# LEGISLATIVE COUNCIL

**Tuesday 9 February 1993**

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

## ASSENT TO BILLS

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

Ambulance Services,

Construction Industry Long Service Leave (Miscellaneous) Amendment,

Dairy Industry,

Dangerous Substances (Equipment and Permits) Amendment,

Dried Fruits (Extension of Term of Office) Amendment,

The Flinders University of South Australia (Miscellaneous) Amendment,

Industrial Relations (Miscellaneous Provisions) Amendment,

Local Government (Financial Management) Amendment,

Motor Vehicles (Confidentiality) Amendment,

Parliamentary Committees (Publication of Reports) Amendment,

Stamp Duties (Penalties, Reassessments and Securities) Amendment,

State Bank of South Australia (Investigations) Amendment,

Statutes Amendment (Right of Reply),

Summary Procedure (Summary Protection Orders) Amendment,

Superannuation (Benefit Scheme),

Superannuation (Scheme Revision) Amendment,

Supported Residential Facilities,

Wine Grapes Industry (Indicative Prices) Amendment,

Workers Rehabilitation and Compensation (Miscellaneous) Amendment.

## QUESTIONS ON NOTICE

**The PRESIDENT:** I direct that written answers to the following questions, as detailed in the schedule that I now table, be distributed and printed in *Hansard:* Nos 11, 12, 15 & 24, 16, 17, 18, 19, 23, 25, 26,27, 28, 31, 32, 33, 34, 35, 36, 37 and 39.

### PARKING FEES

11. **The Hon. J.C. IRWIN:**

1. Will the Minister explain exactly what power the Adelaide City Council has used to charge parking fees in its parking stations.

2. What is the proper legal process to be followed for charging parking fees?

**The Hon. ANNE LEVY:** 1. I am informed that the Adelaide City Council charges fees in its 17 Parking Stations pursuant to Section 475h (1) of the Local Government Act. Section 475h (1), which came into operation in 1978, provides that a council may construct, provide and manage parking stations and may fix the fees for their use.

2. Section 475h (3) provides that a council may make by-laws with respect to the management of, and the conduct of persons in any car parking station. The Adelaide City Council does not consider that it is legally required to fix or vary the fees pursuant to those by-law powers. It fixes and varies the fees by council resolution.

It last approved the variation of fees for the use of 3 of its parking stations on 17 August 1992. Those fees came into operation on 31 August 1992. The Council gives advance notice of a variation in fees near the ticket machine entrances to the Parking stations. I am informed that the advance notice is given at least one week prior to the implementation of the variation.

I am informed that it is the Council's aim to encourage short term parking to support shopping in the Central Business District. Accordingly, wherever practicable, it fixes a sliding scale of fees to encourage a steady turnover of parking spaces. For example, on Fridays an average of approximately 7 000 vehicles use the available 1 000 parking spaces in the Central Market Parking Station. This sliding scale applies to approximately 5 500 of a total 7 000 parking spaces available in all of the Parking Stations.

The Council has made available a list of all the fees applicable to its Parking Stations.

### MINISTERIAL OFFICERS

12. **The Hon. R.I. LUCAS:**

1. What were the names and classifications of all officers working in the offices of the Premier and Minister of Multicultural and Ethnic Affairs as of 13 November, 1992?

2. Which officers were Ministerial assistants and which officers had tenure and were appointed under the GME Act?

3. What salary and other remuneration was payable for each officer?

4. What positions in the above offices were unfilled as of 13 November, 1992 and what were the salaries and other remuneration payable for such positions?

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

| Name | Class | Employment Type | Salary $ | Overtime/ Other Allowance $ |
|---|---|---|---|---|
| N. Alexandrides | ZA-2 | Ministerial Officer, Grade II | 44 793 | 25% 11 198 |
| J. Appleby | ASO-4 | Ministerial Officer | 34 850 | — |
| K. Chenoweth | ASO-2 | Secretary | 25 933 | — |
| K. Foley | ZA-1 | Ministerial Officer, Grade I | 49 610 | 30% 14 883 |
| R. Garrand | ZA-2 | Ministerial Officer, Grade II | 44 793 | 20% 8 959 |
| A. Goodrich | ASO-3 | Research Assistant | 29 008 | — |
| J. Kouts | ZA-7 | Press Secretary, Grade I | 44 699 | 25% 11 175 |
| E. Lange | ASO-3 | Appointment Secretary | 29 008 | — |
| J. Turner | ZA-7 | Press Secretary, Grade I | 44 699 | 30% 13 410 |
| V. Varga | ASO-2 | Secretary | 26 958 * (0.7) | — |
| J. Vaughan | ASO-2 | Secretary | 26 958 | +Salary Maintenance to MN-4 $224 |
| P. Willoughby | ZA-7 | Special Press Secretary, Grade I | 48 077 | 30% 14 423 |
| M. Wright | ZA-2 | Ministerial Officer | 44 793 | 15% 6 719 |
| L. Battistella | ASO-1 | GME Act | 23 165 | + Additional Duties Allow. to A/ASO-2 1 743 |

| Name | Class | Employment Type | Salary $ | Overtime/ Other Allowance $ |
|---|---|---|---|---|
| G. Greenhalgh | ASO-3 | GME Act | 30 033 | + Additional Duties Allow. to A/ASO-4 3 280+10% 3 331 |
| P. Guerin | ASO-1 | GME Act | 23 165 | + Additional Duties Allow. to A/ASO-2 1 743 |
| A. Scott | EL-1 | GME Act | 64 063 | — |
| C. Seal | ASO-1 | GME Act | 23 165 | + Academic Allowance $319 |

* 70% = $18 871.
There were no unfilled positions as at 13 November 1992.

15. **The Hon. R.I. LUCAS:**

1. What were the names and classifications of all officers working in the offices of the Minister of Emergency Services as of 13 November, 1992?

2. Which officers were Ministerial assistants and which officers were appointed under the GME Act?

3. What salary and other remuneration was payable for each officer?

4. Which positions in the Minister's above office were unfilled as of 13 November, 1992 and what were the salaries and other remuneration payable for such positions?

24. **The Hon. R.I. LUCAS:**

1. What were the names and classifications of all officers working in the offices of the Minister of Environment and Land Management and Minister of Aboriginal Affairs as of 13 November, 1992?

2. Which officers were Ministerial assistants and which officers were appointed under the GME Act?

3. What salary and other remuneration was payable for each officer?

4. Which positions in the Minister's above offices were unfilled as of 13 November, 1992 and what were the salaries and remuneration payable for such positions?

**The Hon. C.J. SUMNER:** The attached table is a combined response to questions on notice numbers 15 and 24 as the office of the Minister of Emergency Services, Minister of Environment and Land Management and the Minister of Aboriginal Affairs is a combined office.

| | Name | Classification | GME Act/ Ministerial | Title | Salary |
|---|---|---|---|---|---|
| | | ASO5 | GME Act | Chief Admin. Officer | $42 025 & $1 435 allowance |
| * | | ASO3 (Acting) | GME Act | Senior Clerk | $26 958 & $6 355 allowance |
| | | ASO2 | GME Act | Appointment Secretary | $26 958 & $2 050 allowance |
| | | ASO1 | GME Act | Parliamentary Clerk | $23 165 & $1 424 allowance |
| * | | ASO1 (Acting) | GME Act | Receptionist | $23 165 |
| | | ASO1 | GME Act | Clerical Officer | $20 244 & $319 allowance |
| * | | ASOl (Acting) | GME Act | Correspondence Clerk | $16 600 & $319 allowance |
| | | ASO1 (0.6) | GME Act | Typist | $13 899 & $1 660 declass maintenance |
| * | | ASO1 (Acting) | GME Act | Correspondence Clerk | $21 986 & $319 allowance |
| * | | ASO5 | GME Act | Liaison Officer | $38 950 |
| | Simon Bryant | ZA-2 | Ministerial | Ministerial Assistant | $44 793 & $6 719 O/Time allowance |
| | Derek Robertson | ZA-2 | Ministerial | Ministerial Assistant | $44 796 & $6 719 O/Time allowance |
| | Karen Ashford | Press Sec. Grade 1 | Ministerial | Press Secretary | $44 699 & $6 705 O/Time allowance |

Position marked * are vacant positions

The current Labor Government and the previous Liberal Government adopted the practice of employing a number of personal staff to the Minister on a contract basis. Given the nature of that public employment it is considered appropriate to disclose the name of the person involved and details as to remuneration.

In addition to contract staff, ministerial offices are also serviced by officers employed under the Government Management and Employment Act. These officers are often seconded from departments under the Minister's control and are periodically rotated or otherwise moved into and from positions within the mainstream of Public Service. It is therefore not considered appropriate to identify officers who happen to be located in a ministerial office at a particular point in time.

16. **The Hon. R.I. LUCAS:**

1. What were the names and classifications of all officers working in the offices of the Minister of Labour Relations and Occupational Health and Safety and Minister of Correctional Services as of 13 November, 1992?

2. Which officers were Ministerial assistants and which officers had tenure and were appointed under the GME Act?

3. What salary and other remuneration was payable for each position?

4. Which positions in the Minister's above offices were unfilled as of 13 November, 1992 and what were the salaries and other remuneration payable for such positions?

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

| 1. Name & Classification | 2. Ministerial/ G.M.E. | 3. Salary $ |
|---|---|---|
| Gary Williamson (ZA-2) | Ministerial | 51 512 |
| Simon Clayer (PS-1) | Ministerial | 51 404 |
| (ASO)-5) | G.M.E. | 43 460 |
| (ASO-3) | G.M.E. | 30 033 |
| (ASO-3) | G.M.E. | 30 033 |
| (ASO-1) | G.M.E. | 20 563 |
| (ASO-1) | G.M.E. | 18 943 |

4. None

The current Labor Government and the previous Liberal Government adopted the practice of employing a number of personal staff to the Minister on a contract basis. Given the nature of that public employment it is considered appropriate to disclose the name of the person involved and details as to remuneration.

In addition to contract staff, ministerial offices are also serviced by officers employed under the Government Management and Employment Act. These officers are often seconded from departments under the Minister's control and are periodically rotated or otherwise moved into and from positions within the mainstream of Public Service. It is therefore not considered appropriate to identify officers who happen to be located in a ministerial office at a particular point in time.

17. **The Hon. R.I. LUCAS:**

1. What were the names and classifications of all officers working in the office of the Minister as of 13 November, 1992?

2. Which officers were Ministerial assistants and which officers had tenure and were appointed under the GME Act?

3. What salary and other remuneration was payable for each position?

4. Which positions in the Minister's above office were unfilled as of 13 November 1992 and what were the salaries and other remuneration payable for such positions?

**The Hon. BARBARA WIESE:** The names, classifications and salaries of all officers working in the Office of the Minister of Transport Development, as at 13 November 1992, are as follows:

| Name and Classification | Ministerial/ G.M.E. Act | Salary $ |
|---|---|---|
| ASO-2 | G.M.E. Act | 25 933 |
| M. Carmichael Ministerial Officer—Grade 3 | Ministerial | 35 562 |
| P. Hudson, Press Secretary | Ministerial | 44 699 |
| | | +6 704 (O/T Allow.) |
| ASO-2 | G.M.E. Act | 25 933 |
| ASO-2 | G.M.E. Act | 26 958 |
| I. Newbery, Ministerial Officer—Grade 2 | Ministerial | 44 793 |
| | | +6 719 (O/T Allow.) |
| ASO-3 | G.M.E. Act | 29 008 |
| ASO-6 | G.M.E. Act | 43 460 |
| ASO-1 | G.M.E. Act | 23 165 |
| ASO-1 | G.M.E. Act | 16 600 |

4. All positions in the Minister's office were filled as at 13 November 1992.

The current Labor Government and the previous Liberal Government adopted the practice of employing a number of personal staff to the Minister on a contract basis. Given the nature of that public employment it is considered appropriate to disclose the name of the person involved and details as to remuneration.

In addition to contract staff, ministerial offices are also serviced by officers employed under the Government Management and Employment Act. These officers are often seconded from departments under the Minister's control and are periodically rotated or otherwise moved into and from positions within the mainstream of Public Service. It is therefore not considered appropriate to identify officers who happen to be located in a ministerial office at particular point in time.

18. **The Hon. R.I. LUCAS:**

1. What were the names and classifications of all officers working in the office of the Minister of Economic Development as of 13 November, 1992?

2. Which officers were Ministerial assistants and which officers had tenure and were appointed under the GME Act?

3. What salary and other remuneration was payable for each officer?

4. What positions in the Minister's above office were unfilled as of 13 November, 1992 and what were the salaries and other remuneration payable for such positions?

**The Hon. BARBARA WIESE:** Refer to the reply to question No. 12.

19. **The Hon. R.I. LUCAS:**

1. What were the names and classifications of all officers working in the offices of the Minister of Business and Regional Development, Minister of Tourism and Minister of State Services as of 13 November, 1992?

2. Which officers were Ministerial assistants and which officers had tenure and were appointed under the GME Act?

3. What salary and other remuneration was payable for each position?

4. Which positions in the Minister's above offices were unfilled as of 13 November, 1992 and what were the salaries and other remuneration payable for such positions?

**The Hon. BARBARA WIESE:** The following information outlines the names, employment category, classification, salary and other remuneration of all officers working in the office of the Minister of Business and Regional Development, Minister of Tourism and Minister of State Services as of 13 November 1992:

| Name | Class. | Salary | Other Remuneration |
|---|---|---|---|
| | MINISTERIAL ASSISTANTS | | |
| Martin, Andrea . . | MO-GR11 | $44 793 | 15 % allowance to compensate for all overtime worked |
| Thew, Helen . . . | ZA-7 | $44 699 | 15 % allowance to compensate for all overtime worked |
| | GME ACT EMPLOYEES | | |
| | ASO-3 | $29 934 | |
| | ASO-6 | $41 072 | |
| | ASO-1 | $20 244 | |
| | ASO-6 | $44 793 | |
| | ASO-1 | $16 600 | |
| | ASO-2 | $25 933 | |
| | ASO-1 | $21 423 | |
| | ASO-4 | $34 081 | |

* Aboriginal Youth Training Program participant—from 22/6/92-24/12/92 all salary costs will be reimbursed by Department of Labour at the end of December 1992.

UNFILLED POSITIONS AS OF 13 NOVEMBER 1992

GME ACT

**VICE:

Vacant..... ASO-2 $27 182

** A temporary three month reassignment to this position commenced 16/11/92.

The current Labor Government and the previous Liberal Government adopted the practice of employing a number of personal staff to the Minister on a contract basis. Given the nature of that public employment it is considered appropriate to disclose the name of the person involved and details as to remuneration.

In addition to contract staff, ministerial offices are also serviced by officers employed under the Government Management and Employment Act. These officers are often seconded from departments under the Minister's control and are periodically rotated or otherwise moved into and from positions within the mainstream of Public Service. It is therefore not considered appropriate to identify officers who happen to be located in a ministerial office at particular point in time.

23. **The Hon. R.I. LUCAS:**

1. What were the names and classifications of all officers working in the offices of the Minister of Housing, Urban Development and Local Government Relations and Minister of Recreation and Sport as of 13 November, 1992?

2. Which officers were Ministerial assistants and which were officers having tenure and were appointed under the GME Act?

3. What salary and other remuneration was payable for each position?

4. Which positions in the Minister's above offices were unfilled as of 13 November, 1992 and what were the salaries and other remuneration payable for such positions?

**The Hon. ANNE LEVY:**

| 13 November 1992 | Classification/ Appointment | Salary $ |
|---|---|---|
| | ASO3 GME | 30 033 |
| | ASO1 GME | 23 484 |
| | A/ASO2 GME | 25 933 |
| | ASO2 GME | 26 958 |
| | ASO1 GME | 22 550 |
| | ASO4 GME | 34 081 |
| | ASO6 GME | 46 125 |

| 13 November 1992 | Classification/ Appointment | Salary $ |
|---|---|---|
| | ASO1 GME | 23 484 |
| | ASO4 GME Temp. | 34 850* |
| Phil Fagan-Schmidt | SL6 Level 2 SAHT Act | 48 460* |
| Cathie King | Ministerial Assistant | 44 793 |
| Margaret Ralston | Press Secretary | 44 699 |

It should be noted that the officers marked with an asterisk are Liaison Officers from their respective agencies and as such their salaries are funded from departmental budgets.

3. Cathie King O/T Allowance ..... $6 719
Margaret Ralston O/T Allowance ..... $6 705

4. Nil.

The current Labor Government and the previous Liberal Government adopted the practice of employing a number of personal staff to the Minister on a contract basis. Given the nature of that public employment it is considered appropriate to disclose the name of the person involved and details as to remuneration.

In addition to contract staff, ministerial offices are also serviced by officers employed under the Government Management and Employment Act. These officers are often seconded from departments under the Minister's control and are periodically rotated or otherwise moved into and from positions within the mainstream of Public Service. It is therefore not considered appropriate to identify officers who happen to be located in a ministerial office at a particular point in time.

25. **The Hon. R.I. LUCAS:**

1. What were the names and classifications of all officers working in the offices of the Minister of Education, Employment and Training as of 13 November, 1992?

2. Which officers were Ministerial and which officers had tenure and were appointed under the GME Act?

3. What salary and other remuneration was payable for each officer?

4. Which positions in the Minister's above office were unfilled as of 13 November, 1992 and what were the salaries and other remuneration payable for such positions?

**The Hon. ANNE LEVY:**

| | Name | Classification | Type of Appointment | Salary $ | Vacant |
|---|---|---|---|---|---|
| | | ASO6 | GME | 43 460 | |
| | | ASO5 | GME | 42 025 | |
| * | | ASO4 (.5) | GME | 33 313-34 850 | Yes |
| | | ASO3 | GME | 30 033 | |
| | | ASO3 | GME | 30 033 | |
| | | ASO3 | GME | 31 235 | |
| | | ASO3 | GME | 31 235 | |
| | | ASO3 | GME | 29 008 | |
| | | ASO2 | GME | 16 919 | |
| | | ASO2 | GME | 24 938 | |
| | | ASO2 | GME | 24 908 | |
| | | ASO1 | GME | 12 551-23 165 | Yes |
| | | ASO1 | GME | 12 551-23 165 | Yes |
| | | ASO1 | GME | 12 551-23 165 | Yes |
| | G. Loveday | ZA2 | Ministerial | 44 793 + 15% overtime | |
| | M. Sellstrom | ZA2 | Ministerial | 44 793 + 15% overtime | |
| ** | R. Colanero | ZA2 | Seconded | 44 793 + 15% overtime | |
| ** | H. Till | ZA2 | Seconded | 44 793 + 15% overtime | |
| | Vacant | ZA2 | Ministerial | 44 793 + 15% overtime | Yes |
| | T. Jupe | ZA7 | Ministerial | 44 699 + 15% overtime | |

** Denotes departmental liaison officers on secondment from departments.

* Denotes position funded under Ministerial Consultative Committee line.

The current Labor Government and the previous Liberal Government adopted the practice of employing a number of personal staff to the Minister on a contract basis. Given the nature of that public employment it is considered appropriate to disclose the name of the person involved and details as to remuneration.

In addition to contract staff, ministerial offices are also serviced by officers employed under the Government Management and Employment Act. These officers are often seconded from departments under the Minister's control and are periodically rotated or otherwise moved into and from positions within the mainstream of Public Service. It is therefore not considered appropriate to identify officers who happen to be located in a ministerial office at a particular point in time.

26. **The Hon. R.I. LUCAS:**

1. What were the names and classifications of all officers working in the offices of the Minister of Public Infrastructure as of 13 November, 1992?

2. Which officers were Ministerial and which officers had tenure and were appointed under the GME Act?

3. What salary and other remuneration was payable for each officer?

4. Which positions in the Minister's above office were unfilled as of 13 November, 1992 and what were the salaries and other remuneration payable for such positions?

**The Hon. ANNE LEVY:** 1, 2, 3. The following table indicates the names, classifications, appointment criteria and remuneration payable to the staff of the Office of the Minister of Public Infrastructure as at 13 November 1992.

| Name | Classification | Appointment Criteria | Salary/ Remuneration |
|---|---|---|---|
| Mr D. Abfalter, Principal Advisor | ZA-2 | Ministerial Contract | $41 793+ $6 719 O/T Allowance |
| Mr P. Charles, Press Secretary | G-1 | Ministerial Contract | $44 699+ $6 705 O/T Allowance |
| | ASO-6 | GME Act | $44 793 |
| | ASO-4 | GME Act | $34 850 |
| | ASO-3 | GME Act | $29 008 |
| | A/ASO-3 | GME Act | $29 008 |
| | A/ASO-4 | GME Act | $33 313 |
| | A/ASO-3 | GME Act | $29 008 |
| | ASO-2 | GME Act | $26 958 |
| | ASO-2 | GME Act | $26 958 |
| | ASO-1 | GME Act | $21 742 |
| | ASO-1 | GME Act | $21 742 |
| | ASO-1 | GME Act | $18 943 |

4. As at 13 November 1992, there were no positions unfilled in the Office of the Minister of Public Infrastructure.

The current Labor Government and the previous Liberal Government adopted the practice of employing a number of personal staff to the Minister on a contract basis. Given the nature of that public employment it is considered appropriate to disclose the name of the person involved and details as to remuneration.

