LEGISLATIVE COUNCIL

Tuesday 16 February 1993

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

PAPERS TABLED

The following papers were laid on the table:

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

Report, 1991-92 - Children's Court Advisory Committee.

Summary Offences Act 1953 - Returns for the period 20.10.92 to 19.1.93 in respect of Road Block Establishment Authorisations and Dangerous Area Declarations.

Regulation under the following Acts—

Classification of Publications Act 1974 - Exemption - Sydney Inside Out.

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

Regulation under the following Acts—

Marine Act 1936 and Fees Regulation Act 1927 - Consultancy Fees.

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

Corporation of the City of Glenelg - By-law No. 2 - Foreshore.

By the Minister of Consumer Affairs (Hon. Anne Levy)—

Regulation under the following Act -

Liquor Licensing Act 1985 - Dry Areas - Gawler.

QUESTIONS

ASH WEDNESDAY BUSHFIRE

The Hon. K.T. GRIFFIN: I seek leave to make an explanation before asking the Attorney-General a question about Ash Wednesday 1983.

Leave granted.

The Hon. K.T. GRIFFIN: With the tenth anniversary of the Ash Wednesday 1983 bushfires which devastated a large part of South Australia being reported upon, it is disturbing to hear that there are still before the courts some 95 cases involving the Electricity Trust of South Australia. In Saturday's *Advertiser,* Mr John Williams of the South-East is reported as saying that he has received some compensation from ETSA and that he is waiting for a full pay out. Mr Williams lost his wife and members of his family in the fire and also suffered considerable damage to property. He makes the observation:

I believe not just ETSA but our legal system in South Australia has allowed the case to go on for too long. All these matters do take time, and I appreciate that, but I believe the human factor is pretty much ignored in these cases, as it is in similar legal cases.

The Liberal Party has been contacted by other people whose claims against ETSA remain outstanding. They complain about the delay and plead for resolution. Several have explored every avenue to get resolution, including reference to the Ombudsman, but without success.

I understand that ETSA is saying that, in some cases at least, the delay is caused by claimants who have to provide more information, but obviously no assessment is made as to the reasonableness of the requests by ETSA for more information. I have raised the issue of ETSA delay in the Council in the past and now raise it again with a view to trying to get the outstanding matters reviewed and resolved promptly. It is, I would suggest, intolerable that court cases involving a Government instrumentality should take 10 years to resolve with, I expect, some to go on for much longer. My questions are:

1. Does the Attorney-General agree that it is unreasonable for these cases to have taken so long to resolve in view of the personal hardship and trauma suffered by many in the bushfires?

2. Will he obtain a report on the reasons for delay in each case involving ETSA and ascertain what steps ETSA is prepared to take to expedite hearings and/or resolution of claims?

3. Will he in each case determine whether there is any fault on the part of the courts or the courts administration in the way in which these cases have been handled and which appears to have resulted in a considerable delay in achieving resolution of the outstanding matters?

The Hon. C.J. SUMNER: In relation to these matters, almost certainly there would not have been fault on the part of the courts. If these matters are in court and are being processed through the court by the parties, hearing dates can be obtained within a reasonable time in the courts in this State.

I suspect that these matters are not progressing in court because the parties are not prepared to progress the claims in most instances. Whether it is unreasonable or not at this point in time is impossible to say without examining each individual case. Obviously it is unsatisfactory for claims not to have been settled but I do not think it can be said that all the blame should be laid at the feet of ETSA in relation to the delay.

The honourable member has used the phrase 'still before the courts', which somehow or other implies that there is a court problem. I do not think that is the case. It is not the availability of courts; it is whether or not the cases are being dealt with properly between the legal representatives of the claimants and the legal representatives of ETSA. In fact, very few of these cases have gone to court. So, it is not a matter of court; it is a matter of whether or not the parties (the claimants and ETSA) have been able to arrive at an agreed figure for the damages.

The situation as advised to me by the Minister of Public Infrastructure is as follows: ETSA has received 2 204 claims for property damage and has settled 2 109 of these. Only three property claims have been to trial by the courts. There was Dunn, the McLaren Flat fire, where the court determined ETSA's liability in the amount of the award. As I understand it that was taken as a test case. No other claim following that was litigated

in court. Once the test case had resolved the McLaren Flat fire against ETSA the remaining claims were settled out of court.

