding who should register and have not cancelled that registration.

The basic minimum administrative cost of servicing a non-employing registrant is the same as for an employer so the proposed minimum levy will contribute to the administrative overheads and encourage those non-employing registrants to review their need for registration. Coupled with the foregoing, and to remove the concern of those who register just in case they need to employ at short notice, an amendment is contained in this Bill which provides that no offence is committed in regard to registration, provided that an employer registers within 14 days of commencing to employ. Currently no period of grace is provided for under the Act.

A further amendment relating to the power for the corporation to set expiation fees to deal with minor offences under the Act will allow the corporation to dispense with minor offences such as a late registration without the expensive process of prosecutions through the courts. It is proposed to change the factors that can be taken into account in setting a bonus or penalty on levy payments in order to give the corporation greater flexibility in setting a system that fairly rewards good performance and penalises poor performance.

Concern has previously been expressed in Parliament about the minority of employers (approximately 7 per cent) who contribute approximately 34 per cent of the levy yet account for a disproportionately high percentage (94 per cent) of the corporation's costs. To control these costs this Bill includes a provision which would enable the corporation to set conditions which must be met by those employers whose claims records are undermining the viability of the scheme. Such conditions may, for example, include a requirement that a hazard audit be conducted, or specific training programs be commenced within given time frames or that some other prevention program, or rehabilitation strategy be put in place. As it is not reasonable that such employers should expect the protection of ongoing insurance cover if they fail to take reasonable preventive or rehabilitative action, this Bill also provides for the payment of supplementary levies should the conditions set by the corporation not be complied with. A right of review is provided for should an employer consider such conditions to be unreasonable.

This Bill also contains a provision for the regulations to exclude specified classes of workers wholly or partially from the application of this Act where such regulation is recommended by the unanimous resolution of the WorkCover board. Although it is expected that this provision will be applied infrequently, it will assist in clarifying coverage in those grey areas where the application of common law tests relating to a contract of service do not provide clear answers. The power exists under the current Act to prescribe or 'deem-in' work where coverage is unclear, but there is no current power to clarify by 'deeming-out', even if the parties affected agree that this is the most appropriate action.

In the dispute resolution area the following changes are proposed. Medical review panels are to be renamed medical advisory panels, and their function changed to an advisory role rather than an appeal tribunal. It is considered more appropriate to confine the adversarial process to review and to the tribunal and to use the medical panels as an advisory body to those appeal authorities. Review officers and the tribunal would be obliged to take into account the panel's advice, but not absolutely bound to accept it. However, a heavy onus would rest on the appeal authority to give good reasons why the advice of a medical panel should not be adopted. Consistent with this proposed change a worker will not be allowed to be represented before a medical panel but may be accompanied for advice and support.

It is proposed to vary the powers of review officers so as to enable them to refuse to hear oral evidence if satisfied that the evidence would not be relevant and to require evidence or argument to be presented in writing. Clearly such powers would need to be exercised with discretion but in appropriate cases it may assist in expediting cases by keeping the evidence relevant and to the point. The entitlement to reimbursement for the costs of representation by a legal practitioner or representative of a registered association is to be varied to provide for representation at the first level of the dispute resolution process being the 'conciliation' meeting or discussion.

This Bill also contains a provision to grant the corporation the ability to intervene in any proceedings arising under the Act and in any proceedings before a court regarding the interpretation of the Act or affecting the corporation's interest. Other amendments of a minor administrative or general nature, or consequential on the above major issues are outlined in the detailed explanation of each clause. I commend the Bill to the House, and seek leave to have the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clauses 1 and 2 are formal.

Clause 3 makes a number of unrelated amendments to the definition section. An 'orphan child' is defined to include a child of whom one parent is dead and who has no reasonable prospect of being supported by the surviving parent. The definition of 'review authority' is amended to exclude medical advisory panels. New subsections (7) and (8) are inserted enabling regulations to be made excluding certain classes of workers from the application of the Act. Such a regulation can only be made where the board, by unanimous resolution, recommends it.