In addition to contract staff, ministerial offices are also serviced by officers employed under the Government Management and Employment Act. These officers are often seconded from departments under the Minister's control and are periodically rotated or otherwise moved into and from positions within the mainstream of Public Service. It is therefore not considered appropriate to identify officers who happen to be located in a ministerial office at a particular point in time.

## MURRAY RIVER

27**. The Hon. DIANA LAIDLAW:**

In respect of all the River Murray ferries operated by the Department of Road Transport—

1. How many people are employed on each service and what are the terms and conditions of their employment?

2. What is the estimated wage cost this financial year?

3. What are the estimated maintenance costs this financial year?

**The Hon. BARBARA WIESE:**

1. There are 58 permanent ferry operators employed on Murray River ferries, as follows:

Lyrup, 4; Berri, 7; Waikerie, 4; Cadell, 4; Morgan, 4; Wellington, 4; Narrung, 4; Swan Reach, 4; Walker Flat, 4; Purnong, 4; Mannum, 7; Tailem Bend, 4 and Goolwa, 4.

The terms and conditions of their employment are laid down in the Government General Construction Workers Conciliation Committee Award. Basically, operators work a 38 hour week on a rostered rolling shift involving day, afternoon and night shifts over a four week period.

2. The estimated wage cost for 1992-93 is $2.958 million, which includes casual wage employees required to cover absences by regular operators, and overheads.

3. It is difficult to define 'maintenance costs' *per se.* These costs are recharged into the ferry operating hire rate which includes cost of fuel, depreciation, maintenance and repairs. The estimated cost of operating the ferry fleet (15 ferries in service) is $1.9 million for 1992-93.

## ROAD TRANSPORT DEPARTMENT

28. **The Hon. DIANA LAIDLAW:** What was the number of average full time equivalent salaried and weekly paid employees employed by the Department of Road Transport under the following programs for the years ended 30 June 1991 and 30 June 1992 -

○ construction
○ maintenance
○ support personnel - stores, workshops, etc.
○ administration and enforcement of State taxation legislation
○ road safety
○ other programs
○ support personnel not allocated to programs?

**The Hon. BARBARA WIESE:** The Department of Road Transport is unable to provide the information requested in the question.

The programs referred to in the question were included in the Auditor-General's Report for the year ended 30 June 1990. However, these program categories are not generally used by the department and the figures provided were prepared by personnel from the Auditor-General's Department.

The preparation of those figures involved complicated and time consuming calculations and, in the end, did not accurately reflect the number of personnel working in each program.

As a result these figures have not been included in the Auditor-General's Report since 1990 and it would be almost impossible to provide figures in that same format for 1992.

## SALES TAX

31. **The Hon. R.I. LUCAS:**

1. What has been the outcome of representations by the predecessor of the Minister of Education, Employment and Training to the Commonwealth Government about schools' sales tax exemption, and has it finally been determined that school students will have to pay 20 per cent sales tax on stationery and other consumables?

2. If not, why are schools applying this sales tax impost when representations to the Commonwealth have not been finalised?

3. If so, what measures does the State Government intend to take to assist schools and families faced with this extra impost?

**The Hon. ANNE LEVY:**

1. In reply to the representation of the previous Minister of Education, the Treasurer, Mr John Dawkins MHR said:

> 'The responsibility for administration of the sales tax legislation is the province of the Australian Taxation Office. I am unable to intervene in matters relating to the Commissioner's rulings'. Sales tax must be paid on stationery and other consumables supplied to students where the provision of those items relates directly or indirectly to a fee or charge and the property in the goods passes from the school to the students.

2. Compliance with the law is mandatory.

3. The Education Department has provided information to all Government schools to assist them in determining the circumstances in which stationery and other consumables are liable to sales tax, and conversely when taxable goods may be purchased exempt from sales tax.

## ENGINEERING AND WATER SUPPLY DEPARTMENT

32. **The Hon. B.S.L. PFITZNER:** In relation to the storms and floods in the Adelaide Hills between 30 August and 8 October 1992 -

1. Given the magnitude of this event, the closure of the Mount Bold catchment gauging stations and the need to have accurate data, what is the E & WS doing to reinstate the gauging stations which it has decommissioned over the past five years?

2. A proposal has been developed by the Bureau of Meteorology to install flood warning schemes in the Torrens and Onkaparinga catchments, and the proposal forwarded to the E & WS -

(a) Will the E & WS be supporting this proposal?

(b) If not, why not?

3. Given that these rains have put approximately 70 000 ml. into the reservoirs, which is the average annual pumping requirement from the Murray River, and will provide an income to the E & WS of $61.6 million (based on $0.88 per kl.) without pumping; and as the beneficiaries of the events which have caused such substantial damage to local infrastructure, and recognising E & WS responsibilities in catchment management, what financial contribution will the E & WS make towards long term solutions to the problems experienced in these catchments?

**The Hon. ANNE LEVY:**

1. The Bureau of Meteorology has responsibility for issuing flood warnings. The Bureau of Meteorology operates most of the flood warning system. The Engineering and Water Supply Department merely provides information from some of its own monitoring network to supplement the flood warning system and thereby assist the Bureau of Meteorology.

The gauging stations decommissioned by the Engineering and Water Supply Department did not form part of the flood warning system.

The Engineering and Water Supply Department has no immediate plans to reinstate any decommissioned gauging stations for flood warning purposes. However, if a request to re-open the stations and adapt them for flood warning purposes was received from the Flood Warning Consultative Committee then consideration would be given to re-opening the stations.

2. The Engineering and Water Supply Department has not received a formal proposal by the Bureau of Meteorology regarding additional flood warning facilities.

3. The savings to the Engineering and Water Supply Department resulting from reduced River Murray pumping is only $3 million. This saving will be more than offset by the cost of damage to Engineering and Water Supply Department infrastructure and a downturn in revenue resulting from the floods and recent wet weather.

The Engineering and Water Supply Department will continue to pursue its $1 million per year catchment management program and will continue to seek the cooperation of land developers, land managers, and local government to foster an integrated approach to catchment management.

During the next year the Engineering and Water Supply Department will commence a number of demonstration projects to illustrate the water quality and flood mitigation benefits that can be achieved from good land management.

## EDUCATION DEPARTMENT

33. **The Hon. R.I. LUCAS:**

1. Is it the policy of the Education Department for all State-wide Band 1 and Band 2 Job and Person Specifications, filled in 1992 by open advertisement via Faxnet, to be vetted and approved by the Director of Personnel?

2. (a) If so, has the policy been followed in all cases?

(b) If not, why not, and in which schools was the policy not followed and for which positions?

3. Have instructions been given to schools recently informing them that in future Job and Person Specifications must be approved by the Director of Personnel?

4. (a) If so, why and what is the operative date?

(b) Were previous practices in accord with the Administrative Instructions and Guidelines?

(c) Is the current practice in accord?

**The Hon. ANNE LEVY:** In line with departmental selection procedures, it is policy that all Statewide Band 1 and Band 2 Job and Person Specifications filled in 1992 by open advertisement (faxnetted) are vetted and approved by the Director of Personnel's delegate, Assistant Director, Personnel (Staffing). For all positions as described above, in 1992 this policy has been adhered to.

Positions and associated Job and Person Specifications that fall outside of this requirement are those advertised internally in which case Job and Person Specifications are approved by the Principal and Personnel Advisory Committee, again operating in a delegator manner as per Director, Personnel, advice.

Previous, current and future practices are in line with and will continue to abide with the Administrative Instructions and Guidelines as relevant to selection procedures.

34. **The Hon. R.I. LUCAS:**

1. In the case of the recently advertised positions of Principals at Grange and Magill Primary Schools, were the Job and Person Specifications approved by the Director of Personnel of the Education Department?

2. (a) Who devised the Job and Person Specifications in each case?

(b) Who, according to the Administrative Instructions and Guidelines, was responsible for that task in each case?

3. (a) Did the Job and Person Specifications in each case depart from the standard pro forma of the Education Department?

(b) If so, why, and in which particulars?

4. (a) In the case of Grange Primary School, did the Person Specification include an essential requirement for a sense of humour?

(b) Is this in accordance with the pro forma of the Education Department?

(c) If not, why was it included and who was responsible for its inclusion?

(d) Given that short-listing for interviews occurs solely on the basis of written applications, how was it envisaged that applicants would demonstrate this essential requirement?

**The Hon. ANNE LEVY:**

1. The Job and Person Specifications for the positions of Principals at Grange and Magill Primary Schools were approved by the Assistant Director of Personnel as part of his delegation.

2. *(a)* These Specifications were prepared by the School Principal after consultation with the District Superintendent, School Council and School Staff.

*(b)* The School Principal.

3. The Magill Job and Person Specifications were returned for further process to prevail and a direction was forwarded to delete some statements in the Person Specification for Grange.

This process was consistent with Education Department policy.

4. Neither approved Job and Person Specification differed from the generic Job and Person Specification. Under current guidelines two of the Person Specifications are able to be modified to reflect the School Context and the wording 'a sense of humour' while included in the draft was not approved by Personnel.

Unfortunately, Job and Person Specifications were sent to some applicants before notification of the amendment was received.

The approved Job and Person Specifications used during the short-listing process did not reflect 'a sense of humour' as an essential requirement nor was this taken into consideration during the interview process. Short-listing for interviews is not necessarily based on written applications alone as often referee checks are also made as part of the selection process.

35. **The Hon. R.I. LUCAS:**

1. (a) In the case of Grange Primary School, did the Job and Person Specification include an essential requirement for a proven ability to establish sound and effective working relationships with parents, students and community groups in a non-hierarchical way?

(b) Are the words in a 'non-hierarchical' way included in the standard pro forma of the Education Department?

(c) If not, why were they used in the case of Grange and by whose authority?

2. (a) Is this essential requirement in conflict with the Education Act, the Education Department Regulations and the Administrative Instructions and Guidelines detailing the responsibilities of the Principal to the Director-General of Education?

(b) Is it the case that the Director-General's powers for the efficient management of the school are delegated solely to the Principal?

3. (a) In respect of Grange Primary School, were any concerns or complaints directed to the attention of the Director of Personnel by any applicant, by any other Departmental Officer, or by any other person?

& (b) If so, what action was taken to redress the situation by the Director of Personnel?

4. (a) Is it considered that the relevant Superintendent and/or the Director of Personnel discharged his/her responsibilities effectively and properly?

(b) If not, why not?

**The Hon. ANNE LEVY:** 1. *(a)* The approved Job and person Specification did not include as an essential requirement 'a proven ability to establish sound and effective working relationships with parents, students and community in a non-hierarchical way'. Unfortunately, prior to approval by Personnel, Job and Person Specifications which included this requirement were sent to some applicants. The term 'Non-hierarchical' was, however, removed in the formal selection process and not considered by the panel. Strategies were put in place to ensure that approved Job and Person Specifications were forwarded to applicants and that amendments were recorded.

*(b)* The approved Job and Person Specifications did not differ from the generic Job and Person Specifications. Under current guidelines, two of the Person Specifications are able to be modified to reflect the School Context.

*(c)* As stated the words 'in a non-hierarchical way' were not approved; however some copies were inadvertently sent to applicants.

2. *(a)* This question is not relevant as it is already stated the terms were not part of the process.

*(b)* The principal of a school has line management responsibility to the District Superintendent.

3. *(a)* No official complaint or appeal was registered with the Director of Personnel. An unofficial concern was registered but the complainant saw fit not to pursue the matter despite contrary advice by the Director of Personnel.

*(b)* This question becomes inappropriate as nothing was pursued by the unofficial complainant.

4. *(a)* Yes both officers discharged their duties appropriately.

36. **The Hon. R.I. LUCAS:**

1. In the case of the position of Principal at Magill Primary School, were any concerns or complaints by staff, parents, other interested person(s) and applicants about the Job and Person Specifications drawn to the attention of the relevant Superintendent?

2. (a) If so, did this involve changes to the Job and Person Specifications?

(b) If so, what changes and for what reasons?

3. Were the changes communicated to all applicants and in what circumstances?

4. (a) In respect of Magill Primary School, were any concerns or complaints directed to the attention of the Director of Personnel by any applicant, by any other Departmental Officer, or by another interested person(s)?

(b) If so, what action was taken to redress the situation by the Director of Personnel or by the Superintendent?

**The Hon. ANNE LEVY:** 1. The context statement is prepared by the staff and school council and provides contextual information about a particular school. This was prepared in such a fashion in this instance. The job and person specification for the position of principal is a generic one used for consistency across the system. Within this there is the opportunity for a school community to make very minor adjustments which allow for local flavour. The job and person specification was prepared by the principal of the school. The staff and council expressed concern that they had not played a part in these adjustments. The superintendent worked with staff and council representatives to remedy this.

2. The change requested by the school was to one of the nine requirements of the person specification viz 'A sound understanding of current educational theory and its implications for student learning in particular***'

The particulars which the school wished to be included were:

* programs and policies for continuity between the junior primary and primary schools and between primary and secondary schools.
* specialist programs in Mathematics, Languages other than English (German and Mandarin) computer education.
* music-classroom, choral and instrumental programs.
* negotiated democratic, inclusive curriculum which takes account of the structural causes of inequality, poverty, racism and discrimination.
* supportive learning environments for all students including girls, gifted, ESL, NESB and children with disabilities.

The differences between these and those included previously were not profound.

3. All applicants were informed of the changes and given an additional week to amend their application.

4. The District Superintendent alerted the Director of Personnel of the concerns expressed by staff and council. A meeting was then convened to bring all parties together to achieve a satisfactory resolution. This resulted in the aforementioned changes to the person specification.

37. **The Hon. R.I. LUCAS:** What training has been provided for Superintendents in the Education Department in relation to Job and Person Specifications, Panel Chairmanship and Equal Opportunity provisions and what research has been undertaken to determine the efficacy of this training?

**The Hon. ANNE LEVY:** Training for panel chairpersons has been conducted in the Education Department for the last five years. The training has been provided by officers of the Equal Opportunity Unit and senior officers of the Department.

Because the selection procedures must meet the requirements of the Equal Opportunity Act, the chairpersons training includes components related to employment within the requirements of the Act.

Some District Superintendents also hold a state wide brief as equal opportunity nominees and have undertaken separate training to execute this role.

District Superintendents normally chair selection panels for the position of Principal.

39. **The Hon. R.I. LUCAS:**

1. In the case of a Co-ordinator (Computing) position at Hackham East Primary School, is it the case that the paperwork concerning the filling of the position was lost within the Department or in transit?

2. If so, who was responsible for losing this material?

3. Has the position at last been filled and how long is it since the position was originally advertised?

**The Hon. ANNE LEVY:** 1. In regard to the associated paperwork for the position of Co-ordinator (Computing), Hackham East Primary School, it is correct to say that the original documentation was lost in transit.

2. Taking into consideration the courier/postal system that operates between the Education Department's centralised personnel division and schools and the complex mail sorting system that exists within the internal mechanics of the central office organisation, it is not possible to pinpoint one individual on whom the responsibility can be placed.

3. The position of Co-ordinator (Computing) Hackham East Primary School was first advertised on 13 August 1992, closing date for applications was 10 September 1992 and the position was filled on 18 October 1992.

## PAPERS TABLED

The following papers were laid on the table:

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

Reports, 1991-92—

Corporate Affairs Commission.

South Australian Occupational Health and Safety Commission.

WorkCover Corporation.

Friendly Societies Act 1991—Lifeplan Community Services.

Rules of Court—

District Court—District Court Act—

Enforcement of Orders—Criminal Division.

Supreme Court Rules—Non-Application.

Magistrates Court—Magistrates Court Act—

Criminal Jurisdiction—Amendments—Various and Forms.

Civil Jurisdiction—Scale of Costs Amendment and Forms.

Supreme Court—Supreme Court Act—
Commonwealth Foreign Judgments and Others.
Suitors Fund Investment.
Enforcement of Orders—Criminal Division.
Regulations under the following Acts—
Construction Industry Long Service Leave Act 1987—Levy Rate Reduction.
Industrial Conciliation and Arbitration (Commonwealth Provisions) Amendment Act 1991—Transitional Provisions.
Workers Rehabilitation and Compensation Act 1986—Compensation Determination by Medical Assessment.

By the Minister for Transport Development (Hon. Barbara Wiese)—
Reports, 1991-92—
Advisory Board of Agriculture.
Dried Fruits Board of South Australia.
Government Adviser on Deregulation.
Regulations under the following Acts—
Agricultural Chemicals Act 1955—Revocation Registration Fees.
Cattle Compensation Act 1939—Increase Maximum Compensation Payable.
Controlled Substances Act 1984—Simple Cannabis Offences—Expiation Notice.
Fees Regulation Act 1927—Stock Medicines Act 1939—Revocation Registration Fees.
Fisheries Act 1982—Marine Scalefish Fishery—Transfer of Licence.
Freedom of Information Act 1991—Exempt Agencies
Senior Secondary Assessment Board.
Senior Secondary Assessment Board—Revocation and Replacement.
Harbors Act 1936—Fees and Penalties Increases.
Optometrists Act 1920—Registration Fees.
Road Traffic Act 1961—Safety Helmets for Pedal Cycles.
South Australian Health Commission Act 1976—Surgically Implanted Prostheses—Charges.
Response to the Third Report of the Economic and Finance Committee—Inquiry into the Public Accountability of the Australian Formula One Grand Prix Board.

By the Minister for the Arts and Cultural Heritage (Hon. Anne Levy)—
University of South Australia—1991.
Planning Act 1982—Crown Development Reports—
Erection of replacement work/storage shed, Goolwa Barrage.
Re-roofing Willunga Police Station.
Relocation of transportable classroom to Mt Compass Area School.
Relocation of two transportable classrooms to Goolwa Primary School.
Regulations under the following Acts—
Children's Services Act 1985—Appeal Procedures.
City of Adelaide Development Control Act 1976—Removal of Heritage Item.
Housing Cooperatives Act 1991—Electoral Procedures.
Planning Act 1982—Development Controls—Local Government.
South Australian Country Arts Trust Act 1992—General.
Corporation By-laws—
City of Mount Gambier—By-law No. 5—Council Land—Amendment.
District Council of Lacepede—By-law No. 9—Council Land.

By the Minister of Consumer Affairs (Hon. Anne Levy)—
Regulations under the following Act—
Liquor Licensing Act 1985
Dry Areas—Port Augusta.
Dry Areas—Port Augusta (Amendment).
Dry Areas—Various.

# QUESTIONS

## QUESTIONS

### ST JOHN AMBULANCE

**The Hon. R .I. LUCAS:** I seek leave to make a brief explanation before asking the Minister representing the Minister of Education a question about St John Ambulance fees for schools.

Leave granted.

**The Hon. R.I. LUCAS:** I have been contacted by several principals who are very concerned about a huge rise in St John Ambulance subscription fees. Schools were not advised of the rise in fees, in some cases as much as 500 per cent, until after the start of the 1993 school year. The subscription fee for one northern suburbs primary school has risen from $139.50 in 1992 to $700 for 1993. Another school in the same area, which has received a bill for more than $1 000, is seriously considering dropping out of the scheme.

St John Ambulance defends the increase by saying that it was brought about by the continuing demand being placed on the service for in-school emergencies. It says that during 1992 the service attended on average five schools a day to collect sick or injured students. Some former volunteers with St John have noted that one of the reasons for the increase in costs was that the Government caved in to union pressure for a fully paid up St John Ambulance service.

The new charge is based on $2.30 per child in attendance at any given school during the 1993 school year. The school is left with the choice of either paying the fee or dropping out of the scheme and assuming potential liability for ambulance transportation costs for any of its students who become sick or injured.

A principal today told me that the school would have liked to include the cost in its school fee list at the start of the year. However, because of the timing of the increase it was unable to do so as the school had already sent out to parents its school fee list charges for 1993. This principal also pointed out that the huge hike in the St John subscription pays no account to schools that, for one reason or another, have a high proportion of students whose parents already have St John cover through private health insurance or personal membership of the service.

In cases where a student is injured at school and requires ambulance transportation, and the child's parents have personal cover with St John, it is the parents' insurance, not the school subscription, that pays for the transportation. My questions to the Minister are:

1. What discussion with schools has the department had regarding the unexpected and largely unfunded hike in St John subscriptions that schools are now facing?

2. Will the Minister investigate ways of providing financial assistance to schools that are unable, because of financial difficulties, to pay the large increases in St John subscription rates?