The second case was Kadlunga, the Clare fire, and I understand interests other than ETSA were involved in that and it was settled part way into the court action. Following that, all other claims were settled without court determination, in other words, as a result of negotiations outside of court. The third case was Ryan, Narraweena fire, which was fought on liability but, eventually, I understand, liability was determined against ETSA or admitted by ETSA.

There was some controversy some time ago about whether these claims were being dealt with quickly enough. A process was set up for the remaining claims to be assessed in accordance with an agreed schedule, one that had been agreed between the solicitors acting for claimants, the solicitors acting for ETSA and ETSA's insurers. I understand there was some financial arrangement entered into between ETSA and its insurers as a part of that deal. So, a procedure was set up following that case to deal with the claims in accordance with an agreed set of rules. Following that agreement on the procedure, to date all claims have settled without resort to court or arbitration, so cases are simply not going to court; they are being settled by agreement.

In the Adelaide Hills it has not been necessary for any claim to proceed to court determination. Of the 95 claims outstanding, ETSA is awaiting response to either an offer made by ETSA or a request for further information in 91 of these cases. So, there are 91 cases where ETSA is waiting on the claimants to respond to it either to say the offer is acceptable or to provide further information. I am advised there are only four claims which ETSA has not assessed and they are currently in the process of being assessed.

Of the personal injury claims only five have proceeded to court. Of these three were in regard to a time point—whether the claim had been taken out of time—and the claimant was required to obtain an extension of time in those cases.

Of the two remaining cases, one has settled but in the other the claimant has been ordered to pay ETSA's costs. One can only assume that, in that case, the claimant was not fully successful. The case of Mr Williams has been mentioned by the honourable member. Mr Williams has more than one property affected by the fires in the South-East. A payment has been made to Mr Williams for the property damage up to the boundary ascertained by ETSA prior to arbitration. However, now that the arbitrator has made an award on the boundary of the fire, they are awaiting Mr Williams' revised claim on disputed property loss.

In reference to Mr Murray Nicoll, who had an interview with Keith Conlon on ABC radio today, I believe, the Minister of Public Infrastructure has provided me with the following information. First, the Ash Wednesday 1980 fire had nothing to do with ETSA, and apparently there was some confusion about that. Secondly, Mr Nicoll settled his own personal claim with ETSA six months after receipt of the particulars of his loss without resort to the courts. Thirdly, in the case of post traumatic stress disorder, many claims were not received until many years after the fire. Many claims are still awaiting formulation of the quantum.

It should be understood that the claims have each to be assessed by the insurer of the claimant, as one would expect, because many people were insured against this eventuality and the claims must be assessed by ETSA. In the early stages the claims had to be assessed by ETSA's insurers as well although, as I understand it, the procedure to which I referred earlier obviates the need at present for ETSA's insurers to assess the claim. Following those assessments, negotiations took place to arrive at an agreed settlement.

The Minister also points out that there are very few experienced rural property loss assessors available in Australia, and there have been some delays for that reason. It is also the case that claims were being made right up to the expiry of the six year time limit, that being the period within which a claim could be made. I am advised that in a number of cases claims were not made until that time and, as was pointed out earlier, many of the yet unsettled claims have not been detailed for ETSA to consider.

So, whilst regrettably in these situations there always seem to be some delays and people are inclined to blame the system, I do not believe that it is the court system that could possibly have held up these claims for 10 years because, as I have said, it is possible to have claims on in South Australian law courts within much less time than that. In fact, court lists now are down generally to some nine or 12 months waiting, which is probably about as good as we are likely to do.

I do not think it is the court system, although if anyone can point out any case where it is, I would be happy to have it investigated. As I said, I cannot say whether it is unreasonable. There may be some cases where it is unreasonable that they have not been settled. It may be that in other cases the fact that they have not been settled is because the claims have not been properly formulated. I will draw the honourable member's question to the attention of the Minister responsible for ETSA to see whether he has anything further to add.

Obviously, it is in everyone's interest to have these claims settled as quickly as possible, but that involves the claimants getting their claims together and also, of course, involves ETSA in assessing them as quickly as possible. I am sure that the Council and all members would not want ETSA to pay out what is, in effect, public moneys for claims that were not properly established and justifiable.