Clause 4 amends the definition of average weekly earnings as it applies to overtime. If a disabled worker is to be entitled to weekly payments reflecting overtime, the overtime must have been worked in accordance with a regular and established pattern, the pattern must be substantially uniform as to the number of hours worked, and there must be a prospect that the overtime would have continued to be available if the worker had not been disabled.

Clause 5 changes the name of the corporation's principal executive officer from General Manager to Chief Executive Officer.

Clause 6 amends section 32. The corporation is empowered to disallow or reduce charges for medical services. New subsection (2) provides for payment of a travelling allowance where a worker travels in a private vehicle for the purpose of obtaining medical attention.

Clause 7 amends section 36. The amendments deal with the circumstances in which notice of a proposed discontinuance or reduction of weekly payments is to be given and when it is to take effect. It provides for recovery of overpayment of weekly payments in certain circumstances. It allows an employer to initiate a review of a worker's entitlement to weekly payments.

Clause 8 amends section 38. The period that must intervene between periodic reviews on the application of a worker is reduced from six to three months.

Clause 9 amends section 44. The entitlement of orphan children is somewhat improved.

Clause 10 amends section 50. An element of discretion is introduced into the provisions under which the corporation is to take over the liabilities of a formerly exempt employer.

Clause 11 amends section 52. The provisions dealing with failure to give the statutory notice of disability, or defects in such a notice, are slightly amended.

Clause 12 inserts new subsection (3) in section 59. This new subsection provides that an employer is not guilty of an offence by reason of non-registration if the employer applies for registration within 14 days after the obligation to be registered arises.

Clause 13 deals with exempt employers. The amendments allow for variable terms of exemption of up to three years. The benefit of exempt status will be extended to 'indemnified maritime employers', that is, employers who have the benefit of an indemnity granted by a member of the International Group of Protection and Indemnity Associations.

Clause 14 deals with the delegation to an exempt employer. Provision is made for the delegation to continue after the cessation of the exemption. New subsection (3a) enables the Corporation to control the exercise by an exempt employer of the discretion relating to the lump sum payable to an orphan child.

Clause 15 provides for a minimum levy.

Clause 16 restates the conditions under which remissions of levy may be granted, or supplementary levies imposed, by the Corporation.

Clause 17 deals with remissions of levy to exempt employers.

Clause 18 empowers the corporation to grant relief against the imposition of penalty interest for late payment of levy.

Clause 19 deals with review of the corporation's decisions in relation to levy.

Clause 20 changes the office of Registrar of Appeal Authorities to Registrar of the Tribunal. The change is consequential upon the proposal to convert the present medical review panels into advisory panels.

Clauses 21 to 29 deal principally with the conversion of medical review panels to advisory panels. A medical advisory panel is required to reduce its advice to writing and supply the parties with copies.

Clause 30 gives a review officer a discretion to reject irrelevant or repetitive evidence and to decide the form in which evidence should be presented.

Clause 31 is consequential on earlier amendments.

Clause 32 provides that equal representation is not to be allowed before a medical advisory panel.

Clause 33 deals with the award of costs in review proceedings.

Clause 34 is consequential.

Clause 35 provides for the reference of matters to medical review panels.

Clause 36 is consequential on earlier amendments and makes certain decisions of the corporation reviewable.

Clauses 37, 38 and 39 are consequential.

Clause 40 provides for ministerial review of decisions related to exempt employers.

Clause 41 is a consequential amendment.

Clause 42 provides that the insurance of employers under section 105 extends not only to employers but also to persons working under approved rehabilitation programs.

Clause 43 empowers a review officer to deal with unreasonable delay on the part of the Corporation.

Clause 44 brings the powers of entry and inspection into substantial conformity with similar powers under the Occupational Heath Safety and Welfare Act.

Clause 45 consolidates and slightly expands criminal liability for dishonest claims.

Clause 46 provides that prosecutions may be brought up to three years after the date of commission of the offence.

Clause 47 enables the corporation to allow for expiation of offences.

Clause 48 empowers the corporation to intervene in proceedings in which its interests may be directly or indirectly affected or in which the interpretation of the Act is in issue.

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

ADJOURNMENT

At 4.21 p.m. the Council adjourned until Thursday 14 February at 2.15 p.m.