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

## MABO CASE

**The Hon. K.T. GRIFFIN:** I seek leave to make an explanation before asking the Attorney-General a question about the Mabo case.

Leave granted.

**The Hon. K.T. GRIFFIN:** The decision of the High Court last year radically to reinterpret the law with respect to Aboriginal land and its status has caused a great deal of uncertainty in the community. The mining industry is concerned about the effect on mining development. Local and overseas investors have expressed uncertainty about any investment in mining and development projects and have sought clarification of their security. Aboriginal groups have talked publicly about claims to developed areas of Australia—even the central business district in Brisbane. All this has made investors, developers and many others very jittery about the future, and I suggest that will jeopardise development.

Suggestions have been made that a further test case should be taken to the High Court to clarify the earlier decision, although I doubt that that will create any greater certainty. Some suggestions have also been made for a legislative clarification of the Mabo decision at Federal and State levels, but no-one, as far as I can appreciate, has yet announced any positive action at those levels to clarify the issues.

I understand that some work has been done in the State Government area on the effect of the Mabo decision and the consequences for South Australia, and I am led to believe that the Attorney-General has received a comprehensive report on those matters. My questions are:

1. Will the Attorney-General release any reports that he has on the case and the consequences for South Australia? If he has those reports and is not prepared to release them, will he indicate why he would not be prepared to release them?

2. Does the Government agree that the High Court decision introduces an element of risk to miners and developers in particular, and what steps does the Government propose to overcome that risk?

3. Does the Attorney-General agree that the decision has the potential to jeopardise wider investment in South Australia?

**The Hon. C.J. SUMNER:** I will examine what information can be made available to the honourable member and the public and bring back a reply on that matter. Some work obviously has been done within Government on the Mabo case, and I will consider his request and bring back a reply. As members know, the Mabo land rights case effectively overruled the long standing doctrine of *terra nullius,* the notion that Australia was unoccupied at the time of settlement, by recognising for the first time that native title to land may exist in Australia.

As members know, the court awarded native title to Queensland's Murray Islanders, and in its wake land claims have been made in Queensland and South Australia. It is probably fair to say that the High Court judgment raised many issues and, if these issues are in each individual case to be left to the courts, they may not be settled for many years.

So, I think there is some obligation on Governments, in consultation with the community, to examine the implications of the Mabo case and look to see whether any further action needs to be taken. There is, I understand, a working party operating at the Commonwealth level to look at the implications of the Mabo decision.

The State Government's legal advice is that it is unlikely that the Mabo decision will have the effect that existing mining tenements are found to be invalid, and the Government certainly recognises the importance of certainty to the mining industry. We believe that this State's legislation provides that certainty, despite the Mabo decision.

So, the answer to the second question is that the Government does not see any risk to miners in South Australia. At least that is the advice: that it is unlikely that the Mabo decision will affect existing mining tenements. Whether the decision would jeopardise investment generally is a matter of opinion, although I do not think it necessarily would jeopardise development in Australia. However, I do agree that this judgment did raise many issues. Those issues need to be examined, and I understand that that is occurring at the Commonwealth Government level in consultation with the State.

**The Hon. K.T. GRIFFIN:** As a supplementary question, the Attorney-General having referred to claims having been made in South Australia and in Queensland, can he indicate specifically whether the Government has notice of any claims or been served with any proceedings relating to claims in South Australia and, if so, can he identify to which lands the notices or the writs may refer?

**The Hon. C.J. SUMNER:** I will seek that information and bring back a reply if it is at all possible.

## TONSLEY INTERCHANGE

**The Hon. DIANA LAIDLAW:** I seek leave to ask the Minister of Transport Development a question about the Tonsley interchange.

Leave granted.

**The Hon. DIANA LAIDLAW:** On 16 November last year the Minister announced that, subject to Federal Government finance, the State Government had given the go ahead for construction of this $17.1 million bus/train interchange at Tonsley. However, in a document released by Premier Arnold one month later entitled 'Private sector provision of infrastructure', I note that the Tonsley interchange is listed as one of 24 projects for which the State Government is seeking expressions of interest from the private sector. Clearly, there is a need for some clarification of the Government's intention in relation to the financing of this project, and I therefore ask the following questions:

1. Did the Minister, in her application to the Federal Transport Minister seeking funds through the Australian Land Transport Development program, seek the full cost or only part of the cost of this $17.1 million interchange; and, if only part, what funds were sought?

2. When is it anticipated that Federal funding, if approved, will be received?

3. To what extent is this project dependent on private sector funding and what, if any, deadline has been set for the registration of private sector interest?

**The Hon. BARBARA WIESE:** When an application was made late last year to the Federal Government under the scheme to which the honourable member referred, the full cost of the project was requested as a suitable project for funding by the Commonwealth Government. To this date there has been no word from the Commonwealth Government as to whether this project will be funded under the program to which we referred. I have no idea at this point when a reply will be received but I hope that will happen in the very near future.

In only the past couple of weeks I have asked for the matter to be followed up once again with officers in Canberra, to try to get a better idea of how the application is proceeding, and I still hope that the Federal Government will agree that this project meets the criteria of the fund and that the money will be made available.

*The Hon. Diana Laidlaw interjecting:*

**The Hon. BARBARA WIESE:** Certainly, in response to the honourable member's question, if the Commonwealth Minister wanted to make such an announcement for the funding of this project during the next four weeks, I would be delighted, because it would be of significant advantage to South Australia and would be another step in the direction of solving some of the public transport needs of communities in Adelaide's southern suburbs. So, if Minister Brown would like to make such an announcement, I will do everything I can to assist him in that process and to encourage the media to pay appropriate attention to such an announcement, if he is in a position to make it.

As to the question of private sector funding, it is true to say that, should Commonwealth Government funding be not available, the idea of attempting to attract private sector funding is another step that could be taken by the State Government if there are suitable investors in our community who would be prepared to take on such a project.

As to deadlines or timetables or any of those things associated with such a move, at this stage there are none in place because, as I indicated, we are still waiting for word from Canberra as to whether the project will be federally funded. If it is not federally funded then the Government will consider whatever other options are available to it.

**The Hon. DIANA LAIDLAW:** Further to the Minister's statement that she believes the project is significant in public transport terms, does she recognise the entire southern region of councils is opposed to the location of an interchange at Tonsley and has nominated the Marion shopping centre as the ideal facility for such an interchange as was recommended in the 2020 Vision document?

**The Hon. BARBARA WIESE:** I am aware that the southern region of councils passed a resolution opposing the Tonsley interchange site, and I am aware that the suggestion has been made that Marion shopping centre or its environs would make a suitable alternative location. I note that members of the Liberal Party have supported this proposition as well.

**The Hon. DIANA LAIDLAW:** We've been advocating this for—

**The PRESIDENT:** Order!

**The Hon. BARBARA WIESE:** Some years ago, when sites in that region were under investigation, the option of looking at the Marion shopping centre area was one of those locations investigated and rejected for some very good reasons. In order for such a site to be chosen there would have to be quite considerable local disruption. The cost of building such a facility in that location, in view of the development that has already taken place in and around the Marion shopping centre, was considered to be so great that it was rejected as an option because it simply was not a viable thing to do and other options were then investigated instead. In the end the Tonsley interchange site was chosen because, on all the measures that one might want to put to these things, it represented the best available option. Whilst I think most people would acknowledge that it is the best available option, bearing in mind the compromises that have had to be made, it represents a much better option than some of the alternatives due to disruption, cost factors and various other measures that were put to each of these sites and locations when they were being investigated.

So, I do not have any problem at all with the selection of the site, although if we were starting with some sort of green fields proposal then I am sure that it would be a much better option to have the interchange located at the Marion shopping centre because it would provide a number of links that the Tonsley interchange perhaps does not provide quite so conveniently. However, we are not starting with a green fields site and a number of other factors must be considered. We have considered those matters and this is the best available option open to us at this time.

## AUTISM

**The Hon. M.J. ELLIOTT:** I seek leave to make a brief explanation before asking the Minister representing the Minister of Education, Employment and Training a question about the early intervention program.

Leave granted.

**The Hon. M.J. ELLIOTT:** I have recently received a copy of a petition signed by some 500 people who are appalled by the lack of funding that is available for autistic children under the early intervention program. I understand that the number of children diagnosed with autism has increased threefold in the period between 1985 and 1991 due to greater awareness of autism and earlier diagnosis. Despite this increase, the amount of hours of early intervention teaching that each autistic child receives has dropped from 17.5 hours per week in 1985 to six hours per week in 1991. This is a direct result of funding costs and the situation appears to be worsening.

I have been told of one child who has begun school this year in the mainstream system but who will receive two hours support a week in the program in the first term, an amount that will be reduced to only one hour a week for the rest of the year. I have also been told that there are eight children who could not be accepted into

the early intervention program because there are not enough teaching hours available to cater for them. My questions are:

1. Does the Minister agree that the reduced teaching time available to each autistic child in the program compromises their opportunity for development?

2. Will she guarantee that every child who requires it will have access to the program as soon as the child is identified as being autistic?

3. Will she give a commitment to increase rather than further decrease the services available to autistic children?

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

## HEINZ BABY FOOD

In reply to **Hon. J.C. BURDETT** (11 August 1992).

**The Hon. ANNE LEVY:** The Commissioner for Consumer Affairs has no responsibility for product safety recalls for food products; that is a matter for the Health Commission.

However, given the seriousness of the matter the Commissioner did monitor the situation and was satisfied that there was adequate publicity and appropriate action taken by the company. The Commissioner considered that no action by her officers was required.

## PUBLIC TRUSTEE

In reply to **Hon. J.C. BURDETT** (10 September 1992).

**The Hon. ANNE LEVY:** This issue arose following a review of the systems and procedures associated with Public Trustee Common Funds, as a move towards full accrual accounting and commercial business practice.

Part of this review involved an examination of the income distribution procedure with a view to improving the equity of distribution between distribution periods.

Consequently, Public Trustee decided to move to distributions based on monthly accrued net income rather than income due and receivable in the period.

This transition resulted in two things:

- the distribution of $714 520 in accrued income, which under the former basis would not have been recognised; and
- a reserve of $1 million comprising the income from investments received in this period but accrued in previous periods.

Public Trustee intends to distribute these funds to clients after taking into account:

- any future reduction in the yield on Common Fund investments when distribution rates may fall below market rates; and
- the need to ensure that any future interest rates are not grossly out of step with market rates.

## CATS

In reply to **Hon. J.C. Burdett** (15 October 1992).

**The Hon. ANNE LEVY:** The Minister of Environment and Land Management has advised that the suggestion for legislative proposals for the management of cats was included in a discussion paper released for public comment on 13 August 1992. Public submissions are currently being assessed by a community consultative group and I expect that group will be able to report to me and other interested members of Parliament and local government in early 1993. It is possible that the report may recommend legislative changes in relation to managing the cat problem.

## COMPUTER PROGRAMS

In reply to **Hon. J.C. Burdett** (5 November 1992).

**The Hon. ANNE LEVY:**

- The Occupational Licensing system is due to be implemented by April 1993.
- A submission will be presented to Cabinet early in the new year regarding funding. There has, to my knowledge, been no adverse effects on the collection of liquor licence revenue.
- The feasibility study has been completed and its contents are being evaluated and will be reported upon shortly.
- The possibility of an interim system has been considered and discounted due to insufficient benefits to the organisation in relation to the costs involved.
- The matter of full integration is still being evaluated. There are some issues associated with the benefits of integration of the Residential Tenancies system with the Occupational Licensing system which are being considered. As mentioned, the feasibility study, while having been completed, is still being evaluated and will be reported upon shortly.

## CHECKOUTS

In reply to **Hon. J.C. Burdett** (26 November 1992).

**The Hon. ANNE LEVY:**

1. Consumer complaints in South Australia of misleading price indications at scanning stores do show an increase in the year ended 30 June 1992 when compared with previous years. The increase in the number of complaints may be due to increased consumer awareness following publicity given to the introduction of the supermarket scanning code.

2. The number of complaints received for the year ended 30 June 1992 concerning alleged overcharging involving scanning stores totalled 84. These complaints involved alleged overcharging for goods, when compared to either shelf price labels or other price advertising displays located within the stores.

Although not all allegations can be substantiated, it is reasonable to suspect that not all cases of apparent overcharging would be reported to the Department of Public and Consumer Affairs.

The most commonly found practices that cause errors between the shelf price and the price scanned include:

- promotional labelling not being removed when specials are changed;
- end and side displays not included when labels are changed in other areas of the store;
- slow moving stock forgotten. The price is changed on the computer but not on the shelf;
- checkout and supervising staff guess the price of a product that does not scan; and
- lack of accuracy and/or insufficient information as shelf level confuses consumers.

3. Three retailers have been prosecuted for misrepresenting the price of goods under section 58 of the Fair Trading Act during the year ended 30 June 1992. I have been advised that a further five cases are pending with the Crown Solicitor's Office. Seventeen written cautions have also been issued to traders since January 1992 concerning overcharging involving scanning stores.

However, despite these statistics and considering the number of stores with scanning, the system does generally operate fairly effectively.

The supermarket industry has a voluntary Code of Practice, 'The Scanning Code of Practice' and the Retail Traders Association works closely with its members to promote compliance with this code.

I believe that ongoing monitoring by officers of the department as well as the implementation of trader and consumer awareness programs in consultation with all representative groups will further improve the effectiveness of this system.

## WHALES

In reply to **M.J. ELLIOTT** (13 October 1992).

**The Hon. ANNE LEVY:** The Minister of Environment and Land Management has provided the following response:

1. The Minister is certainly aware of problems caused by whale watchers acting in breach of guidelines.

2. The National Parks and Wildlife Act Amendment Bill which has been listed for debate in Parliament during February 1993, provides a penalty provision for committing an offence against a protected animal contrary to regulations promulgated under an amended section 68 of the Act.

Draft recommendations for regulation whale watching guidelines are in the process of being prepared at the present time and will be enacted as soon as circumstances permit.

3. The present guidelines for the use of aircraft recommend a 300 metre minimum height. These guidelines are promoted by the Australian National Parks and Wildlife Service. Problems appear to have occurred when helicopters are flown beneath that height.

Should evidence become available that the use of helicopters at a 300 metre height causes distress to whales then the Minister would certainly consider increasing the minimum operating height for helicopters. This issue is expected to be raised as part of the public consultation process.

## NATIONAL, PARKS

In reply to **Hon. M.J. ELLIOTT** (15 October 1992).

**The Hon. ANNE LEVY:** The Minister of Environment and Land Management advises that section 37 of the National Parks and Wildlife Act is being complied with to the greatest practicable degree with respect to goat control in the Gammon Ranges National Park. Notwithstanding the difficult terrain and the problems of recolonisation from adjacent areas, over 100 000 goats have been removed from the park in the past five years.

The Government has become increasingly committed to integrated programs that involve cooperation with landholders in the area. Instead of concentrating on national park areas the 1992 campaign involved landholders in the region as well as the park program. Another major innovation was the involvement of the South Australian Sporting Shooters Association. The association is registered as a formal volunteer group assisting in park management. Association members conducted the ground shooting component of the program backing up integrated mustering and helicopter shooting.

In view of the terrain and the fertility and mobility of goats and the absence of predators it is impossible to guarantee the eradication of these pests, however the integrated control program involving the different control methods over regional areas will continue. This will allow for regeneration of native plants and reduction of the environmental impact of these serious pests in this spectacular part of South Australia.

The serious condition of native vegetation in the and areas of the State will not be reversed until rabbits are controlled. The goat problem cannot be addressed in isolation. The South Australian Government has a strong commitment to current research programs into the biological control of rabbits. These programs include research in this State and the promising national programs conducted by the CSIRO. It is hoped major breakthroughs in the near future relating to the biological control of rabbits will allow for the recovery of much of the vegetation in the degraded parts of the State.

Whilst it is impossible to eradicate these serious pests the unremitting control pressure on the goat population will continue and agency managers are already planning the next goat destruction program.

## MULTIFUNCTION POLIS

In reply to **Hon. M.J. ELLIOTT** (6 November 1992).

**The Hon. ANNE LEVY:** The Minister of Housing, Urban Development and Local Government Relations has advised that the submissions referred to by the honourable member when asking his question on the Gillman/Dry Creek urban development proposal were made approximately six months ago in response to public exhibition of the draft EIS.

Substantial additional work has been undertaken to address concerns raised in Government as well as public submissions. In some instances answers have been provided to these concerns by this additional work. In other instances further investigations will still be necessary.

The Gillman/Dry Creek development proposal has a 30 year time frame. It is not reasonable to have every possible issue settled today. It is more important to ensure that the process for ongoing implementation is correct.

Honourable members should expect that implementation of development on the Gillman/Dry Creek site will require an ongoing program of investigation. A process involving the preparation, display and adoption of Environmental Management Plans has been flagged in the EIS documentation to date and will be further detailed in the Assessment Report of the Office of Planning and Urban Development.

Honourable members can be assured that all necessary site investigations will be carried out within a time frame that matches progress of development on the site. These investigations will be documented in the form of publicly available Environmental Management Plans. This process will enable all development decisions to be based on a prior, thorough knowledge and understanding of the likely impacts.

## RETIREMENT VILLAGES

In reply to **Hon. K.T. GRIFFIN** (26 November 1992).

**The Hon. ANNE LEVY:** The Commissioner for Consumer Affairs, in conjunction with the Retirement Villages Advisory Committee, is currently considering all of the outcomes outlined in the Retirement Villages Consulting Group's report.

The report states that consensus between industry and resident representatives was not achieved in relation to some issues.

The Commissioner, as chairperson of the Retirement Villages Advisory Committee, has actively worked with industry and resident representatives in an attempt to identify and quantify the difficulties highlighted by the report. The Commissioner is currently awaiting further submissions from the industry and resident representatives on these matters.

When these matters are resolved, the Commissioner will be in a position to make a recommendation to me for the implementation of an appropriate code of practice or amendments to the existing legislation if more appropriate.

## BOTANIC GARDENS

In reply to **Hon. J.C. IRWIN** (29 October 1992).

**The Hon. ANNE LEVY:** The Minister of Environment and Land Management has provided the following response:

1. The Local Government Act will not need to be amended to enable control and collection of parking fees by the Botanic Gardens Board, as parking regulations will apply to the amended Botanic Gardens Act.

2. The Botanic Gardens Act was amended recently and the associated regulations have already been drafted.

3. In 1979, the Botanic Gardens Board rescinded the Botanic Park parking regulations to permit Adelaide City Council to apply those under the Local Government Act.

Adelaide City Council have policed Botanic Park car parking since 1979 at the request of the board. The board will resume parking controls when improved traffic management work has been completed. Until that time Adelaide City Council will continue parking controls under their relevant legislation.

## PARKING

In reply to **Hon. J.C. IRWIN** (11 November 1992).

**The Hon. ANNE LEVY:** The Minister of Housing, Urban Development and Local Government Relations has written to the President of the Local Government Association to remind councils of the need to ensure that parking ticket dispensing machines issue accurate information.

The Minister of Emergency Services has advised that the motorist was reported at 10.20 p.m. on 25 April 1992 for 'Park in a Prohibited Area' on North Terrace, Adelaide outside Parliament House and issued with Expiation Notice A543339-9 which was not expiated.

On 29 July 1992 the motorist was interviewed regarding this offence and a Traffic Breach Report was submitted. The motorist advised the inquiry officer that he never received the original Infringement Notice.

In the Infringement Notice Section, the summons advice to the typist indicated incorrect data for the summons, indicating a Clearway offence instead of a Prohibited Area offence.

The motorist appeared in court on 10 November 1992, pleaded guilty to the charge and was convicted without penalty. Neither the defendant, the prosecutor, the Clerk of Court nor the Justices detected the error in the summons.

Section 76a of the Summary Procedures Act provides for a conviction to be set aside by consent if an error is detected and the matter re-heard. The motorist has requested this course of action and the prosecution has consented. In the interests of justice this charge was withdrawn on 19 November 1992.

## SOUTH AUSTRALIAN FILM CORPORATION

In reply to **Hon. DIANA LAIDLAW** (24 November 1992).

**The Hon. ANNE LEVY:**

1. The South Australian Film Corporation will commence production on *The Battlers* in March 1993. The shoot will commence in June of the same year. Revenue due to the corporation for studio facilities and post production will be earned during the 1992/93 financial year. The Corporation is currently ifnalising contracts on the mini series.

2. The South Australian Film Corporation is making every effort to increase revenue from the hire of its facilities while at the same time making sure their budget is met. To date the Corporation is on budget.

3 and 4. The legal, development and administrative costs incurred on *Angel Baby* are a matter of current confidential negotiation and, therefore, cannot be disclosed.

## MARGARET DAY LIBRARY

In reply to **Hon. DIANA LAIDLAW** (25 November 1992).