GOOLWA PRIMARY SCHOOL

The Hon. R.I. LUCAS: I seek leave to make a brief explanation before asking the Minister representing the Minister of Education, Employment and Training a question about Goolwa Primary School.

Leave granted.

The Hon. R.I. LUCAS: My office has been contacted by a number of constituents in the Goolwa district who are furious about the Arnold Government's plans to fund a $6.4 million bridge to Hindmarsh Island. The constituents point out that the Government appears to have a curious list of priorities when it can find $6.4 million for a bridge to Hindmarsh Island yet it can

repeatedly year in, year out, excuse its decision not to build a new primary school for the town on the basis that it does not have the funds.

Goolwa Primary School has been identified as long ago as 1979 as being in need of upgrading or relocation. The school currently has 335 enrolled students, with a projected enrolment for September 1993 of 370 students. This latter figure is just on 100 students in excess of the Education Department's recommended maximum capacity for the school. Some of the inadequate facilities identified at the school include: inadequate toilets for staff and students (there are just two toilets for staff, and they are situated in amongst students' toilets); there are no change rooms for students; and there are three drinking fountains for 335 students. The school's library is water damaged and its present site is in a low lying area of the school grounds. The school's resource centre is inadequate in size and there is no under cover assembly area for students. Back in March 1979, at the occasion of the centenary celebrations, the then Governor told the gathering:

> The Education Department recognises the need to redevelop Goolwa Primary School and consequently the school has been placed on a forward building program.

In January 1990 the department forwarded to the school's principal a facilities review, which said in part:

> The school has adequate facilities for a capacity of 275 students...serious consideration will need to be given to the continued development of the school on its current site, or its transfer to the land adjacent to the Victor Harbor Road.

The latter statement also alludes to the purchase of land by the department in July 1988, on the southern side of the town on Ferguson Road. A letter to the school council secretary, dated 29 March 1989, nine months before the last State election, and signed by the department's Facilities Manager, Southern Area, Mr T.N. Sandercock, says in part:

> The current program being prepared by the Education Department for the State budget indicates building work to commence for Goolwa Primary School in February 1992. This is yet to be confirmed.

Nearly four years after that letter was written, and 14 years after the initial promise of a new school, Goolwa residents are still awaiting their new school, while the old, overcrowded school crumbles around them. My questions are:

1. Does the Minister intend to honour the commitment first given 14 years ago to build a new primary school or redevelop the present school at Goolwa and, if so, when and, if not, why not?

2. Was the Government's promise of a new school at Goolwa, outlined in a letter to the school council in March 1989, made with an eye to the upcoming State election later that year and, if not, what were the reasons for the deferral of the February 1992 start?

The Hon. ANNE LEVY: I will refer that series of questions to my colleague in another place. I am interested at the honourable member asking what I am sure many people would regard as a question applicable for a local member to inquire of the Minister, particularly as in this case the local member is in the same House as the Minister, but as the local member is not asking that question I will refer it, as I say, to the other place and bring back a reply.

AUSTRALIAN NATIONAL

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Minister of Transport Development a question about the future of Australian National.

Leave granted.

The Hon. DIANA LAIDLAW: The future of Australian National, and thus the future of thousands of rail jobs in South Australia, is at risk because of the failure by the Commonwealth Government to confirm AN's future role and function. The uncertainty has been aggravated in recent weeks following confirmation by the office of the Minister for Land Transport to the Secretary of Rail 2000 on 5 February that the National Rail Corporation has specified that it wants to take over AN's ore concentrate line from Broken Hill to Port Pirie, and that the Federal Minister deems this transfer to be in accordance with the Commonwealth's obligations under the National Rail Corporation Agreement. I ask the Minister the following questions:

1. Does she endorse representations to the Prime Minister Mr Keating, by former Premier Mr Bannon in May last year, and by the United Trades and Labor Council in June last year, that the loss of the ore concentrate traffic would endanger AN as a viable organisation?

2. Does she agree that the Commonwealth Government's support for the transfer of responsibility for the ore concentrate traffic from AN to National Rail at this time is untenable, and particularly considering that the Commonwealth Government has not even received a proposed business plan being prepared by AN at the request of the Prime Minister?