**The Hon. ANNE LEVY:**

1. The Department for the Arts and Cultural Heritage, in consultation with other key organisations, is at present assessing the practicality and costs of co-locating the collections of the Performing Arts Collection, the Carclew Collection and the Margaret Day Library, with a prime aim of identifying strategies that will increase access to the collections within a reasonable cost framework. The department will assist in maintaining the operations of the Margaret Day Library whilst these discussions take place.

2. The State Theatre Company, whilst recognising the importance of the Margaret Day Library, has identified that the library is not one of its core activities and that by not continuing with its operations savings of around $26 000 can be made.

## GAWLER RIVER

In reply to **Hon. BERNICE PFITZNER** (13 October 1992).

**The Hon. ANNE LEVY:** The Minister of Environment and Land Management has provided the following responses:

1. In 1987 the then Department of Environment and Planning and the then Highways Department become concerned about approvals being granted by councils for further land division in areas which were identified as flood prone. There was also concern that controls were not adequate to sustain decisions by planning authorities to refuse further applications.

Prior to that time the boundaries of the flood plain were unknown and consideration was not given to the flooding potential of the land in question.

A declaration under section 50 of the Planning Act was made on 23 December 1987 in order to halt further land division in the area.

The Minister for Environment and Planning then proceeded to prepare a Gawler River Flood Plain SDP. This plan prohibited land division which creates allotments of less than 40 hectares, the filling of land other than for building work and the erection of buildings used for human occupation with floor levels less than 300 mm above the predicted 1 in 100 year flood level of the Gawler River. It applied to the whole of the Gawler River flood plain.

The SDP was brought into interim effect on 10 November 1988.

On 24 November 1988 following the coming into effect of the SDP the section 50 declaration was varied. This variation ensured that land division applications lodged prior to the introduction of the prohibition remain subject to control.

Whilst the SDP was on public exhibition it attracted both support and opposition. Opponents of the SDP considered it too restrictive and unnecessary. As a result of submissions the elevation of dwellings was raised from 300 mm to 500 mm.

The SDP was authorised on 9 November 1989.

In 1990 the Department of Environment and Planning engaged consultants Lange, Dames and Campbell to undertake detailed mapping of the Gawler River flood plain and to recommend refinements to existing controls. This work was completed in February 1991.

Based on this work the department prepared more detailed policies to replace those in the Gawler River Flood Plain SDP. Each of the four councils along this section of the Gawler River was approached and all gave an undertaking to introduce these new policies. This they are doing by including them in SDPs they are preparing. Progress to date has been as follows:

- District Council of Light—included in SDP which has just completed public exhibition stage.
- District Council of Mallala—included in SDP which is about to complete public exhibition stage.
- District Council of Murano Para—included in draft SDP which is with Government departments for comment.
- Corporation of the Town of Gawler—agreed to include in forthcoming SDP.

The policies being introduced in these council SDPs will replace those in the Gawler River Flood Plain SDP and are a refinement of these policies. For these reasons there is not the same urgency about their introduction as there was for the Gawler River Flood Plain SDP.

The Government has had aerial photographs taken of the most recent floods and will use these to reassess the mapping undertaken in 1990. Any changes to controls which may be shown to be necessary will be conveyed to councils for inclusion in their current SDPs.

Thus it can be seen that the Government did respond to the issue of flooding identified in the study referred to by putting controls in place. Subsequently it undertook further studies in order to identify with more certainty flood prone areas and has acted to amend controls in the light of these further investigations. These controls will again be amended, as necessary, in the light of the most recent floods.

2. The Planning Act makes councils the authority responsible for making decisions on planning applications. Councils are obliged to have regard to the Development Plan when determining planning applications.

The recently completed Planning Review considered this arrangement and after considerable investigation and consultation with wide ranging interests concluded that it should continue.

The Government is committed to ensuring that it assists councils in their role as planning authorities by developing appropriate regional policies to be included in the Development Plan. In this way it can assist councils in their decision making.

The Planning Review has recommended that policies be reviewed every five years.

3. The declaration under section 50 has remained in place since its introduction. It has been varied so that it now only applies to land division applications made before the prohibition on allotments of less than 40 hectares was brought into effect. It is necessary that it remain in place until such time as these applications are withdrawn because applications are considered in accordance with the policies in force at the time of application. Lifting of the declaration would result in the creation of allotments of less than 40 hectares on flood prone land.

The future of the section 50 declaration will be reviewed as part of the coordinated work for the Gawler River flood plain but the main issue is to ensure that inappropriate development does not proceed.

4. The real issue is achieving the best possible policies in the Development Plan against which a planning authority can make decisions on applications. Local councils have shown their willingness to incorporate flooding policies in their local SDPs.

It is more appropriate that the State continues to be involved in assisting Councils to develop policies rather than assuming responsibility for assessing development applications.

Local Councils can, and do, seek the advice of Government Departments when considering development applications. Policies for the Gawler River flood plain make it quite clear what kinds of development are appropriate. Should a Council wish to approve a prohibited development proposal then it is required to seek the concurrence of the South Australian Planning Commission. Hence it is not considered that there is any need to vary the Seventh Schedule of the Development Control Regulations.

5. The whole issue of improved flood management has been referred to the Joint State and Local Government Task Group on metropolitan stormwater management. This is seen as the best means of facilitating State-local government co-ordination on this important matter. A meeting is to be held in the near future.

## HOUSING TRUST REPORT

In reply to **Hon. J.F. STEFANI** (19 November 1992).

**The Hon. ANNE LEVY:** The Minister of Housing, Urban Development and Local Government Relations has advised that part of the increase of $1 million for bad and doubtful debts is attributable to the failure under the Factory Construction Scheme of Pulchra of Italy Pty Ltd. In 1987 the trust agreed to assist the company to establish a gold chain manufacturing plant at Torrensville at a total cost of $1.5 million. In 1991 the company went into liquidation and the trust sustained a write off of $746 574 under the financing arrangements entered into with the company. The subject property is now leased by Telecom.

The figure of $10.669 million for employee entitlements includes provision for a number of areas, including long service leave, recreation leave and workers compensation. Note 18 *(d)* to the accounts refers only to workers compensation, which constitutes a small proportion of the total provision. The total provision for employee entitlements is as follows:

| | $m |
|---|---|
| Provision for Long Service Leave | 7.995 |
| Provision for Recreation Leave | 2.272 |
| Provision for Workers Compensation | 0.402 |
| | 10.669 |

## STATE FINANCES

**The Hon. L.H. DAVIS:** I seek leave to make an explanation before asking the Attorney-General, as Leader of the Government in the Council, a question about State finances.

Leave granted.

**The Hon. L.H. DAVIS:** Last week, the self-styled Placido Domingo of Australian politics, Prime Minister Paul Keating, swanned into Adelaide and gave an unspectacular performance that received from Premier Arnold and his Labor colleagues less applause than the sound of a one-armed man clapping. The Prime Minister announced that the State's net public debt had ballooned to around $8.25 billion, fuelled by the massive $3.1 billion State Bank losses. This figure of $8.25 billion is $1 billion more than the official estimate given by the Labor Government for the end of the last financial year. Furthermore, Prime Minister Keating said:

> The State Bank is costing the South Australian budget about $280 million every year.

Again this was at sharp variance with the figures provided in the 1992-93 State budget which estimated that interest repayments on the debt to cover the State Bank losses would be $175 million. The Prime Minister's figure of $280 million is a massive 60 per cent higher than the State budget estimate of $175 million.

Considerable publicity has been given to this extraordinary and public conflict between Prime Minister Keating's figures and the Arnold Government's figures. My questions to the Attorney-General are:

1. Can he reconcile the conflict in these figures?

2. Will he advise the Council as to whether Prime Minister Keating's figures are correct?

3. Will he advise the Council as to what is the estimate for the State net public debt?

4. Will he advise the Council as to what is the estimate for the interest repayment on debt to cover State Bank losses in the period 1992-93?

**The Hon. C.J. SUMNER:** That question has been substantially answered by the ministerial statement which I tabled in the Council at the beginning of Question Time and which has been given in another place by the Treasurer and Deputy Premier. So I would refer the honourable member to that statement for answers to the question.

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

**The Hon. C.J. SUMNER:** A number of copies were distributed. The statement answers the honourable member's question about reconciling the figures used by the Prime Minister and those in the Government's budget papers tabled last year. As to the question of the interest payable on the State Bank debt, I do not have information on that matter and it is not covered specifically by the ministerial statement, although I suspect that the considerations which were explained in the ministerial statement apply to the interest on the net State debt as well as to the issue of State debt which is dealt with in the ministerial statement. I will obtain further information for the honourable member on what he says is a discrepancy between Mr Keating's figures and the State Government's figures on the amount of interest being paid on the State Bank debt and bring back a reply.

**The Hon. L.H. DAVIS:** I ask a supplementary question. Having had the opportunity to peruse briefly the ministerial statement, is the Attorney-General suggesting that Prime Minister Keating's figures are in error in any way and why did the ministerial statement make no attempt at all to explain the clear discrepancy that exists between Prime Minister Keating's figures and the State budget estimate in respect of interest payments on debt to cover State Bank losses?

**The Hon. C.J. SUMNER:** I do not know why the second matter was not dealt with in the ministerial statement but I will ask the Treasurer why that is so.

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

**The PRESIDENT:** Order! The Hon. Mr Davis will come to order.

**The Hon. C.J. SUMNER:** The matter has been answered substantially by the ministerial statement which I tabled and which was given by the Treasurer in another place, and I paid the honourable member the courtesy of tabling it in this House. I have said that I will get further information on the matter that is not specifically contained in the ministerial statement, that is, the question of the interest being paid and what the honourable member says is an apparent discrepancy, and bring back a reply. I would have thought that that was a reasonable response to the honourable member's question.

**The Hon. L.H. Davis:** Will you bring it back tomorrow?

**The Hon. C.J. SUMNER:** I will bring it back when it is ready. I will have to check with the Treasurer.

**The Hon. L.H. Davis:** It's a pretty important point.

**The Hon. C.J. SUMNER:** The honourable member says that it is an important point. I suspect that this matter will be resolved as simply as the question of the apparent dispute over the size of the net State debt. I think the ministerial statement reconciles the two figures that were being used and explains the reasons" for them.

## KENSINGTON PARK TAFE

**The Hon. J.F. STEFANI:** I seek leave to make an explanation before asking the Minister representing the Minister of Public Infrastructure a question about the former Kensington Park College of TAFE.

Leave granted.

**The Hon. J.F. STEFANI:** Recently, I received a written reply to a question which I asked the Minister on 29 October 1992 concerning the sale of the Kensington Park TAFE college. In his reply the Minister confirmed that when this public asset was offered for sale at auction a declaration was made by the Government through its auctioneer that the buildings were clear of asbestos.

Subsequently, asbestos has been found in a number of buildings and the Minister has informed me that an agreement has been reached between the officers of the Department of Environment and Planning and the new owners that asbestos contained within the buildings would be removed prior to settlement of the contract. I have been further advised that the cost of demolishing the unwanted buildings containing asbestos would be shared between the department and the purchasers. My questions to the Minister are:

1. What were the costs associated with the asbestos removal and how much was paid by the Department of Environment and Planning?

2. What was the share of the costs met by the department to demolish the asbestos contaminated buildings?

3. Will the Minister confirm or deny that these costs have been incurred by the Government as a result of the public declaration that the buildings were free of asbestos?

4. Will the Minister advise the date on which settlement has occurred or is likely to occur?

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

## WINE LABEL

**The Hon. I. GILFILLAN:** I seek leave to make an explanation before asking the Attorney-General a question about the production and distribution of a racist wine label allegedly linked to the Whyalla Police Social Club.

Leave granted.

**The Hon. I. GILFILLAN:** Earlier this week I received a letter and two photographs from Mr Joe Vermeuler of Queensland, who is an avid collector of port wines. Mr Vermeuler visited South Australia in July last year during which he toured the Barossa Valley and Southern Vales wine districts and bought a number of bottles of good South Australian wine and port. During his stay in Adelaide he was given a six-pack of port by an acquaintance and it was not until he returned to Queensland and unpacked the bottles that he examined the contents. One of the bottles of port had a label which read: 'Whyalla Police Social Club, 150th Jubilee Year Pray-Ta Port 1986'.

*Members interjecting:*

**The PRESIDENT:** Order!

**The Hon. I. GILFILLAN:** The centre of the label was dominated by a drawing of what is meant to be an Aboriginal woman, dressed in a loin cloth and holding what appears to be a cigarette in one hand and a port bottle in the other. Beneath the drawing the label reads as follows:

> We are pleased as part of the Jubilee 150th year to release a limited edition port. The true Australian flavour is guaranteed as the crushing, fermenting, bottling and corking was done using various bodily crevices of our pictured True Blue Aussie. If you try this brew, PRAY-TA above that you'll survive.

Mr Vermeuler said in his letter to me that '...with the public relations of our police not being what it should I found it disgusting and deplorable and was offended by these remarks on the label. What sort of mind does the Whyalla Police Social Club have to put down our Aboriginal people in this way, not only putting shame on themselves but on the whole of South Australia, especially Whyalla...'.

My staff called Mr Vermeuler at his home in Queensland to check the details of the letter and confirm the information. In the telephone conversation Mr Vermeuler described the label as 'a disgrace'. He said when he realised what the label was he poured the contents of the port down the drain in anger but kept the bottle because he decided that something needed to be done about the matter. He then called the person in Adelaide who had given him the box of ports and was told that the offending bottle had been given to this person by a Whyalla police officer who allegedly said at the time that it was produced 'as a bit of a joke'. Mr Vermeuler said that it took him some time to write and in the end he chose to write to me because as he said 'The Democrats are the umpire among this mob of scoundrels.'

*Members interjecting:*

**The PRESIDENT:** Order!

**The Hon. I. GILFILLAN:** My questions to the Attorney are: will he give an undertaking to ensure this matter is investigated to determine who is responsible for the production of such racist and demeaning material and that the results of the investigation are brought to the attention of Parliament as a matter of urgency and will he also undertake to raise this matter with Police Commissioner David Hunt and seek assurances from him that suitable action is taken against those responsible for this outrage? I will make the photographs available to the Attorney for this purpose.

**The Hon. C.J. SUMNER:** Unless there is a breach of the law involved, which I doubt, it is not a matter for me to examine but a matter for the Minister responsible for the police. Accordingly, I will refer the matter to the police Minister and no doubt he will take the matter up with the Police Commissioner. I will then bring back a reply.

## HAEMOPHILUS INFLUENZA TYPE B

**The Hon. BERNICE PFITZNER:** I seek leave to make an explanation before asking the Minister representing the Minister of Health a question about haemophilus Influenza type B or (HIB).

Leave granted.

**The Hon. BERNICE PFITZNER:** As members are aware, I have been closely following the approval of the HIB vaccine for infants and children under five years of age. This vaccine is now approved and licensed and available for use, in particular for infants under the age of 18 months as well as older children. As we know, the disease can cause serious complications such as meningitis, which is inflammation around the brain and epiglottitis, which is inflammation in the throat, as well as other less serious complications such as hearing loss. The fatality rate is 5 per cent. The complication rate is 15 per cent.

Aboriginal children are affected six times more than the non-Aboriginal community. In the February edition of a medical magazine it was reported that the lack of Federal funding would curb this HIB immunisation program due to commence in July of this year. It is alleged that the Federal funding will only cover 50 per cent of the cost of the vaccine. Victoria has been offered less than 50 per cent of the costs and may consider a user pays approach. New South Wales has been offered 70 per cent of the required funds and is doubtful as to whether the HIB program will proceed. As we know, Western Australia has already set aside $1 million and the program has commenced. The National Health and Medical Research Council has strongly recommended that a HIB program be introduced. The Federal Government fully funds all vaccines in the routine immunisation programs for children such as triple antigen and polio etc. HIB vaccination should be a routine immunisation program for children. With the Federal elections on and knowing the Federal funds will only cover 50 per cent of HIB immunisation costs, my questions to the Minister are:

1. What is South Australia going to do regarding implementing an HIB immunisation program?

2. If there is to be a program when will it commence?

3. Will the Minister move to a user pays approach?

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

## LOCAL GOVERNMENT DISASTER FUND

**The Hon. PETER DUNN:** I seek leave to make a brief explanation before asking the Minister for the Arts and Cultural Heritage a question about the Local Government Disaster Fund.

Leave granted.

**The Hon. PETER DUNN:** During this summer there has been unseasonal rain across South Australia, particularly a fortnight ago when there were large amounts of damage to South Australian properties. In fact, the damage has been quite horrific. I understand there are 33 councils that have claims in excess of $6 million for repairs to roads only. One council has a claim of $978 000 just to get its roads in a passable condition. Late in 1992, after a very wet harvest, the Minister of Primary Industries announced that a natural disaster would not be declared because councils only would benefit from this operation and not the primary producers who were losing money because they are unable to harvest. Federal Primary Industry Minister Crean announced today that farmers would receive interest subsidies to pick up the losses that the farmers received during the wet harvest. On Sunday, 24 January very heavy rains (up to 7 inches) fell in one day—to my observation exhibiting all the effects of a natural disaster—causing huge amounts of water erosion and many roads became impassable. My questions to the Minister are:

1. Will the South Australian Government apply for the natural disaster funds that we can access?

2. If not, will they top up the local government disaster fund to meet the claims anticipated?

**The Hon. ANNE LEVY:** I will refer those questions to my colleague in another place. As the honourable member will be aware, the Local Government Natural Disaster Fund is regularly topped up by the taxpayers of this State through the levy that they pay for this purpose. For a more detailed response I will refer the questions to my colleague in another place.

## FILM INDUSTRY

**The Hon. DIANA LAIDLAW:** I seek leave to make an explanation before asking the Minister for the Arts and Cultural Heritage a question on the commercial film industry.

Leave granted.

**The Hon. DIANA LAIDLAW:** Last year the Minister appointed a committee, headed by Ms Gabrielle Kelly, to re-examine the structure and effectiveness of the commercial film industry in South Australia.

I have been advised that the committee's report was presented to the Minister in early December, some eight weeks ago. I have also been advised that the report incorporated a recommendation that the Minister should release the report immediately as a discussion paper. There is disquiet in the industry, and that has been reported to me by several people, that the Minister has ignored this important recommendation and has instead referred the report to her department where it is feared that it is now languishing.

Is the Minister aware that her delay in releasing the report, coupled with her indecision about how and when to act on the committee's other recommendations, is compounding problems in the industry arising from the recession and from other funding constraints within television stations? Does the Minister intend to release the report on the current and future status of the commercial film industry in South Australia and, if so, when?

**The Hon. ANNE LEVY:** It is true that I have received a copy of the film industry working party's report. I did not receive it early in December. I cannot recall the exact date but it was shortly before I went on leave, and I certainly did not have time to peruse it

before going on leave. I have now read the report and I have had discussions regarding the matter and the contents of the report, including discussions with officers of the department. I intend to release the report, although at this stage I cannot say exactly when.

There are some factual errors in the report, and I want to get the agreement of the working party to the corrections of those factual errors before I release the report; otherwise, wrong impressions will be given from the factual errors contained therein. I hope to be able to release it in the very near future.

## CREDIT CARDS

**The Hon. K.T. GRIFFIN:** I seek leave to make an explanation before asking the Minister of Consumer Affairs a question about credit card fees.

Leave granted.

**The Hon. K.T. GRIFFIN:** Honourable members will be aware of the number of questions that I raised on this issue last year in the light of the Commonwealth Minister's indication that the Commonwealth would legislate to allow up front credit card fees to be charged and would seek to do that regardless of the decisions of the States. I understand from the *Advertiser* yesterday that there is to be a meeting of the Standing Committee of Consumer Affairs Ministers in the next few days at which this is to be considered.

According to yesterday's report, the Minister indicated her opposition to card fees but took the view they should not be imposed without a substantial fall in credit card interest rates. The report indicated that the Minister was prepared to compromise on those fees because, as the report says, 'I cannot allow the States' efforts to agree on the legislation to fall because of it.'

There are a number of issues relating to the imposition of credit card fees conditional upon a reduction of interest rates and that is the area of my questioning. My questions are:

1. Can the Minister indicate what formula she may be proposing for the reduction in interest rates on credit card liability in return for the concession that credit card fees may be charged up front?

2. Can the Minister indicate what compromise she is prepared to accept as she goes to the meeting of the Standing Committee of Consumer Affairs Ministers?

**The Hon. ANNE LEVY:** I am very happy to respond to the question asked by the honourable member. First, I should indicate that the SCOCAM meeting was called to consider not merely credit card fees but the whole uniform credit legislation, which involves a very large number of matters, most of which have been resolved at previous meetings of SCOCAM.

However, there are still three or four issues on which there has been disagreement between the States and the Commonwealth. When I speak of compromise, I refer to compromise over these several issues, not specifically the issue of fees for credit cards.