The Hon. BARBARA WIESE: The short answer to both questions is 'Yes'. Since I took on the job of Minister of Transport Development, I have also entered the debate on these questions that the honourable member is raising. During the past few months considerable correspondence has moved backwards and forwards between the Federal Minister for Land Transport and me concerning the position of Australian National Railways and also some of the issues that will need to be resolved with the advent of the National Rail Corporation's business. Key, among those, of course, is the concentrates traffic from Broken Hill. I have made representations to my Federal colleague about that matter specifically, as well as some of the other issues that are of concern to the South Australian Government.

My representations, of course, follow previous efforts that were made by my predecessor and also by the current and former Premiers who have also had discussions with relevant people at appropriate times about these matters. I, too, am concerned about the amount of time that it seems to be taking for the terms of Australian National's business plan to be resolved and I have taken up that matter with my Federal colleague, and representations have been made direct to Australian National.

In fact, later this week I hope to have further discussions about this matter and, indeed, I hope that it will be possible for the State Government to have a greater involvement in the resolution of some of these issues than so far has been the case. That is as much as I

am able to indicate at this time as to progress because, as the honourable member has already pointed out, decisions have not yet been made by either AN in some cases with respect to some issues or the Federal Government in other cases.

With respect to such matters as the concentrates traffic, the case that has been put by Australian National and by the State Government for that business to be retained by AN at least at this stage has not been accepted by the Federal Government. I have not lost hope that we may be able to convince the Federal Government of the need for Australian National to maintain such business if it is to continue to be a viable business enterprise.

I am sure that all honourable members will agree that it is in the interests of South Australia for Australian National to remain as a viable business enterprise once NRC is up and running. So, I shall continue my efforts with AN and with the Federal Government to see that these issues are resolved as quickly as possible and with the very best advantage possible coming to South Australia.

The Hon. DIANA LAIDLAW: As a supplementary question with respect to the future of the ore concentrate line and its likely transfer to the NRC, has the Minister received, and indeed has she accepted, any undertaking by the Keating Government that that Government would uphold the terms and conditions of the rail transfer agreement 1975, and, if not, what action will she take to ensure that the Commonwealth does uphold the commitments to the State and the AN work force under the terms of that rail transfer agreement? Finally, I am prompted to ask from the Minister's reply whether she is aware that sections of the rail union movement in this State have threatened to go on strike if this matter is not resolved to their satisfaction before the forthcoming Federal election.

The Hon. BARBARA WIESE: In correspondence that has passed between State and Federal Governments about the Australian National question and what business should be transferred to the NRC, is has been pointed out very strongly to the Federal Government that the rail transfer agreement entitles South Australia to certain protections, but the extent to which that agreement applies here is one of the issues that currently is being debated between the two levels of government, and there is some disagreement about that matter. That is one of the issues I am pursuing with the Federal Government.

As to the second question relating to rail staff and the trade unions which represent them, I am aware of concerns that have been expressed by rail unions about the potential impacts on rail workers, particularly in South Australia, once the NRC is up and running. I am also aware that representations are being made by relevant unions to the Federal Government. I understand that a meeting was scheduled for the very near future, but due to the Federal election that meeting has now been postponed. I hope that through sensible discussion and negotiation the issues that are being raised by the trade unions on behalf of the workforce which they represent can be resolved amicably without the need for any strike action.

MARINE POLLUTION

The Hon. M.J. ELLIOTT: I seek leave to make an explanation before asking the Minister representing the Minister of Environment and Land Management a question about marine pollution licences.

Leave granted.

The Hon. M.J. ELLIOTT: The Environment Protection Office in the Department of Environment and Land Management has, for the past two months, been advertising applications for licences to pollute the marine environment. This advertising and the licences are required under the Marine Environment Protection Act 1990. Section 26 of the Act requires public notice of the application to:

> ... set out the name and address of the applicant or licensee; set out the location at which activity is or is proposed to be carried on in pursuance of the licence; set out such details of the activity or proposed activity and its likely environmental effect as the Minister considers appropriate in the circumstances; and invite public comment.

Some 92 applications from private companies and Government departments and instrumentalities have already been advertised. For example, the E&WS Department wants to continue to discharge nutrients and sewage sludge into the sea off Glenelg, Port Adelaide, Bolivar and Christies Beach; BHP Steel wants to increase the metals discharged into the sea off Whyalla; and Australian National wants to increase the oil sent into the sea off Port Pirie.

The application notices state the name and address of the polluter but little detail about what they discharge. Generic terms such as nutrients, metals, chemicals, particulate material and oil are used to describe the pollution. The effect of the pollution on the environment is referred to in the notices by giving an indication of the area (in hectares) over which the contamination will spread.

In the case of the E&WS applications, all we know is that there are four separate applications in the Gulf St Vincent, each in excess of 30 hectares. BHP at Whyalla will affect 30 or more hectares, and Australian National will pollute one hectare or less.

While the fiscal constraints of including too much detail in the notice need to be noted, I must question whether the notice fulfils the spirit of the requirement under the Act. The time for response to the notice is quite short. For example, comments on applications published on 13 February have to be lodged by 26 February. Of course, that response is being done without including any of the important detail to which a person may want to respond. My questions to the Minister are:

1. What information, in addition to that published in the notice, is available to members of the public wishing to comment on a particular licence application?

2. What detail must the applicant provide when making the application, and is that application available for public viewing?

3. Would the Minister consider including such additional, more detailed, information in the published notice?

4. Does the Minister believe that 13 days is adequate for members of the public to research and write responses to the applications?

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

DRUGS

The Hon. BERNICE PFITZNER: I seek leave to make a brief explanation before asking the Minister representing the Minister of Health, Family and Community Services a question about a pamphlet on drug injection procedures.

Leave granted.

The Hon. BERNICE PFITZNER: It has come to my notice that a pamphlet on drug injection procedures is put out by the Lyell McEwin Community Health Service. In support of my concern, I will read some excerpts from the pamphlet, which is entitled 'How to use 2ml fits safely'. I gather that 'fits' means needles and syringes. The pamphlet provides hints on using 2m1 fits and a cleaning procedure as follows:

> Rinse out with cold water... by sucking up water until the fit is full and then squirting it down the sink. Keep rinsing until there is no visible blood. Rinse out with bleach at least three times... If unsure, either repeat above steps or dispose safely and get a new 2ml from the Lyell McEwin Health Service needle exchange. If you haven't any bleach use Scotch, vodka or gin, which must be rinsed five times, a disinfectant rinse (five times) or a soapy water rinse (five times). Do not use hot water as it thickens blood. It is much safer to use a 2ml once and discard safely. New fit each hit.

The pamphlet gives further hints on shooting intra-muscularly or intravenously, and states that some of the |best spots are in the upper arm and the upper and outer quarter of your bum, and it says, 'Don't "jack" if hitting intra-muscularly.' The final sentence states:

> Remember, the police won't bust you for equipment that we give out, so try and return your dirties.

It is obvious that the concern is for the safer use of injectable illegal drugs. Indeed, as medical students we were instructed in a similar fashion for injecting antibiotics, vaccines for immunisation or insulin for diabetes. However, we must remember that these are illegal drugs to which the pamphlet alludes and that these pamphlets are freely available to all age groups including primary school children.

A significant number of people in the community in the northern area of Adelaide feel that the message also sent by the pamphlet is that illegal drugs are okay or even encouraged. There is also the danger that the description in the pamphlet could stimulate a 'let's try it' response. Nowhere in the pamphlet does it say that it is crazy to inject yourself with these potentially dangerous and lethal drugs. My questions are:

1. Will the Minister assess the pamphlet with regard to its legal accuracy, its aims and objectives and possible side effects, and direct that that information on the potential dangers of the use of illegal drugs be included in the pamphlet?

2. Will the Minister investigate the availability of the pamphlets, particularly with regard to young children?

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

MINISTERS' STAFF

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

Leave granted.

The Hon. L.H. DAVIS: I have examined Program Estimates, which are released in conjunction with State Budget Papers, and they reveal that since the State Labor Government came to power 10 years ago there has been a 56 per cent increase in staff employed by Ministers and Cabinet. The Program Estimates reveal the number of staff has rocketed from 112 in 1982-83 to a current figure of 175. This extraordinary increase means that South Australian taxpayers are paying an additional $3 million annually for ministerial staff. There has been a steady increase in staff since the Bannon Government—

The Hon. C.J. Sumner: Which staff are you talking about?

The Hon. L.H. DAVIS: I am talking about the ministerial staff as set down in the Program Estimates of the State Budgets each year.

The Hon. C.J. Sumner: Are you including public servants?

The Hon. L.H. DAVIS: I am talking about the Program Estimates line, which states 'ministerial staff.

The Hon. C.J. Sumner: Including public servants?