The honourable member quoted the Government's position on credit card fees, which has not altered in any way from that which my predecessor announced to this Parliament last August: that we are prepared to accept up front fees for credit cards provided—I stress 'provided'—that they are accompanied by a substantial fall in the interest rates on credit card balances.

It was the Federal Treasurer who made the announcement to which the honourable member referred in November or perhaps late October last year. Since that time there has been discussion about having a SCOCAM meeting and there have been discussions regarding the three or four remaining issues on which there has been disagreement between the States. There has been correspondence between the Ministers of the different States and the Federal Minister of Consumer Affairs, and there has been a telephone hook-up between officers from the six States, the two Territories and the Commonwealth.

I was very optimistic that an agreement would be reached by the nine parties involved at the meeting scheduled for Friday this week. Unfortunately, that meeting has now been cancelled. The Chair of the meeting, the New South Wales Minister of Consumer Affairs, rang me late yesterday to say that she had to cancel the meeting in the light of the Federal election, that it would not be possible or proper for the Federal Minister to make policy decisions once an election had been announced and that, because of the Western Australia election, there was, as yet, no Minister of Consumer Affairs in that State.

Basically resulting from the combination of the West Australian election last week and the Federal election which has been called, it was not going to be possible for the nine Ministers to get together and the current Chair of SCOCAM has postponed the meeting, suggesting that it will not take place for another two or three months. I very much regret this indeed, particularly as last November, when I was contacted regarding this SCOCAM meeting, and the time of early February was then put to me, I suggested to the Minister in New South Wales that it was risky to choose February as it was likely that a SCOCAM meeting would get tied up with either the West Australian election or the Federal election, if not both, and suggested that it would have been preferable to have the SCOCAM meeting before Christmas. However, my suggestion was not followed up, and as a result the meeting to which we have all been working very hard indeed will not now take place this Friday, and I very much regret that it will be postponed for two or three months.

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## PUBLIC CORPORATIONS BILL

Adjourned debate on second reading.

(Continued from 25 November. Page 1004.)

**The Hon. K.T. GRIFFIN:** In his second reading speech on this Bill the Attorney-General seeks to rewrite history and defend the Government's dismal record in relation to the State Bank. He misrepresents the legal position on the State Bank and its relationship with the State Government. He seeks to perpetuate the myth that the State Bank Act did not allow the Government to find

out what was happening. That is nonsense. In his second reading speech the Attorney-General says:

> Whereas the State Bank Act removes the Government's capacity to control and direct the bank it is now clear that this policy was flawed, as it seriously restricts the Government's capacity to fulfil its obligations as owner of an authority on behalf of the community and guarantor of its debts. The Public Corporations Bill is predicated on the belief that if the Government is to accept final accountability for the functioning of its public trading enterprises then the Government must have authority to control and direct these authorities subject to safeguards to ensure that this power is not used inappropriately.

The Liberal Party has submitted to the State Bank Royal Commission on term of reference No. 2 that there was nothing significantly wrong with the State Bank Act but everything was wrong with the Government's lack of supervision under the powers which were granted to it. I think it is appropriate if I just explore for a few minutes some aspects of that submission in respect of term of reference No. 2 and also refer to the royal commission's first report in relation to certain aspects of that relationship between the bank and the Government.

Term of reference No. 2 deals with the appropriate relationship between the bank and the Government. The royal commission's first report refers to many aspects of the relationship which were found to be clearly inappropriate. The most significant aspects found in the second and third chapters of the first report include the following:

1. The Government 'sought to derive political advantage' from the bank (that is key finding 4.1).

2. The Government failed to properly exercise the consultative powers conferred by section 15 of the Act (that is in finding 5.6)

3. The Treasurer did not seek or wish to be regularly briefed on the bank's operating reviews, profit plans or strategic plans (5.7).

4. The Treasurer did not fund the bank by way of grant or loan as contemplated by section 20 (5.10).

5. Treasury interfered in the bank's accounting practices (5.12).

6. Failure to comply with accepted criteria of financial performance (5.13).

7. The Government's failure to charge a commercial guarantee fee (5.14).

8. Treasury failed to adequately scrutinise proposed acquisitions (5.15 to 5.17).

9. The social charter in section 15(1) of the Act was not complied with (5.19).

10. The Government failed to take effective measures to monitor or control the growth of the bank (6.4).

11. The Treasurer, the Treasury and the bank did not address the role of the Treasurer as guarantor of the bank's liabilities or determine the scope and nature of the information which the Treasurer was entitled to receive (7.5).

12. The Treasurer and the board abdicated their respective roles and responsibilities in relation to dividends under section 22 (page 250 of the first report).

Some of the essential elements of an appropriate relationship that should exist between the Government and the bank are summarised at pages 42 to 46 of the first report. It is essential, in the submission of the Leader of the Opposition to the royal commission, that the Government recognise the following elements:

1. That it has the right, obligation and need to know and understand the bank's affairs, and that it has a real and legitimate interest in the conduct of the bank's affairs (page 45).

2. That the Treasurer has a specific obligation of understanding to a significant degree the bank's affairs so as to have proper regard to the bank's profitability, not profit, and the adequacy of its capital and reserves (page 42).

3. That it should be vigilant and well-informed about the bank's affairs.

4. That, as owner, it should be in a position to assess the quality of its investment and the nature and extent of its potential liability as guarantor.

5. That it is under an obligation to inquire into and be informed about the bank's affairs.

6. That it should consult with the bank and that the process should be wide-ranging.

7. That it should not seek to exert political influence on the bank.

For its part, the bank has concomitant duties and responsibilities. It should:

1. Recognise and acknowledge that the bank is an institution of the Government and that the Treasurer is guarantor and represents the owner.

2. Understand and honour the social objective of the bank as reflected in the charter in section 15(1) of the Act.

3. Provide accurate, relevant and timely information to the Treasurer so as to enable him to meet his responsibilities to the people of South Australia.

4. Not to succumb to political pressure.

In the Liberal Party's submission to the royal commission we have said that these elements are entirely consistent with the existing legislation, which already establishes the satisfactory framework for an appropriate relationship between the bank and the Government. In our submission, when considering reporting arrangements we did not submit that the detailed reporting arrangements be codified or specified in the Act. The essential requirement is that the bank furnish timely, accurate and relevant information to the Government and that the Government demonstrate a real interest in it, not a superficial one.

We did not argue for the inclusion of any legislative requirement specifying that particular information be furnished by the bank to the Government, because any such requirement could be construed as relieving the bank of the obligation to furnish any other material. The history of the bank as outlined in the first report shows that the bank, without any legislative obligation, furnished the Treasury with a great deal of information. This activity was rendered futile because the Treasury, encouraged by the attitude of the Treasurer and the policy of the Government, failed to scrutinise the data.

The existing legislation creates the framework for appropriate reporting arrangements between the bank and the Government. If the participants in that process have an understanding of the proper working relationship between them and are committed to effective public administration, they will ensure that the requisite information is furnished and analysed. So, in relation to

reporting and other areas, the Government cannot use the State Bank as an argument for this Bill.

It cannot be over-emphasised that the bank's catastrophe was not caused by any deficiencies in the Act itself. There is nothing basically wrong with the legislation. The problem was that the Government failed to comply with it and use the powers it was given. The Bill before us is a knee-jerk reaction to the Government's desire to get itself off the State Bank hook, and it pushes the pendulum to the other extreme, to that of intense regulation, which is likely to have the effect of deterring competent and experienced men and women from serving on boards.

The curious aspect of the Government's timing on the Bill is that we are awaiting the Royal Commissioner's report on term of reference no. 2 which, presumably, will be pertinent to this Bill. As I understand it, that report is likely to be presented soon and, if that is the case, why not wait until that report is tabled, rather than pre-empting it in respect of the continuing debate on this Bill, or is there some concern in the Government that it may not back up what the Government proposes on this Bill?

Certainly, it seems appropriate in all the circumstances to examine the recommendations of that second report before proceeding further with the consideration of the Bill. In conjunction with the legislation, the Government proposes a number of other measures. It proposes: to review the composition of boards of public corporations; to review the process for recruiting, selecting and appointing directors; to review remuneration practices; to establish charters for public corporations; to set new standards for annual reporting; to prepare a handbook of practice and conduct for directors; and to install a system of ongoing monitoring of public corporation performance.

All these will require considerable clarification during the course of the debate, and I will refer to some of them later. They are generally vague. While they sound good, they lack any flesh on the bones. The Bill is radical. As far as I can ascertain, there is nothing comparable in Australia. The New South Wales State Owned Corporations Act is quite different and cannot provide a precedent, and the recommendations of the royal commission in Western Australia, whilst proposing a State Owned Corporations Act, do not provide a framework comparable with this Bill.

The Bill will apply to a public corporation to which the provision is declared to apply by the Corporations Incorporating Act or by regulation. It should be noted that a regulation may apply any provision of the Bill to a public corporation and not necessarily apply the whole Bill. Where a provision of the Bill is declared by regulation to apply to a public corporation and there is inconsistency between that regulation and the Public Corporations Incorporating Act, then the provision of the Bill applied by regulation will prevail.

At least in the early stages there is likely, therefore, to be inconsistent legislation; namely, this Bill and the incorporating Act of a particular public corporation, although the Attorney-General does indicate that progressively the Government proposes to amend such incorporating legislation to remove the inconsistencies.

There is no indication as to which public corporation the Bill will be applied either by a specific incorporating Act or by regulation and whether in whole or in part. That is one of the major defects of this Bill, that neither in the second reading speech, nor more particularly in the Bill, is there any clarification of the public corporation to which the Bill is to be applied. I suggest that it will be a great pity for the poor board member who suddenly finds the Government has applied the personal liability provisions by regulation to a public corporation of which that person is a board member without notice and without any opportunity to comment on the proposition. I suspect, though, that if that were to occur there would be a wholesale resignation of directors faced with that personal liability provision, or for that matter some other provisions.

So, the application of the Bill is selective, selective in respect of the corporations it will apply to and selective in respect of the provisions to be applied to a corporation. This is some time in the future and as such is not conducive to certainty. A public corporation is defined as a body corporate other than a municipal or district council that is established by or under another Act of Parliament and comprises or includes, or has a governing body that comprises or includes, a Minister or a personal body appointed by the Governor or a Minister. This means that the Bill can be applied to any Government statutory authority and any other body which might be established by or under another Act where even one member is appointed by the Governor or a Minister, such as the University of South Australia and Flinders University both of which have appointees of the Governor on their respective councils. It would, though, I suggest, be quite bizarre for the Bill to apply to these two particular institutions for example.

The Bill also applies to subsidiaries of a public corporation being bodies which are subsidiaries in accordance with the provisions of the corporations law. A public corporation requires the approval of the Treasurer to form a subsidiary company or to enter into any arrangement in relation to the holding of a relevant interest in shares in a company such that the company becomes a subsidiary of the corporation. This is not something with which the Liberal Party has any difficulty. That in itself appears an appropriate safeguard against a dramatic escalation in the formation of subsidiaries. It is interesting to note in relation to that matter that in the report of the Royal Commission into Commercial Activities of Government and Other Matters, in Western Australia, in part 2, it does make a recommendation which I would commend to the Attorney-General and to the Government. Recommendation 3.14, point 10, states:

(a) Where a company is created or acquired by the Government or a statutory authority, the responsible Minister table in Parliament a notification of this fact, the reasons for the creation or acquisition of the company and the business or other purposes to be pursued by the company.

(b) A central register of all such companies be kept in the office of the Auditor-General, the official or authority responsible for the creation or acquisition of a company being obliged to provide that office with the information required be entered in that register.

(c) On the creation or acquisition of a company by the Government or a statutory authority it thereby becomes subject to the State Owned Companies Act, which we are proposing.

There is then another recommendation as part of recommendation 3.14.10 which is peculiar to Western Australia. A central register of such companies and subsidiaries would certainly be an advance on what we have at present.

The Government may by regulation establish a body corporate as a subsidiary of a public corporation. Such a subsidiary is an instrumentality of the Crown. It holds its property on behalf of the Crown and may be dissolved by the Governor. Such dissolution by the Governor provides for the dissipation of assets and the application of liabilities in accordance with the decision of the Governor. I suggest that there would be a problem with that if it were to be continued in the Bill, and that problem relates to the uncertainty which investors may have or those who may be doing business with the corporation where it is under threat potentially of being dissolved by the Governor. The Governor may by regulation establish a body corporate with a board of directors. Both of these provisions mean that rather than bodies corporate being formed by Act of Parliament where there is close scrutiny of the nature of the corporation and the need for it as well as its powers and functions, the Government can do this by regulation, so that only the regulation is subject to disallowance and the formation of the body corporate is not subject to the same public scrutiny by both Houses as it would be if it were in an Act of Parliament.

The Opposition does not support this wide power. It holds the view that, if there is to be a public corporation established, it must be established by a specific Act of Parliament and run the gauntlet of upfront scrutiny by both Houses of Parliament rather than belated scrutiny through the disallowance process in a regulation.

Other features of the Bill include the following:

1. A public corporation is to be subject to control and direction by its Minister. Some statutory authorities are now, some are not. The Senior Secondary Assessment Board of South Australia is not. The question that comes to mind is: will it become subject to ministerial control and direction? The Legal Services Commission is not: will it become so liable? Flinders University and the University of South Australia are, as I have already indicated, corporations which are caught by the Act. They are not subject to ministerial direction and should not be, but will they be if the present definition is left in the Bill and the Bill is applied to those universities?

*The Hon. C.J. Sumner interjecting:*

**The Hon. K.T. GRIFFIN:** The point I was making whilst the Attorney-General was otherwise engaged and to which he can respond later is that there is no indication of the public corporations to which this Bill applies, and I am seeking some clarification of that. The State Bank and SGIC are not subject to ministerial direction, but the question is: will they become subject to ministerial direction?

2. A public corporation must furnish to the Minister responsible for the corporation at the request of the Minister such information or records as the Minister may require. Does this include loan by loan information from the State Bank, if the Bill applies to the State Bank? The commercial confidentiality argument used by the Government on so many occasions to decline to provide information will become a nonsense. No longer will trading corporations be seen to be largely at arm's length from the Government. One must seriously question why we have such corporations competing with the private sector in any event, but the effect of the provisions and the attendance of a Government officer at board meetings will make it extremely difficult for public corporations to engage in commercial activity or in competition with the private sector. That, in conjunction with ministerial control and direction, I would suggest makes that a very real possibility. Quite obviously, potential customers may fear that their commercial confidences will be shared with the Government of the day.

That was one of the concerns which was expressed at the time when the State Bank Act was being considered in 1984, that a Government instrumentality dealing with very sensitive, personal and private business information may give the Government an opportunity to discover information which could not otherwise be discovered if a person or body was dealing with a private sector banking organisation. So, with the greater measure of governmental control and the reporting obligations proposed by this Bill one does have to question whether Government trading enterprises are going to have any success or are likely to lose customers and be unable to compete because of the potential for information to be disclosed to the Government of the day.

3. A person authorised by a Minister responsible for a corporation or the Treasurer may attend but not participate in any meeting of the board of the corporation, but there is no indication as to the responsibility of that person vis-a-vis the public corporation and the Minister. Is everything reportable to the Government, even a customer's personal or business details or secrets, and is the Treasury or other officer entitled to make that information available other than to immediate departmental officers? Those questions are pertinent to a consideration of that provision.

4. A direction by the Minister to a corporation must be published in the corporation's annual report unless the corporation is of the opinion that publication of the direction might detrimentally affect the corporation's commercial interests, might constitute breach of a duty of confidence, might prejudice an investigation of misconduct or possible misconduct or be inappropriate on any other grounds, which is not defined. That reference to 'any other grounds', which as I have said is not defined, is I think a licence to cover up. Although there is a provision for some general information about a direction to be given in the annual report, one does have to question why a ministerial direction of any sort should not be reported in full, unless of course Ministers are going to get into the business of directing statutory authorities to do business with particular people or a particular sort of business or to exert influence, as did the State Government in the 1985 State election and the 1987 Federal election when it brought pressure to bear in order to keep housing loan interest rates down prior to an election period.

5. A public corporation must perform its commercial operations in accordance with prudent commercial principles and use its best endeavours to achieve a level

of profit consistent with its functions. There is no definition of 'commercial principles'. There is no recognition that 'best endeavours' means much more than 'reasonable endeavours' and places a much higher duty upon directors and a public corporation than 'reasonable endeavours'. I question whether it is reasonable in all the circumstances for that heavy onus to be placed upon the directors of a corporation which is in excess of the obligation and responsibility imposed on private sector directors by the corporations law.

Of course, there is the focus on the level of profit consistent with its functions. One has to recognise that there are bodies such as the Grand Prix Board that do not make profits and there are others in the arts and cultural area which do not make profits. One has to question how this provision is to be applied if the Bill is to apply to those sorts of bodies. Mr Acting President, pity the board which has to interpret this obligation under threat of dismissal and personal liability if they get the interpretation wrong.

6. A charter is to be prepared for a public corporation by its Minister and the Treasurer after consultation with the corporation. The charter and any amendments must be laid on the table of both Houses of Parliament within six sitting days and a copy provided to the Economic and Finance Committee of the Parliament but there is no power in the Parliament to disallow or amend the charter. Surely the charter should be set by the enabling Act passed by the Parliament. It is interesting to note that in the Government's Public Trading Enterprise Paper tabled when the Bill was introduced it is envisaged that the charter may override the legislative enactment. In other words, to give the executive arm of Government *carte blanche* in relation to the powers, functions and scope of activity of a public trading enterprise where the Government and the enterprise work on the charter, table it in Parliament and that is the end of it. It can override what Parliament specifically provides in the legislative enactment which establishes the public trading enterprise. That is quite wrong in principle and will be opposed by the Liberal Party.

7. Management duties of the board are set out in detail and place onerous duties upon directors. If a director is culpably negligent in the performance of his or her functions, the director is guilty of an offence but a director is not culpably negligent unless the court is satisfied that the director's conduct fell sufficiently short of the standards required under this Act of the director to warrant the imposition of a criminal sanction.

That is a very wide provision; I suggest it is open to abuse. There is certainly no certainty in it. It is left to judges to determine the standards and I think gives no guidance to the directors. As I understand, it is very much wider than the liability of directors of publicly listed companies under the corporations law. I will address a few remarks on that issue of directors' responsibilities at a later stage based upon some representations made to me and a careful analysis of that part of the Bill which deals with directors' duties.

8. Transactions by directors and associates of directors with the corporation may not occur without the approval of the corporations Minister. An associate is defined as a relative of the director or the director's spouse or a body corporate, where the director or a relative of the director or the director's spouse or two or more such persons together have a relevant interest equating to not less than 10 per cent of the nominal value of the issued share capital of the body corporate. A relative is the spouse, parent, or remoter linear ancestor, son, daughter, or remoter issue, or brother or sister of that person.

Mr Acting President, all I ask is how can a director know what all of these relatives may be doing in relation to bodies such as the State Bank or SGIC, or with some other trading enterprise which does carry on a wide-ranging business. In those circumstances if the Bill is to apply to the State Bank or to SGIC, or to ETSA for that matter, how can a director know what his or her relatives may be doing with respect to that organisation? I suggest it is an absolute impossibility.

9. Directors incur a civil liability where the director is convicted of an offence for contravention of the conflict of interest provisions and may be required to disgorge a profit. But not only may that be required but also any damages or loss suffered by the corporation. I have no difficulty with one or other, whichever is the greater, but certainly not both, subject, of course, to the other observations I have made with respect to the clarification required of the conflict of interest provisions.

10. The same rules apply to subsidiaries as apply to the principal corporation. It may be that the directors of the principal corporation may be liable for what happens with the subsidiary corporation, even though there may be another board of directors or a differently constituted board of directors responsible for the subsidiary.

11. The liabilities of a public corporation are guaranteed by the Treasurer and the public corporation is liable to pay such rates other than council rates, duties, taxes and imposts to the State Government as it would have paid if it were not an instrumentality of the Crown. The liabilities of a subsidiary corporation may not be guaranteed by the principal corporation unless it is with the approval of the Treasurer. I would suggest in practice that if there is a subsidiary corporation members of the public dealing with it, knowing it to be a subsidiary of a public corporation, will believe, perhaps mistakenly in the light of the legislation, that the liabilities of the subsidiary corporation are guaranteed and will be met by the principal corporation.

12. Dividends may be paid where the public corporation recommends to the Treasurer a specified dividend or no dividend and such recommendation may be approved by the Treasurer or otherwise determined by the Treasurer. So, we can still have these corporations milked by a desperate Government, as happened with State Bank, and we can still have a Government requiring payment of dividends in advance even though profit is falling, as again occurred with the State Bank. It puts the Government in absolute control. It ignores the responsibility of the directors in respect of the operations of the business and severely compromises the ability of directors of public corporations to undertake their responsibilities. Where there is an issue of civil and criminal liability involved, if a situation is made desperate by a desperate Government, then one has to seriously question the statutory obligation upon directors who may be compromised by unreasonable demands being made by a Treasurer or in other respects by a Minister.