The Hon. L.H. DAVIS: I presume it does.

The Hon. C.J. Sumner: I want to be clear what you are talking about.

The Hon. L.H. DAVIS: I think I made it quite clear what I am talking about. There has been a steady increase in staff since the Bannon Government was first elected to office in November 1982. In 1986-87, the figure was 133.5 staff supporting Ministers and Cabinet. That was up from 112 in 1982-83 but now the figure has surged to 175 with a further lift in staff numbers budgeted for in 1992-93. In fact there are suggestions that ministerial staff numbers may be even higher than the original budget estimate of 175 for this current financial year as a result of the recent radical restructuring of Government departments by new Premier Lynn Arnold.

The Government keeps giving itself more staff and more resources even though many Government departments and statutory authorities have suffered staff cuts because of State Bank losses and a slump in revenue collections. The State Labor Government has increased ministerial staffing by 56 per cent over the past 10 years, so that the Cabinet and 13 Ministers in Government are now supported by 175 people. This, as the Attorney well knows from a question I asked only last week, is in sharp contrast to the 10 Liberal members in the Legislative Council, who have only three staff in support. Taxpayers of South Australia can be forgiven for believing that this ballooning in staff numbers is an arrogant abuse of power.

My question to the Attorney-General is: will the Attorney-General immediately provide to the Council full details of ministerial staff as at 16 February 1993, including numbers attached to each Minister and/or servicing executive and Cabinet?

The Hon. C.J. SUMNER: The proposition that this is an arrogant abuse of power is quite absurd and the honourable member would know it to be. The honourable member did not clarify at the beginning of his question whether he was talking about personal staff to Ministers, executive assistants and press secretaries. However, upon interjection he admitted that it was ministerial staff, which included public servants. We are not talking about personal staff.

The Hon. L.H. Davis: Most of them are personal staff.

The PRESIDENT: Order! The Hon. Mr Davis.

The Hon. C.J. SUMNER: In order to sort out what each of these people do you would have to go through each individual Minister's staff and find out exactly what roles these particular staff play because the fact is that not every Minister's office is structured the same way. In some Minister's offices roles are carried out by ministerial staff, which in other offices are not included in that category. It is not possible to compare, in my view, one ministerial office with another ministerial office. The honourable member and the Council must note that when he refers to 'ministerial staff', in this category at least, I believe he is referring to public servants and not personal staff.

The Hon. L.H. Davis: Presumably it is both.

The Hon. C.J. SUMNER: All right, it may be both. It might include the executive assistants and press secretaries to Ministers, although in my case I have only one personal staff at the present time: a press secretary. It is interesting to note that the honourable member criticises what he calls 'ballooning' in ministerial staff.

The Hon. L.H. Davis interjecting:

The Hon. C.J. SUMNER: It depends for what reason there has been an increase in these numbers and what roles these particular people are playing in each ministerial office. I think members will find that a variety of tasks have to be performed within a ministerial office, many of which are pure public service tasks which are necessary for the functioning of the Public Service and would be necessary for any Minister whoever in answering questions in the Parliament and answering questions from the public. For instance, I have a secretary and an assistant secretary in my department who are on the list of ministerial staff who, when there is an issue running in the community about something involving my portfolio, spend large amounts of their time on the telephone explaining at great length to members of the public what the issue is about and trying to set the issue straight as far as the callers are concerned.

I also believe that there has been a significant increase in pressures on the bureaucracy and in the exposure of Ministers during the last 10 years. The honourable member might also like to compare South Australia where we have 13 Ministers and have had 13 Ministers for all this decade. There has not been an increase in the number of Ministers in this State for over a decade. Indeed, I think it is probably now more like—

An honourable member interjecting:

The Hon. C.J. SUMNER: No, I do not think there should be. My recollection is that the last increase in ministerial numbers was in 1978. So, for some 15 years, if my recollection serves me correctly, there has not been an increase in ministerial numbers in this State. One can compare that with the Liberal Government in Western Australia, a State with a population the same as South Australia.

The Hon. L.H. Davis: Wrong. You are 200 000 out.

The Hon. C.J. SUMNER: More or less the same—comparable. It is not exactly the same—

Members interjecting:

The Hon. C.J. SUMNER: You are saying that the extra 200 000 require four extra Ministers. Is that what you are saying?