13. Annual reports are to include prescribed information relating to the remuneration of executives of a corporation and executives of its subsidiaries. The Liberal Party has no difficulty with that. We have been calling for that to be disclosed for quite some time.

14. The board is responsible to the Minister for overseeing the operations of the corporation and its subsidiaries with the goal of securing continuing improvements of performance and protecting the interests of the Crown. If applied to the Grand Prix Board, for example, what is a continuing improvement of performance? The board makes losses but is that the only factor to be considered and what other indicators of performance may there be and how is so called improvement to be assessed and by whom?

This is a blanket provision. What about the State Clothing Corporation which continually makes a loss or the Arts and Cultural Corporations which make losses? How is improvement, and continuing improvement, to be judged by which the liability of directors may be assessed?

In relation to that issue, I draw attention to the fact that in clause 12 one of the obligations is to protect the interests of the Crown. That is a loose and vague notion because the Crown can have different capacities. In what capacity is this reference made? Is it meant to refer to the Crown generally or to the Crown simply in relation to this particular public corporation's activity?

Might it mean that the directors of the public corporation are required to have their corporation act in a way detrimental to the interests of their own body in favour of the wider interests of the Crown? This needs to be addressed. That would be an intolerable situation and at the moment it is not clear.

15. The Auditor-General is to have wider powers, including the power to investigate subsidiaries of public corporations. That is agreed by the Liberal Party as being necessary, but it immediately raises the question of staff and resources of the Auditor-General and the extent to which the Government will satisfy that need. I address that issue particularly to the Attorney-General in the hope that he can give some indication as to the way in which the additional resources aspect will be resolved. There are numerous other provisions on which I shall be raising questions.

It is now appropriate to refer to some tentative advice that I have received from the Institute of Company Directors. It is not formal or official advice at this stage; it is tentative advice and has yet to be confirmed. In that tentative advice a number of important issues are raised in respect of the duties of directors. It is important, for the purpose of identifying the issues, that I refer to them in some detail.

In relation to clause 13, which deals with directors' standard of care, there is an attempt to codify the standard of care required of a director of a public corporation. Instead of adopting the formulation of the duty as laid down in the Corporations Law (I think it is section 232), the Public Corporations Bill has its own definition which requires a director 'to take all reasonable steps within the processes of the board to ensure that the board discharges its duties under this part'.

I suggest that is not clear. There is probably no body of law on what is likely to constitute 'all reasonable steps'. It is suggested to me that it is an expression with which the courts are probably unfamiliar and that it may have been better to substitute the wording referred to in section 232(4) of the Corporations Law, namely, that 'an officer of a corporation shall at all times exercise a reasonable degree of care and diligence in the exercise of his or her power and the discharge of his or her duties.' The addition of the expression 'within the processes of the board' in clause 13 is very difficult to interpret. It may be that it means that a director is not obliged to go beyond the processes of the board; that is, the director need only raise the issues within the board meeting and need not carry out an investigation on his or her own behalf into management deficiencies.

The Institute of Company Directors, in its tentative opinion, goes on to say:

> The far more worrying aspect of the section is that it is couched in terms of an individual director ensuring that 'the board discharges its duties under this part'. If this means that individual directors are responsible for other board members - who might not be performing as well - or for the board as a whole with whom the first director may be at loggerheads creates a potential problem. In a subtle way the clause refocuses not on the individual conduct of the particular director in question with his or her strengths and limitations but on the conduct of the board as a whole and the individuals. In short, the clause requires a board member to assume responsibility for other directors.

Clause 13(2) suggests that there is an obligation on an individual director to advise the Corporations Minister 'of any matter of which the Minister has not been advised by the board'. It seems to be another attempt by the Government to go inside the boardroom to seek out the minority directors and have them report on the internal machinations of boardroom debate. However, it seems strange that the Government was not prepared to cast that duty upon the board as a whole, which would have been more sensible, rather than to cast the responsibility upon individual directors.

In respect of clause 13(3), the institute, in its tentative advice, expresses a major concern that the obligation imposed by paragraph (b), to the effect that an individual director is required actively to seek to obtain sufficient information and advice about all matters to be decided by the board, is unduly onerous. The institute says:

> This suggests that a director must again go outside the normal processes of the board. Does this mean, therefore, it is inconsistent with clause 13(1) of the Bill in order to obtain sufficient information to discharge his or her duties? This suggests that the director is no longer permitted to assume the accuracy of information submitted to the board by management in support of a proposal. It might therefore be said to cast an unnecessarily heavy onus on a board director to go beyond those assurances of management and to embark upon the very kind of due diligence which management are already employed to do. As such, it threatens to disturb the power balance between board and management.

The institute also refers to clause 13(4). Whilst acknowledging that this is in some measure declaratory of the common law position, it suggests that the legislation does not make it clear that regard also ought

to be had to any particular skills, knowledge or acumen which a director does not possess. The institute says:

> In other words, the common law position is clear that, whilst a high standard of care might be expected of someone with particular skills in the area in which the corporation is engaged, equally a director who has less experience of that industry will not be subjected to the same standard of care. In the interests of balance, clause 13(4) ought to acknowledge that the absence of 'special skills, knowledge or acumen' might result in a lesser standard of care being required.

Clause 13(5) creates a criminal offence, whereby a director of a public corporation is culpably negligent in the performance of his or her functions. I have already referred to that.

The institute makes reference to the fact that directors of public corporations are poorly paid and are often appointed by Governments without adequate regard to the relevance of the background and skills necessary for the proper discharge of those duties. Whilst the Attorney-General says that directorships and remuneration are to be reviewed, we have to deal with this in the existing circumstances and not on the basis of the outcome of a review of which we do not know the terms or likely outcome.

What the Bill does do is increase the risk to which public corporation directors will be exposed, namely, criminal action and civil suits, in circumstances where the duties required under this Bill are likely to be more onerous than those cast upon directors of private sector organisations.

There is reference to clause 20, which provides immunity for directors in some instances. However, because of clause 13(5), where an offence of culpable negligence is created, the liability immunity becomes somewhat illusory.

A number of other issues are raised by the Institute of Directors which I am sure will be raised with the Attorney-General in the next few days and in any event can be raised during the course of the Committee debate.

I want briefly to address several issues that were raised by the Attorney-General in the public trading enterprise reform paper which he tabled when the Bill was introduced. He refers to South Australian public trading enterprises, suggesting that with the support of the Government a number of reforms aimed at improving performance and reducing costs have been implemented under the general heading of 'Commercialisation'.

There is not much evidence, I would suggest, of those reforms or of the improving performance and reduction in costs. One has only to look at the State Bank to see that that is quite contrary to the assertion made by the Attorney-General. Whilst the objectives of the Bill are to provide performance oriented management practices based on devolution of responsibility, I suggest that that really has not yet occurred.

The Government says in the paper that there will be a system of monitoring private trading enterprise performance but we are not to give any indication of what that might be. I believe that we need to have some clarification of what is proposed, how that is to occur and who is to undertake the performance monitoring before this Bill is further considered.

There will be new instructions on reporting standards, according to the paper, but we have no indication as to what those instructions will be or what the reporting standards will include, and I would like the Attorney-General to give some information about that. In that statement the Attorney-General says:

> The Government in turn should be accountable to Parliament via the various parliamentary processes. This requires that Ministers have authority to direct boards.

I suggest that that is not so and that the State Bank Act is one means by which proper accountability can be achieved without authority to give ministerial directions. A performance agreement will be developed in conjunction with boards. I should like some information from the Attorney-General as to how performance is to be measured, what standards and criteria are to be used and who is to judge that performance. The statement says that, in the interests of commercial confidentiality, the performance agreement will not, in the normal course of events, be publicly released. I would suggest that there is every good reason why the performance agreement should be made available and that commercial confidentiality will not be prejudiced by making that performance agreement available unless, of course, there are matters to be included in the performance agreement of which we are not at this stage aware.

Tucked away towards the end of the statement is a reference to the fact that there will be certain restrictions on public corporations. One will be that, in some instances, the Government will wish to specify arrangements for industrial coordination and the application of broader Government industrial policy. That seems very much to put public trading enterprises at a disadvantage compared with the private sector, if the Government is going to impose its own industrial agenda on these corporations, particularly where they are more restrictive than those in the private sector.

In his second reading explanation the Attorney-General refers to the establishment of best practice, and makes the point that the Government acknowledges the need for its public trading enterprises to achieve standards of productivity and service equivalent to world best to help ensure that South Australia is competitive. That concept is to be applauded in general, but only if one knows what 'world best' means. Does it mean in the context of the cheapest service, regardless of wages and conditions of employment and community requirements?

Whilst the Attorney-General is giving some consideration to the paper tabled at the time of the Bill's introduction, I should like him also to clarify what is meant by 'world best' in the context of a consideration of these public corporations. I will raise some other issues during the Committee consideration of the Bill. The Liberal Party will allow the Bill to pass through its second reading stage, because there are important issues that need to be considered in Committee. Because the Bill is so complex, it is not possible to identify every single area of concern in the second reading stage. We will propose a number of important amendments, and they include the following:

1. We will oppose provisions that allow subsidiaries and public corporations to be established by regulation.

2. We will allow the Bill to be applied only to those public corporations that are specified by amending Act of Parliament so that the application of the Bill or any provision of the Bill is not imposed by regulation.

3. The charter should be presented to the Parliament and be subject to amendment by the Parliament or to disallowance by either House of Parliament.

4. We will seek to protect directors from liability where they act in accordance with a direction by the responsible Minister.

5. We will limit the definition of 'relative' to spouse, parent, children or their spouses.

6. We will ensure that the Minister's or Treasurer's representative attending board meetings, whilst reporting to the Minister, may not divulge information beyond the Minister or the Treasurer.

7. We will require the Minister's approval of any decision of the corporation not to disclose details of ministerial direction and give reasons for such refusal to disclose the detail.

8. Innocent third parties should be protected where contracts between directors and relatives on the one hand and the corporation on the other have been avoided by the Minister or the corporation.

9. The liability of directors should be limited, where interests have not been disclosed, to both a fine where a conviction is recorded and the greater of an amount equal to the profit made by the person failing to disclose the interest or the amount of loss or damage suffered by the corporation as a result of the transaction, not both.

10. We will require delegations to be identified in the annual report.

11. Instead of allowing complaints from an offence to be laid only with the approval of the Minister responsible for the corporation, the approval of the Attorney-General should be required.

12. We will seek to clarify the issue of directors' liability and bring it in line with the corporations law.

And there will be other amendments. At the stage of the introduction of the Bill, the Attorney-General said that he would invite comments on the Bill, and it may be that amendments will be proposed as a result of submissions made. I suggest that before this Bill proceeds at the Committee stage it would be important for all members of the Council to have some idea of the changes the Government proposes to make as a result of those submissions, as well as a response on the numerous matters to which I have referred.

I repeat that we will allow the second reading of the Bill to pass but will deal in depth with those issues to which I have referred and with others during the Committee stage of the Bill.

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

## MOTOR VEHICLES (WRECKED OR WRITTEN-OFF VEHICLES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 18 November. Page 884.)

**The Hon. DIANA LAIDLAW:** This Bill seeks to reduce the incidence of stolen vehicles being registered with false identification obtained from wrecked and written-off vehicles. Essentially, the Bill deals with the issue of professional crime in vehicle theft, rather than with the recent instances we have heard about through the media, in particular, of so-called joy riding, and some of the horrific consequences of that practice. This Bill should not be confused with the very strident calls within the community for something to be done about this joy riding incidence.

This Bill relates to organised and professional theft involving motor vehicles. In that field of organised theft the compliance plates for wrecked and written-off vehicles have been used to reidentify stolen vehicles and as such have been an important tool in the professional car theft arena. The initiatives proposed in this Bill have been recommended by the Motor Vehicle Theft Committee comprising representatives of the RAA, insurance companies, the Motor Trades Association, the police and possibly a number of other representative organisations in the State. I understand that they also reflect practices in Victoria which have been successful in reducing the availability of compliance plate theft by nearly 90 per cent. How many vehicles that relates to in Victoria I am not sure, nor am I sure of what number of vehicles the Minister estimates are involved in South Australia, or potentially involved in South Australia, in this swapping of compliance plates in relation to wrecked and written-off vehicles and stolen vehicles. So, the figure of 90 per cent, in relation to Victoria, is probably a bit trite in a sense if we are not really too sure from what base the Victorians were working from, but it would be of some interest to me, but not critical interest in relation to holding up this Bill, to find out what range of cars we are looking at in this field.

The Bill also proposes that insurers, the motor trade, wreckers, auctioneers and private owners will be required to notify the Registrar of Motor Vehicles when a vehicle is wrecked and written off. Since January 1991 insurance companies alone, and then only on a voluntary basis, have agreed to notify the Registrar of Motor Vehicles about wrecked and written-off vehicles. The Minister noted in her second reading explanation that, because of the voluntary nature of this arrangement, it had not proved satisfactory in dealing with the practices in this area of professional car theft. It is also apparent that quite a number of insurance companies have not sought to be involved in this scheme and then some that have been involved have not chosen to participate or notify the registrar on every occasion. Therefore, for those reasons, the Government has seen fit now, on the recommendation of the Motor Vehicle Theft Committee, to see that there is this compulsory notification.

The Bill also proposes that a rebuilt, wrecked or written-off vehicle will be inspected before allowing re-registration and thirdly, that the registration of a wrecked or written-off vehicle will not be transferable and must be cancelled and reregistered if ownership changes. Future notification obligations upon private owners are to be confined to wrecked and written-off vehicles that are registered in order to cancel the registration and, in this sense, I understand the requirements upon private owners are different from those applying to all the other parties who will be required to notify the registrar. In all those instances, they will be required to notify whether or not the vehicle is registered.

It is proposed also that the procedures for the inspection of wrecked and written-off vehicles will be streamlined from two inspections involving both the Department of Road Transport inspector and the police. The Minister noted in her second reading speech:

To minimise inconvenience and cost it is proposed to introduce new procedures that will reduce the need for two inspections. Under this proposal an initial engine number inspection will be undertaken with a subsequent roadworthy inspection being requested only if deemed necessary by the inspector.

Under this new arrangement, who will undertake the initial inspection of the vehicle? Will it be the police who have earlier undertaken the engine number check or will it be the Department of Road Transport inspector who traditionally has been responsible for the roadworthiness check? It is not clear in the Minister's Bill in terms of streamlining the arrangements whether all the inspection procedures in future will be undertaken by the Department of Road Transport or by the police, although the second reading speech contains reference to a training program for police officers involving vehicle inspections. Possibly that means that the Department of Road Transport will not be involved in any way in the inspection of wrecked or written-off vehicles in the future.

Of all the groups who have written to me on this matter, the Motor Trade Association is the only one which has expressed considerable misgivings about this Bill. Following a meeting of the Auto Dismantlers Division of the Motor Trade Association, the Executive Director of the association wrote to me indicating that the association did not oppose the Bill but that it firmly believed that major loopholes and consequential opportunity for vehicle theft would remain largely unaddressed notwithstanding this Bill. It is also concerned that any documentation required of the association will be minimised. Perhaps the Minister could enlighten the Chamber and me about what documentation will be required of dismantlers and all those parties for whom it will now be compulsory to notify the Registrar of a vehicle that is wrecked or written off. The Motor Trade Association has adopted a strategy which it believes is the only way in which to address the major crime of vehicle theft in South Australia. The key points of the strategy are as follows:

1. All insured written-off vehicles fitted with Australian Motor Vehicle Certification Board compliance plates, that is, manufactured after 1970, have those plates defaced or marked at the time the vehicle is declared a total loss or write-off. Such defacing or marking would render the plate useless as an identifier and therefore be useless to vehicle thieves.

Motor vehicle number plates issued by the Registrar of Motor Vehicles be more stringently controlled and be required to be returned to the Registrar or police at the lapse of the term of registration where such registration is not to be renewed. This measure will deny the thieves another source of re-identification for stolen cars. Number plates can presently be found at council rubbish tips, car swap meets and in wrecking yards—a ludicrous situation. Ample provision is already made for historic cars to be regularly laid up and for personal and historic number plates to be retained.

2. The normal alpha series 'Festival State' plates are nothing more than a receipt for registration and new numbers can readily be assigned to vehicles presented for re-registration following a lapse. This is no different to issuing new series plates to interstate vehicles registered in South Australia for the first time (as is current practice).

3. All vehicles should be required to undergo an ID check (at the very least) at every change of ownership.

I understand that the Motor Trade Association's policy is still to have an identification check or inspection on an annual basis after a number of years of ownership; for instance, three or five years from the date on which the car was manufactured. It argues that at the very least there should be a compulsory inspection at the change of ownership. The paper continues:

Thieves do not steal cars to drive around for long periods, they steal them to sell them without inspections and, with so many vehicles sold via private treaty and the classified sections of newspapers, the thieves have an easy method of disposal.

4. All persons buying written-off vehicles from the small number of damaged vehicle auctions should be required to indicate, in written form, the purpose to which they intend to use the wreck. A register of buyers thus formed will provide police with a resource that will enable every previously insured car to be traced.

5. Automobile dismantlers, as the primary repository at present for compliance plates, registration number plates and complete motor vehicles, should be registered via a licence or registration system kept by the police. MTA auto dismantlers have already repeatedly made their support for this proposal quite clear.

Finally, the MTA strategy states:

The provision for proof of ownership of a vehicle via a title system does not exist in south Australia. Registration papers are not proof of ownership. Car dealers are required to pass on 'clear title' by law yet they have no way to prove clear title exists nor does any South Australian vehicle owner who does not possess a bill of sale or other proof of purchase. A title system must be introduced.

There have been a number of problems with registration papers being deemed to be proof of ownership by married couples that are separating. One party sells the car but the other party to the marriage assumes that because the car is registered in both names they have joint ownership. They have been surprised to learn that the car has been sold from under their nose. We will have to look at that matter again at some stage.

The Motor Trade Association has a long list of key points that it believes must be looked at if ultimately we are to deal with this issue of vehicle theft. On behalf of the Liberal Party I have undertaken to look at a number of those issues in more detail, although I do not think it is appropriate to deal with them at this time. I would like to know of any information that the Minister has on work that the Government may be doing on the matters noted in the strategy that has been adopted by the MTA Auto Dismantlers.

Finally, I refer to correspondence from the Minister to the member for Heysen, who wrote to the Minister on behalf of a constituent, Mr Lyn Baxter, regarding the requirement that his vehicle be inspected prior to being granted registration. I was concerned to note in the Minister's letter that Mr Baxter's vehicle was declared a write-off by the State Government Insurance Commission in written advice to the Registrar of Motor Vehicles on 5

October 1992 but the Registrar did not record the written advice until 10 November 1992, five weeks later.

I ask the Minister: is it normal practice or was it just exceptional in this instance that it took five weeks for advice from the SGIC that a vehicle had been written off to the time when the Registrar recorded notice of that advice? It seems to me that is an extremely long period and as we are trying to deal with this issue of vehicle theft, particularly undertaken by professional thieves, we may well have to smarten up our practices considerably as far as the Registrar is concerned.

I also note that the member for Heysen was concerned that his constituent was put to a great deal of expense and hassle in registering his new vehicle, which he admitted had been involved in an accident but had not in fact been either stolen, torched or written off and yet this same vehicle had been noted by the State Government Insurance Commission as a written off vehicle. Perhaps the Minister at this time or later can advise me when and how insurance companies, such as SGIC, would determine that a motor vehicle is written off. What criteria do they use? Mr Baxter was extremely upset when he noted that the Registrar had recorded the vehicle concerned as written off, which as I said put him to a great deal of expense and inconvenience and it may well have been inappropriately entered as written off by the SGIC. I am not seeking an exemption from the requirements to create a loophole, which I would agree with the Minister could be exploited by people involved in the trade of stolen motor vehicles. What I am seeking is further advice on how the State Government Insurance Commission determines that a vehicle should be classified as written off.

On that note I indicate that the Liberal Party supports the Bill. I am happy for it to go through the remaining stages at this time with the Minister answering whatever questions she may and perhaps by correspondence informing me about the other matters at a later stage.

**The Hon. BARBARA WIESE (Minister of Transport Development):** I thank the honourable member for her contribution to this debate and also for the support that she has expressed on behalf of the Liberal Party for this legislation. There are some responses that I can give now to questions that the Hon. Ms Laidlaw has raised and there may be other issues that I will have to seek further advice about in order to give full information. I will run through some of the issues that she raised and I will indicate which matters I have replies to at this time and which matters I will be seeking further advice on.

Firstly, there was a question about the number of vehicles that are likely to be involved with respect to this legislation. Whilst the figures I have might not indicate the whole number of vehicles that would fall into the category of wrecked and written off, the information I have relates to the expected increase in the number of inspections that should follow from the introduction of this legislation, which does provide quite considerable coverage of the field. I do not have with me the statistics on the number of vehicles which have been stolen, wrecked or written off during the year but what I can say is that it is anticipated that once this legislation passes that the number of initial engine number identity inspections undertaken will rise from the current 1 200 per year to around 3 800 per year. Those inspections will be undertaken by police officers, as is the case now. The initial identity check will be undertaken by police officers.

*The Hon. Diana Laidlaw interjecting:*

**The Hon. BARBARA WIESE:** Yes, at the Vehicle Operations Centre at Regency Park. Should a police officer, whilst conducting this initial inspection, feel that there could be grounds for a roadworthiness check as well, then that police officer will recommend that such an inspection be undertaken and that inspection would be undertaken by an officer of the Vehicle Operations Section of the Department of Road Transport. That is the arrangement that currently exists. The difference being, once this legislation is passed, that the roadworthiness check will not be conducted as a matter of course but only on the recommendation of the police officer who has conducted the initial inspection of the engine number and vehicle identity number.

The honourable member also raised misgivings that had been expressed by the Motor Trade Association and I am aware of the concerns that have been expressed by that association because they also corresponded with me about that matter. I must say that I am a little surprised at some of the claims that were made in the correspondence from this association, given that the Executive Director of the association is a member of the Motor Vehicle Theft Committee, which recommended these changes to the legislation. I am aware that the Motor Trade Association has held the view for some time that there should be mandatory checks of motor vehicles and that that and a number of other issues of concern to the association have been raised with the full Motor Vehicle Theft Committee.

One of the reasons that some of these things have not been recommended by that Committee and therefore have not been implemented at this stage is that other members of the Committee who also represent relevant interest groups within our community do not support a number of the issues that have been raised by the Motor Trade Association. For example, I understand that the RAA strongly opposes the idea of mandatory inspections because they say that there has not been evidence produced which would indicate that this is a cost effective measure, that it has not been proven that such checks will reduce theft or will reduce road accidents but that such mandatory inspections would certainly increase the costs to motorists. So there are different schools of thought on a number of these matters. I will not run through all of the issues that the honourable member has raised but I am aware that there are considerable concerns about a number of them.

I shall be taking further the issues raised by the Motor Trade Association because I want to satisfy myself that those matters have been given proper consideration. I am seeking advice from the Department of Road Transport and the Motor Vehicle Theft Committee about the correspondence that I have received on these matters.

With respect to a strategy relating to motor vehicle theft, in recent times the Motor Vehicle Theft Committee has been working on a number of proposals which soon will be finalised for presentation to the Attorney-General as part of the crime prevention program. I know that the

Executive Director of the Motor Trade Association has been very much involved with the development of that program and was aware at the time that he wrote to the Hon. Ms Laidlaw and to me that these additional recommendations were in the pipeline and would be presented to the Attorney-General in the near future. So, it is true to say that consideration of matters relating to motor vehicle theft is continuing. As new ideas come forward which are feasible and affordable, the Government is prepared to give appropriate consideration to them and will implement them when it is possible to do so. I shall be receiving further advice concerning the matters raised by the Motor Trade Association, and I shall be communicating further with that association on the correspondence that I have received. Hopefully, some agreement can be reached on some of these matters.

With regard to the questions that arose from the correspondence with the member for Heysen, I shall have to seek further advice on those issues. I agree that five weeks seems rather a long time to record within the office of the Registrar of Motor Vehicles that a vehicle has been wrecked or written off. I hope that is not a normal period, but I will seek advice from the Registrar of Motor Vehicles on the normal practice and on what can be achieved once this legislation is implemented.

I am not sure about the criteria followed by SGIC and other insurance companies in determining what is a wrecked or written-off vehicle. That is another matter that I will take up with the Registrar of Motor Vehicles and seek advice about. I hope I have answered some issues satisfactorily. Others I shall seek advice upon and will communicate to the honourable member as soon as I can with that information.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—'Commencement.'

**The Hon. DIANA LAIDLAW:** As I noted earlier, the Minister, in her second reading speech, said that a training program for police officers involved in vehicle inspections has been introduced as a means of improving the detection rate of stolen vehicles. Will this training program have an influence on the date for the commencement of this Bill? Is the Minister confident that insurance companies and all those involved in the motor trade, such as wreckers and auctioneers and in particular private owners, will be sufficiently knowledgeable of this legislation by the time it is to come into effect? Is any education campaign or advice to be forwarded to people, particularly private owners, so that they are aware of their responsibilities?

**The Hon. BARBARA WIESE:** It is the intention of the Registrar of Motor Vehicles to communicate with all relevant parties about the new legislation and the responsibilities that they will have as a result of the legislation. The work relating to the training of the police must also take place, although I understand that the training may already be in progress to improve the inspection procedures and the detection of stolen vehicles. It is estimated that all these matters will be dealt with in about 12 weeks after proclamation,

**The Hon. DIANA LAIDLAW:** Is this part of a national drive to address the problem of vehicle theft and to get rid of the loopholes in respect of wrecked and written-off vehicles, or is this an initiative that was commenced in Victoria and is being taken up by South Australia but may not be pursued elsewhere? I ask that question because I doubt whether, in relation to professional vehicle theft, we will ever get on top of these issues until we have a national enforcement program.

**The Hon. BARBARA WIESE:** A discussion paper has been prepared by Austroads for consideration by the National Road Transport Commission with a view to introducing provisions across Australia. That discussion paper has not yet been considered by the NRTC, but hopefully it will be in the near future, and that will then lead to the adoption of a system like the one being introduced in South Australia. The system being introduced in South Australia is to some extent breaking new ground because it goes further than the legislation in Victoria which requires only insurance companies to provide information about wrecked and written-off vehicles. The inclusion of motor traders, auctioneers and private owners is new in Australia, but I believe this measure is necessary and will provide much greater detection of stolen vehicles.

If we can introduce a system across Australia, it will be possible to put in place a national register to which all States will have access. That will assist considerably in the detection of stolen vehicles, the misuse of identity plates and so on. In some respects we are pioneering with the passage of this legislation. I hope that it will not be very long before other States follow in our footsteps.

**The Hon. DIANA LAIDLAW:** My last question comes from one of my colleagues who is far more aware of the use of modern technologies than I am. He has suggested that compliance plates are something of the past when one considers the range of new technologies available today. Is the Minister aware of what research, if any, is going on by car companies or what is being considered by the Standards Association or Austroads and the like to suggest that the incorporation of a microchip in some random part of the rust proofing of a car would be the best way of dealing with this whole issue? It may not need to be as complicated as we are all having to make it now because of compliance plates simply riveted to the engine of a vehicle.

**The Hon. BARBARA WIESE:** I am not aware of research work that may be under way in Australia with respect to the introduction of new technologies, but the idea certainly sounds like a very good one. If it is possible to introduce such a system at a relatively low cost, it would certainly dispense with many of the problems that we are currently trying to address through the sort of measures with which we are dealing today. I will make some inquiries about the research work that is under way and provide that information to the honourable member if I am able to gain access to suitable information.

**The Hon. DIANA LAIDLAW:** The Minister may be interested to note that following inquiries in the Party room today I learnt that if such a microchip was available it would have to be passive, that it could not be a transponder and that one would have to use rare earth magnets to detect it. It was also noted in the Party room that it would have to be a cost effective initiative, and we would agree with the Minister in that respect.

Finally, in relation to the questions that I asked the Minister earlier, I indicated that she might wish to reply to me at some later stage. It may be that my colleagues in the other place will be interested in the answers to those questions, and they may be able to be provided by the Minister when the Bill is debated in the other place.

**The Hon. BARBARA WIESE:** I will attempt to provide the information as soon as possible, and it could be that the House of Assembly debate will be a good opportunity.

Clause passed.

Remaining clauses (3 to 11) and title passed.

Bill read a third time and passed.

## STATUTES AMENDMENT (MOTOR VEHICLES AND WRONGS) BILL

Adjourned debate on second reading.

(Continued from 11 November. Page 736.)

**The Hon. K.T. GRIFFIN:** The Liberal Party supports the second reading of this Bill, which seeks to amend the Motor Vehicles Act to address a problem arising in the case of *Clinton v Scheirich and Gotthold,* where a passenger in a motor vehicle opened his car door into the path of an oncoming motor cycle. The driver was held not to be liable but the passenger was guilty of negligence but was not covered by compulsory third party bodily injury insurance cover. Under the Bill, this sort of accident will now be covered. As I understand it, in that particular case the SGIC made an *ex gratia* payment to address the injustice of that situation.

The Bill also seeks to provide that, where an insured person intentionally or recklessly drives a vehicle or does or omits to do anything in relation to the vehicle so as to cause death or bodily injury to another person or to his or her property, that person will no longer be covered. The RAA has made a submission to me (and possibly also to the Government) that, in its view, this wording is much too broad. The RAA gives the example of a driver who unintentionally fails to give way at a give way sign and causes an accident in which other persons are injured. The inadvertence may still be deliberate but certainly not reckless or wilful.

I tend to agree that there is a problem with this. If one looks carefully at the amendment proposed in clause 17 of the Bill, which deals with the fourth schedule (and that fourth schedule deals with a policy of insurance), one can see that there is a problem. A new clause 2 in the fourth schedule is to be included. It reads:

> A person so insured warrants that he or she will not (a) intentionally or recklessly drive the vehicle or do or omit to do anything in relation to the vehicle so as to cause the death of or bodily injury to another person or damage to the property of another person.

There is no quarrel with 'intentionally or recklessly drive the vehicle', but there is a problem with the words 'or do or omit to do anything in relation to the vehicle'. It can be quite an inadvertent act. It can be an accidental act and not be reckless. If it leads to the death or bodily injury of another person, then there is a breach of warranty. What I would ask the Attorney-General to do is to consider the removal of those words so that it focuses only on intentionally or recklessly driving the vehicle so as to cause the death of or bodily injury to another person or damage to the property of another person. That is the major difficulty that I have with the Bill.

The Bill also deals with the excess that is recoverable by SGIC, the insurer. Where the insured person is liable to the extent of more than 25 per cent for the accident, the excess is increased from $200 to $300. I do not think that that is in line with inflation: I think that it is in excess of inflation, but I suppose that one should not have too many quarrels with that so-called excess in those circumstances.

Where a driver is in breach of seat belt requirements, damages will be reduced by at least 15 per cent, but only if the injured person was not a minor. For the purposes of the Wrongs Act, the age is reduced by this Bill from 18 to 16 years, and that equates with the age at which a person can first become licensed to drive a motor vehicle. Neither the RAA nor the Law Society raises any objections to that.

Under the Act, no damages for non-economic loss due to injuries sustained in a motor vehicle accident may be awarded unless the injured person's ability to lead a normal life was significantly impaired for seven days or medical expenses were incurred of at least $1 000. That amount is to be increased by this Bill to $1 400 which, again, is not, I suggest, consistent with the increase in inflation.

The Law Society raises some concern about the principle of the amendment in conjunction with the provision in the principal Act. It says that the increase is a significant increase designed, obviously, to limit claims against the third party insurance fund. The Law Society, in its representations, says that this clause is to be regretted, particularly as those who do not overcome the threshold test are obliged to pay the costs of the medical expenses either from their medical insurer for the relevant amount or from their own pocket. This is so, even if the accident was entirely the fault of the other driver.

When this issue was being debated back in 1987, I made the point that there is some measure of injustice in that but, as it is now part of the principal Act, we do not propose to take that issue further. The transitional provisions do provide that the amendments will not affect any claim arising prior to the commencement of the measure. That is consistent with normal practice although it is not consistent with the practice that the Government adopted with respect to the WorkCover legislation, where accrued rights were overridden by the amendments to the WorkCover legislation in the earlier part of this session.

It is unfortunate that the Government cannot maintain some consistency. Where there is a right that arises, it ought not to be taken away by what is effectively retrospective legislation. Accrued rights ought to be recognised and maintained and not dealt with in an unprincipled way, as under the WorkCover legislation.

The only other point I want to make is that, whilst noting that the Government is reducing the age from 18 to 16 years in relation to the reduction in damages for a person injured who is not wearing a seat belt, and which person's ability to drive is impaired as a result of drug or

alcohol consumption, it seems to me that the Government must address the broader issue in relation to 18-year-olds driving motor vehicles, particularly in relation to the illegal use of motor vehicles.

Considerable publicity has been given recently to the increased illegal use of motor vehicles, or what is more popularly described as motor vehicle theft, and the occurrence of this crime by more and more persons who are under the age of 18 but who are 16 years of age or over. Of course, there is a focus on the serious injury that can occur where these irresponsible people crash into other motor vehicles and injure other road users.

There is very strong community support for a reduction in the age at which those persons may be dealt with as adults back to 16. Certainly, for subsequent offences after the first, it is something that the Government ought to be seriously considering. That is not to say, of course, that those who are convicted ought to be gaoled necessarily, but they certainly ought to be in secure detention if there is a series of repeat offences.

As I indicated at the beginning we support the second reading of this Bill. There is only that one matter relating to the warranties provided in the policy of insurance to which I would like to have the Attorney-General's response before we deal with the Committee consideration of the Bill.

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

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

*A quorum having been formed:*

## ROAD TRAFFIC (PEDAL CYCLES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 25 November. Page 1006.)

**The Hon. DIANA LAIDLAW:** The Liberal Party supports this Bill to amend the Road Traffic Act. The Bill seeks to clarify the rights and duties of cyclists, pedestrians and other vehicle users and to assist in the promotion and encouragement of cycling in general. The Liberal Party believes that the Bill is long overdue. The State Bicycle Committee has informed me that it has been agitating for about eight years for the legislative measures that are incorporated in this Bill. The fate of these amendments seems to reflect the fate of the State Bicycle Committee over the past few years. The committee has been almost a token entity. It has been bogged down in bureaucracy with too little clout, too little money and too little representation from cyclists, both commuting and recreational cyclists.

Last year I welcomed the decision by the former Minister of Transport, Mr Blevins, to set up a review of the State Bicycle Committee. The present Minister has now received the findings of that consultancy and I look forward to seeing what action she will take in the near future to revamp the State Bicycle Committee and to aggressively promote cycling in the metropolitan area and beyond. I do enjoy riding my bicycle and I know that Adelaide is a cyclists' paradise.

*The Hon. T. Crothers interjecting:*

**The Hon. DIANA LAIDLAW:** Well, the Hon. Mr Crothers may not be the right shape or weight for general pedal cycling; perhaps he may experience the same misfortunes as the Speaker of the House of Representatives did when he rode his bicycle in more recent times. Certainly Adelaide is a cyclists' paradise. We enjoy wide streets and wonderful parklands. We enjoy relatively flat terrain, unpolluted environment and uncongested thoroughfares. I ride principally today for recreational purposes.

A few years ago, I ventured on a couple of occasions to ride from North Adelaide where I live to this building for work purposes, but it was a hideous experience. I had no joy in being deemed by many motorists to be a moving target, and I had no doubt by the time I arrived at work, harassed rather than having enjoyed the experience, that most motorists had little regard for cyclists. So, I very much hope that initiatives will be taken, and I am looking at issues to educate motorists in the knowledge that they do not own the streets, and I believe strongly that we need to educate the public at large that cycling is a legitimate form of transport.

However, I note that times are changing, and I commend the cycling associations around the country and the recently renamed Bicycle Institute of South Australia for their diligence, enthusiasm and vision in promoting cycling in this State and elsewhere. Such associations have been instrumental in placing cycling on the political agenda. I understand that on Thursday of this week the Federal Minister for Transport will release a national cycling strategy. I welcome this statement together with a number of major initiatives that have been taken in the cycling world in this State. I understand that in May there will be a major five day bicycle ride from Wilpena to Adelaide, not on the Mawson trail but adjacent to it. That event is likely to attract 1 000 cyclists from this State and Victoria. Perhaps the Hon. Mr Crothers and I could join that effort, possibly not for five days but at least for a short period.

*The Hon. T. Crothers interjecting:*

**The Hon. DIANA LAIDLAW:** Having taken an interest in this Bill, I thought that the honourable member might be interested in the ride from Wilpena.

*The Hon. R.R. Roberts interjecting:*

**The Hon. DIANA LAIDLAW:** Perhaps he could wave the flag to send everyone off or welcome them to Adelaide—that might be more appropriate. I look forward to his participation in some form. This Bill is a step in the right direction. It addresses the issue of bicycle lanes and bicycle ways. A 'bicycle lane' is defined as:

> ...a lane marked on the carriageway of a road adjacent to which or on which a traffic control device is erected, displayed or marked to indicate that the lane is reserved for the use of persons riding pedal cycles (or that it is so reserved for a specified period, in which case 'bicycle lane' means the lane during that period).

A 'bikeway' is defined as:

> ...a path, lane or other place not forming part of the carriageway of a road, adjacent to which or on which a traffic control device is erected, displayed or marked to indicate that that place is reserved for the use of-
>
> (a) persons riding pedal cycles; or

(b) pedestrians and persons riding pedal cycles (whether on separate parts of the bikeway or not).

The Bill also amends section 61 to provide for the shared use of designated bikeways by pedal cyclists and pedestrians. The Bill provides for appropriate signs and line marking to be used to identify bikeways and bicycle lanes. It makes a number of consequential amendments; for instance, in relation to the method of passing or overtaking pedestrians on a bikeway. The Bill addresses further matters including the rights and duties of people in wheelchairs. The Bill recognises Australia Post employees when using footpaths and bikeways. It permits cyclists to make a box turn; that is, a right turn at an intersection or junction with the cyclist proceeding across the intersection or junction on the left-hand side before making the turn. The Bill deletes the requirement for cyclists to make signals when negotiating a left turn, a box turn or when stopping. The right hand signal will still be required.

I have received extensive feedback in relation to this Bill, all of which has been in support of the Bill although that support has varied from enthusiastic to moderate. The RAA has a number of legitimate concerns arising from the Minister's statement in her second reading speech that all the changes are in line with national requirements. As the RAA points out, this is not so. It appears that the Minister has picked out some items from the national road traffic code or the proposed national road traffic regulations but has left out provisions from the code and the proposed regulations and inserted a number of other matters at random. This selective process gives rise to a number of concerns in trying to address this Bill and to evaluate the concerns expressed by a number of organisations and individuals about specific aspects of the Bill. I ask the Minister: what value does the Government place on the current code or the proposed regulations in the light of the fact that some measures in this Bill have been selected from the code, others have not and fresh ones have been inserted? In its letter, the RAA states:

While the Bill prescribes a number of requirements designed to ensure the safety of pedestrians and cyclists alike, it does not require a cyclist on a dual use path to give way to pedestrians on or about to enter the dual use facility. We consider the inclusion of this provision in the Act to be important and comment that it is included in the existing national road traffic code and the proposed replacement of the code, the draft national road traffic regulations. Without this specific give way requirement, the association is concerned that there may be significant civil liability implications involving bicycle/pedestrian accidents. Also, it is considered important that there should be compliance in this respect with national requirements.

So, I ask the Minister why she has not followed the code or the proposed national road traffic regulations in this regard and whether she considers the admission of this provision, highlighted by the RAA, will lead to significant civil liability implications involving bicycle/pedestrian accidents. I have sought some advice on this matter following receipt of the RAA's correspondence and I would like advice from the Minister later. However, it would appear that, because a bicycle is defined as a vehicle, the driving with due care provisions outlined in section 45 of the Road Traffic Act would apply to a person riding a cycle on a shared use path. As I have said, I would like advice from the Minister on this matter, because, if that is so, it would potentially overcome the RAA's misgivings about this part of the Bill.

If it is so it raises the further question: do other provisions in the Act also apply to cyclists? For example, section 45 relating to reckless and dangerous driving or section 47 relating to driving under the influence of liquor and drugs. I would like the Minister's response to the impact of these provisions on cyclists if the provision in relation to driving with due care, outlined in section 45, is indeed to apply to cyclists as well as people driving a vehicle at any time.

The RAA also notes that there are a number of other provisions in the Bill that are not a national requirement, the keep left and overtaking on the right provisions. Also, that the requirement in section 13 that cyclists entering a carriageway from a shared use facility must give way to vehicles on the carriageway. The RAA supports these provisions although, as I say, they are not in the code or the proposed regulations and the omission from the code and the proposed regulations is a matter that the RAA believes should be addressed. This is where this whole issue gets confusing because at one point the RAA is arguing that because the Bill does not reflect the code we should be amending the Bill to add the same provisions that are in the code while at another time it is supporting measures in the Bill that are not reflected in the code.

In the meantime I note that the Australian Conservation Foundation is strongly opposed to section 13 and this is the section relating to cyclists entering a carriageway from a dual use facility. The conservation council strongly argues that, whilst recognising that cyclists leaving a bikeway will generally have to give way when crossing or merging with a road, this should not be mandatory in all cases. The effect of this clause is to enshrine a situation where a bikeway can never take priority over a roadway no matter how major a bikeway or how minor a roadway. Good examples of situations where it would be more equitable to make the cars give way can be found with the so-called Bicycle Arterial Westside Bikeway. In one place (and that place is not nominated) cyclists have to give way to vehicles using a minor U-turn lane connected two halves of a divided back street. This section should be amended, according to the foundation, to include words to the effect, 'except as signposted otherwise cyclists must give way'. This leaves open the future possibility of a genuine bicycle arterial in Adelaide one day.

I have some sympathy with what the Australian Conservation Foundation is recommending and, as I noted earlier, they have considerable grounds for their statement because the provisions that have been included in the Bill are not included in the national code or proposed regulations. At the same time, I understand that the measure that has been introduced by the Minister could well be seen as an important road safety initiative. I therefore reinforce the point I made earlier that this Bill becomes confusing because of the way the Government has chosen to pick at will and leave out at will parts of the code. It may well have been much better in this instance to have sought amendments to the code or the proposed regulations to reflect what we believe is

desirable in this State rather than going in this piecemeal fashion. In fact, if all States adopt the code in the piecemeal fashion that we appear to be doing here one wonders about the relevance of such a code.

The RAA highlighted a number of inconsistencies in this Bill in relation to the code and it writes as follows:

> Yet another inconsistency is the requirement in both the national code and the proposed national regulations that cyclists making a box turn must give way to traffic from the left and the right when completing the turn from the point opposite the road or the street they are intending to enter. Again, this provision is not contained in the amendment Bill, except when the turn is being made from the 'continuing road' of a T-junction into the stem of the junction.

They are specifically referring to clause 15 proposed section 70a(2)(c)(ii). A number of other concerns have been expressed in relation to this Bill. The Local Government Association raises concerns on behalf of the Local Government Association Mutual Liability Scheme. They point out concerns in relation to the potential impact that the amendments may have on the local government's liability exposure. In particular, they say:

> ...those amendments relating to bikeways, which will allow both pedestrians and cyclists to use footpaths. Councils, having responsibility for the care, control and management of roads and footpaths, could potentially be involved in public liability claims as amendments to the Act provide no protection for the local government in this particular area.

They go on to argue that they are seeking an indemnity for the local government, similar to the one provided in the recent amendments to the Local Government Act associated with outdoor advertising billboards or sandwich boards as they were commonly referred to in this place.

For my own part I find it difficult to see that there is a great deal of difference, if any, between bicycle ways, footpaths and roads that councils currently are required to maintain. Councils will have responsibilities with the passage of this Bill to see that a bicycle way is set up properly in the first place in regard to the width, signage, possibly lighting, line marking etc. It has been suggested to me that, if local councils abide by all of those requirements, it is unlikely that they will have any problems with questions of liability in the event of an accident. It has also been suggested to me that because the Act itself contemplates setting up the mingling of cyclists and pedestrians that claims of liability would be hard to substantiate. However, I would welcome the views of the Minister on this matter of liability. I am aware, having discussed this matter with colleagues, that there is an agenda by the Local Government Association to be excluded or exempted from any liability by those who use local roads.

The Local Government Association in that instance argues that, because of cuts in Federal and State funding, it is difficult to maintain such roads and therefore it should not be liable for accidents and the like if claims are made against it. Local government is doing its best with the money that it has got, but it is not responsible for the levels of funding that it receives.

I appreciate that the issue of indemnity is on local government's wider agenda, but I question whether we should be dealing with indemnity in an isolated form in this Bill rather than looking at the wider problem. I do not see the issue of sandwich boards being a precedent in this matter. When the former Minister of Local Government Relations (Hon. Ms. Levy) was debating this Bill, my understanding was that the exemption provided for local councils in relation to sandwich and billboards was to be an exception and not a precedent for extending such exemptions to almost all areas where councils have care and responsibility.

It is of interest to me to know what money the Government intends to provide for the promotion and establishment of bikeways and bicycle lanes and for line marking, lighting and signposting. I am not sure about the figure provided to the State Bicycle Committee for this year. In the past it has been about $250 000 per annum. That has been a meagre sum for the State Bicycle Committee to provide to councils for initiatives in the important area of cycling. If we are to promote cycling and to extend the use of bicycle lanes and bikeways, we would naturally assume that the Government was prepared to commit funds for that purpose. I should be interested to learn what the budget is for such bicycle initiatives.

I fear that, with little money and with councils possibly hiding behind the fact that there may be no indemnity to them if they establish shared use facilities on footpaths, many of them may be reluctant to become involved in designating bicycle lanes within their areas. That is a matter that I can explore later with the Minister.

I understand that the Government does not intend to give the green light for footpath or bicycle way cycling as a consequence of this Bill, but rather that local councils will be responsible for determining appropriate locations which provide cyclists with the option of leaving the carriageway and riding on a designated bicycle way. I should like clarification on that matter because it is not clear. However, that is my understanding of the effect of the Bill. It may be that the Minister has powers whereby she alone in certain circumstances can designate a bikeway or bicycle lane and need not rely on the council to have sole responsibility in this area.

I highlight the example of Walkerville council. I live in the Adelaide City Council area, but I formerly lived in Walkerville. I know Burlington Street well and I know many of the residents. I have been shocked at the response by friends and acquaintances to a proposal by the Department of Road Transport. I hear that the Minister shares my shock and surprise, and disappointment for my part, that there has been such a hostile response from local residents and the majority of councillors to the proposal by the Department of Road Transport and the State Bicycle Committee to establish a bicycle lane down Burlington Street.

I am in favour of the establishment of bicycle lanes across the length and breadth of the metropolitan area and in many country towns and regional cities. I do not see it as a retrograde step for residents or for a council area. In fact, I see it as a positive step for that area, reflecting that the area is in tune with the needs of all who live there and of all who need to pass through that area. One cannot live in an inner city suburb, such as Walkerville, and not take some responsibility for people

enjoying access to other facilities within the metropolitan area.

I would be interested to learn how the Minister believes that these bicycle lanes and bikeways will be established. Will it be left solely to the discretion of the Minister, or will there be opportunities for her unilaterally to nominate a bicycle lane? In regard to Walkerville, I would like some indication from the Minister of the next steps in trying to establish a long overdue regional bikeway. We might need an overpass across Walkerville and that may be somewhat expensive!

I also note that most Walkerville residents were opposed to the Liberal Government's initiative to establish the O-Bahn and the revegetation of the area. The linear park that has been established is an enormous asset to the residents of Walkerville. They were vehemently opposed to it but we pushed ahead. That was a Liberal Government and a Liberal seat. Perhaps that example will give the Minister some heart in respect of bicycle lanes in the area. In my view, Walkerville residents have been the beneficiaries of much Government money in beautifying the river and establishing walking paths and bikeways along the River Torrens. Perhaps they will have to broaden their vision a little.

What measures, if any, is the Minister proposing to take to launch an education campaign in relation to the introduction of the provisions in this Bill? The correspondence that I have received from the State Bicycle Committee indicates that, 'after explanation to the public by an education campaign, we feel that pedestrians and cyclists will have a clearer understanding as to their own responsibilities on shared use paths'. I should like to know the nature and extent of funding that is to be provided for an education campaign such as that proposed by the State Bicycle Committee.

I should like some advice in relation to the use of footpaths and bikeways by Australia Post employees and people who are dependent on wheelchairs. There seems to be an inconsistency in the Bill in that employees of the Australian Postal Commission and wheelchair users must not exceed a speed of l0km/h when using a footpath or a bicycle way. However, there does not seem to be any similar measure in relation to those on pedal cycles using a footpath or a bicycle way, and I would like to ascertain from the Minister the reason for this distinction.

I am also pleased to note that the Minister has established a committee to look at the issue of roller blading. There are big discrepancies at present in our laws on the use of roadways and footpaths and, if we are now suggesting that we will allow pedal cycling or bicycle riding on designated footpaths, surely we should be looking at allowing roller blading in some instances on such bikeways, or possibly even on roadways. At present both are illegal activities that attract varying fines. I think the fines for riding on a footpath are three times that, in the order of $70, for riding on a footpath. That issue must be addressed if we are allowing pedal cycling in certain areas. My nieces and nephews, and indeed the children of my friends, ride their three-wheel bikes and two-wheel bikes. Will that practice still be forbidden on footpaths in general and attract a fine, or are we to tell them that they must ride on a road, and that they can ride on a footpath only where it has been designated as a bikeway? I would like that issue cleared up.

Also, there do not seem to be any penalties in this Bill for activities that are not deemed appropriate by it, and I am not sure how the measures therein are to be policed. So, although I have a number of questions in relation to the Bill, I do, on behalf of the Liberal Party, support the introduction of this measure and initiatives in general to promote cycling in the metropolitan area and beyond.

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

## COURTS ADMINISTRATION BILL

In Committee.

Clause 1—'Short title.'

**The Hon. M.S. FELEPPA:** I wish to make a few comments concerning this Bill and the report to the Council that I tabled on behalf of the Legislative Review Committee on the last day of sitting, 26 November 1992. Time did not permit me to make comments on that occasion, and I wish to take this opportunity. The referral of the Courts Administration Bill to the Legislative Review Committee was as a result of a motion of this Council. As you would recall, Mr Chairman, the motion presumed that the Legislative Review Committee has a duty to scrutinise Bills, as does the Federal Parliament's Senate Standing Committee for the scrutiny of Bills. The examination of Bills is the function of the Committee of the House as a whole and occurs in both Houses of Parliament during the debate on a Bill. That is where the Bill should be scrutinised.

However, a precedent has now been established that a Bill may be referred to a standing committee of this Parliament. Acts of Parliament and other matters are to be referred to these committees, but the Parliamentary Committees Act does not specifically include scrutiny of a Bill, whilst it does not specifically exclude such activities. While Bills may be scrutinised by the Legislative Review Committee, such referrals should be the exception rather than the rule, and that should be accepted as a convention.

On this occasion, the Legislative Review Committee proceeded to scrutinise the Bill as requested by the Council on motion of the Hon. Mr Griffin. This Bill does not right any wrong, address any major defect or correct any serious anomalies. It resolves what are theoretical rather than practical problems. The Bill, in my view, strengthens what are already well functioning practices in court administration. The development over the years of the Courts Administration Department has been commended in many quarters. In fact, the Courts Administration Department is cited as being well in advance of court administration practices in other States and overseas.

The department has established a partnership between itself and the judiciary and, further, has developed an *esprit de corps*. But there still lingers the 'two master' syndrome, that is, responsibility to the judiciary and then responsibility to the Minister and the Public Service. The Bill, I believe, will bring an even closer tie between the judiciary and the administration of the courts, almost

eliminating Executive interference and enhancing judicial independence. In his evidence to the committee, the Chief Justice emphasised a matter of principle concerning the Bill. The principle is that the Chief Justice, whoever he or she may be, has the final voice in the administration of the court system. As head of the court system, the Chief Justice has to provide leadership and justify publicly the state of courts administration. The Chief Justice holds as a principle the following:

> If administration is going to have firmness and consistency, you have to have a head, an authority, who is able at least to veto decisions that are inconsistent with earlier decisions likely to cause confusion in the administration or take it in a direction which he cannot justify in the end.

This is a principle on which the Bill is drafted, and in my view there should be no tampering with it. Chief Justice King said that he feels so strongly on this point that he would prefer not to have the system if the Chief Justice did not have the power of veto because of fear for the efficiency of court administration in the future.

A problem that the committee viewed with some concern is the tension that is generated between the concepts of judicial independence and ministerial accountability. Because the budget of the Judicial Council has to have the ultimate approval of the Estimates Committee, through the office of the Attorney-General, the independence of the judiciary is somehow seen to be threatened. On the matter of judicial independence, Alexander Hamilton in *The Federalist* said, in summary, that the Executive arm of Government has the power to act while the legislature makes the laws and holds the purse. The judiciary has no power to act nor any purse to hold; it can only make a judgment. That, in essence, is judicial independence. By its judgments it has nothing to gain and nothing to lose. But in the real world the judiciary does need money to function, and this draws it into the ambit of the Executive.

If it is to have money, the judiciary must present a budget to have money allocated, and it must account for its spending. The budget and the accounting are through a Minister of the Executive arm of Government. On the matter of ministerial accountability, there is an absolute principle that a Minister is accountable to Parliament for money spent. This is a principle of what is called responsible Government. There is no way of breaking the money nexus between ministerial accountability and judicial independence. Professors Church and Sallman in their work 'Governing Australian Courts' observe:

> If judicial independence is undermined in a system of executive administration of the courts but any system other than executive administration of the courts subverts governmental accountability, we appear to be left with the unaided choice of which of the two principles is most important, or at least expendable.

Chief Justice King holds that it is really impossible to have a truly and totally independent court system if the administration on which the judiciary depends is capable of being influenced from outside and, in particular, influenced by the Executive Government and the Public Service. A balanced compromise is the only solution. Mr Kym Kelly, Chief Executive Officer of the Attorney-General's Department, expressed it neatly when he said that it is by:

> ...making it accountable through a Minister, that one can properly get a balance which doesn't offend judicial independence on the one hand, but on the other hand does not offend against principles of proper administration.

The Bill seeks to accommodate this needed balance of interest. It does so in a commendable way. No perfect solution was put to the committee and the compromise is the best approach that the committee can recommend. The report makes some other recommendations which were proposed by people who were competent to make them and make them in detail. It is therefore hoped that the committee has been, in this instance, of service to the Parliament and that the recommendations as proposed in the report will be considered by the Council.

Finally, it is my duty as the Chairman of the committee to place on record my personal appreciation of the full cooperation of all members of the committee of both Houses: from here the Hon. Mr John Burdett and the Hon. George Weatherill and, from the House of Assembly, Mr Colin McKee, Mr Graham Gunn and Mr John Meier.

I wish also to highlight the valuable contributions of all the witnesses who appeared before the committee, particularly that of Mr Justice King. I also place on the record the committee's appreciation of the work undertaken by our research officer, Ms Margaret Cross, our committee secretary, Mr David Pegram, and the members of *Hansard* for their professional assistance. On behalf of the committee members I recommend the report and I support the Bill before the Chamber.

**The Hon. K.T. GRIFFIN:** It is appropriate to make a few observations upon the report of the committee. Some aspects will be dealt with more particularly on specific clauses. I want to say first that I do not agree with the Hon. Mr Feleppa—and I am sure that the Liberal Party would not agree—that we should accept that Bills should not be referred to the standing committees of the Parliament for consideration. I would see, as I am sure the Liberal Party would see—and probably the Hon. Mr Gilfillan too would see—that there are occasions where it is appropriate for Bills which do contain very difficult propositions, novel propositions, maybe radical propositions, to be referred to one of the standing committees for consideration and I certainly would not want to endorse as any convention that that should not occur.

On this occasion, it was important to have the Bill examined by the Legislative Review Committee which has proposed a number of amendments all of which I generally agree with, although I will be seeking to make several other amendments following upon the report of the Legislative Review Committee. However, the report which has been made and its recommendations do indicate a justification for detailed consideration of the Bill by the committee. Of course, it had the Chief Justice as a witness and I suppose that was probably the first committee of the Parliament before which any Chief Justice has ever appeared, and it established a good precedent. The very fact that he has acknowledged that it is appropriate on occasions for judges to appear before the Estimates Committees in relation to the statutory authority which is being established and for other judges and magistrates to appear on occasions, as members of the statutory authority, before the other committees of

the Parliament is a significant development in itself and fully justified for that reason alone the Legislative Review Committee reference.

I indicated at the stage of the second reading that the Liberal Party had some reservations about the concept of moving to a statutory corporation controlling the administration of the courts, and I pointed out then the necessity for the Attorney-General to approve the budget and any variation in the budget and for the Government to approve the budget and ultimately the Parliament to approve the budget did still leave a measure of executive and parliamentary responsibility for the control of the courts administration. I do not accept that, as a matter of principle, it is necessary to move to a statutory authority to ensure judicial independence.

A lot has been made of the concept of judicial independence and, of course, it does depend on what one means by judicial independence. Former Chief Justice Bray would not have been involved in administration, taking the view that the judges were there to judge and not to administer and let the administrators get on with the business of providing services to courts so that the judges and magistrates could judge.

On the other hand, Chief Justice King takes the view that judges have to assume a greater responsibility for hands-on administration and thus he seeks to become even more involved in administration than judges and magistrates are at present, although there is a partnership between the executive arm of Government and the judiciary in dealing with courts' administration under the scheme which has been developed over the past 10 years of the Court Services Department. So, I do not accept that it is necessary for judges and magistrates to become even more closely involved with administration than at present to ensure judicial independence.

I think it has been acknowledged widely that there is no threat to judicial independence by the current system, but it is one of the in things for courts to argue for greater day-to-day administrative independence, and I think that is largely where this Bill derives from. Of course, the difficulty with judges getting involved in day-to-day administration is that they are not trained for that. They may well argue that public servants are not trained to administer the courts because they have no understanding of the law. I think with the development of the Court Services Department and its career structure for court administrators and the establishment of the Australian Institute of Judicial Administration there has been a much stronger emphasis upon developing expertise in court administration particularly by lay administrators. The danger I see with judges assuming an administrative responsibility more than they have at the moment is that they are really not equipped to be administrators and it could cloud the focus of their day-to-day activities which must still remain the responsibility of judging either in criminal or civil matters.

As I have said, I will support amendments proposed by the Legislative Review Committee and I will look with interest at the amendments proposed by the Attorney-General, but I want to ensure that ultimately there is still accountability for administration and spending of money, for delays in the system, for problems which might arise in the system, and I still have a concern that the focus of the judiciary should be on delivering their judicial responsibilities, their judicial service as judges and magistrates rather than administration.

What I forecast is likely to happen with this statutory authority is that where there are delays and problems in the system they will be referred by the Attorney-General to the judges for answer and we will see judges and magistrates becoming more involved in the day-to-day public activity of responding to questions or criticisms about the administration of the courts. We may well find criticism by the executive of the judiciary and by the judiciary of the executive in respect of day-to-day administration because the judges will be involved more in that on a day-to-day basis than they have been before and politically and publicly will have a greater level of responsibility and will therefore be involved in a greater level of scrutiny as a result of their involvement in this statutory authority.

I think there will also be a greater level of involvement of the judiciary in civil disputes particularly. The Chief Justice said in his evidence that he could not quite understand the point I was making about the issue of occupational health and safety responsibilities, workers compensation responsibilities and contractual disputes arising between the Judicial Council or the State Courts Administration Council and citizens. The fact is that those disputes at the moment are dealt with by the Public Service and by the Crown in its executive role and not by judges. What will change is that the statutory authority will have a legal responsibility and it will therefore be more directly involved in dealing with these sorts of issues and disputes. It is that more direct involvement which I think will mean that more and more the judiciary will be drawn into disputation and away from the attitude of aloofness in administration and into the nitty-gritty of administrative activity.

Be that as it may—and that is something that we will watch with interest—we are prepared to allow the statutory authority concept to proceed. However, I put on notice that we on this side of the Council will be watching it with great interest and looking to modify any problems that might arise as a result of the establishment of this body, the day-to-day administration of it and its relationship with the executive Government of the day.

I wish to flag three further matters. The Legislative Review Committee has recognised that there is a problem in relation to the vesting of care, control and management of property in the statutory authority, and that is proposed to be undertaken by proclamation. There may well be occasions where conditions might appropriately be attached to the care, control and management of property under any proclamation which is made vesting that care, control and management in the statutory authority. I have not looked at the Acts Interpretation Act to verify that it is necessary to move the amendment to enable conditions to be attached, but if it is not I would want to see a power given to the executive arm of Government when vesting property by proclamation to be able to attach certain conditions to it.

In respect of disciplinary action against a member of the senior staff of the statutory authority without the approval of the statutory authority, there is a provision that that should not occur and I remain to be persuaded that the approval of the statutory authority should be required for that purpose. Unless there is a good

argument to the contrary, I will propose an amendment that would remove that prohibition against discipline without the statutory authority's approval.

In relation to guidelines and policies relating to the use and provision of resources by the statutory authority to various courts, as a matter of public administration I think there should be a statutory requirement that they be published in the annual report of the statutory authority, and I will move accordingly. There may be several other matters which arise once I have looked at the amendments proposed by the Attorney-General and there may well be some further exploratory questioning as to the meaning of particular provisions in the Bill once we deal with it in more detail in Committee.

Suffice to say that at this stage I appreciated the diligence of the Legislative Review Committee in its examination of the issues. I note the amendments which are proposed and suggest that that does vindicate the examination of the Bill by the Committee and the issues which it raises and will generally not raise further objections to the statutory authority concept, but put all on notice that we will monitor its operation over the next two or three years and if amendments are necessary seek to have them considered by the Parliament.

Clause passed.

Progress reported; Committee to sit again.

## ADJOURNMENT

At 6.17 p.m. the Council adjourned until Wednesday 10 February at 2.15 p.m.