The Hon. L.H. Davis: How many in the Labor Government?

The Hon. C.J. SUMNER: I assume it was the same number. Seventeen Cabinet Ministers in Western Australia, compared to 13 here and for a population which is comparable. Let us try Victoria.

The Hon. L.H. Davis interjecting:

The PRESIDENT: The Hon. Mr Davis will come to order.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order, the Hon. Mr Davis.

The Hon. C.J. SUMNER: Let us try Victoria. I was shocked by a number of things that Mr Kennett did when he came into power in Victoria. He put up his Deputy Leader's salary by some $8 000 the day after he got in because of some cosy deal done between the Liberal Party and the National Party in Victoria. But, Mr President, that did not shock me too much, but what did shock me was the next statement, in which he was going to increase the ministry by four; four extra Ministers in Victoria immediately the Liberal Government came into power in that State. The Labor Government could get on with a certain number of Ministers over there. Yet, four extra Ministers were required by the Victorian Liberal Government to run the State.

If what we are talking about is having extra ministerial staff to assist Ministers rather than increasing the number of Ministers, well I would have thought that that was an efficient use of resources. As I said, I do not know in each individual case what the ministerial staff have been added to do, and one would need to carry out an examination in each ministerial office. Certainly as far as my office is concerned I do not believe there has been any substantial increase in numbers in that office but no doubt I could check.

I understand questions have been asked about this in any event by members opposite just recently. Some months ago there was a similar question asked on notice and if the honourable member gets around to doing a bit of his own research—which would be a change—then he might find out what the situation is.

As for the honourable member's snide comment about members opposite having only three support people when Ministers have large numbers of the same, the fact is that as Ministers we do have much more responsibility than members opposite. It is all very well to complain about the Democrats having extra assistance, but there are only two of them.

Members interjecting:

The Hon. C.J. SUMNER: Well, thank goodness; that is true. Thank goodness, I agree.

Members interjecting:

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

The Hon. C.J. SUMNER: But there are only two Democrats, and they are not up to the capabilities of members opposite and so they need extra assistance to enable them to consider the legislation as it comes through. There are 10 members opposite, but part of the problem with you people is that you will not distribute the work in the Council. The Bills come in and the honourable Deputy Leader of the Opposition (the Hon. Mr Griffin) grabs them all. He hogs the Bills. If you pick up the Notice Paper and there are about 17 items on it, the Hon. Mr Griffin is doing the lot.

He does not think that the Hon. Mr Burdett is any sort of lawyer, so he will not give him anything to do if it has more than two lines. The Hon. Mr Stefani tries to get in now and again and have five minutes and the Hon. Mr Griffin reluctantly gives him a little bit, but the rest of the Bills are all hogged by the Hon. Mr Griffin. I would suspect that, on that basis, the rest of you should have plenty of time to do your own research instead of having added research assistance.

Might I say that when I was Leader of the Opposition I had no research staff whatsoever. I had no press secretaries and no photocopier until two months before the election, when one turned up.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: It turned up two months before the election but, until then, despite many requests, all I had was one secretary—albeit a very good one. When I made a simple request to be able to select my secretary at large by advertising throughout the community, the powers that be at the time—including the Hon. Mr Griffin—conferred about it and refused the request; a simple request like that. So, for three years I had no press secretary, no photocopier and no researcher.

The Hon. Diana Laidlaw: Did you have a stapler?

The Hon. C.J. SUMNER: I bought my own stapler and, furthermore, I handled an enormous legislative load introduced by the Hon. Mr Griffin.

Members interjecting:

The PRESIDENT: Order! The Council will come to order. The Hon. Attorney-General.

The Hon. C.J. SUMNER: I did not hog them all: they were distributed around and we managed very well with only two secretaries. So, that should put that issue to rest for the remainder of the parliamentary session, thank you very much.

SPEED CAMERAS

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister of Emergency Services, a question about the positioning of speed camera units and police vehicles on private property.

Leave granted.

The Hon. J.F. STEFANI: On 18 November 1992 I raised the issue of police vehicles parking on private property when conducting speed camera duties. In his reply on 17 December 1992 the Minister of Emergency Services (Hon. M.K. Mayes) advised me as follows:

A policy statement is now in existence prohibiting the parking of police vehicles on private property when conducting speed camera duties. There is also a written supervisory requirement that supervisors check this matter when attending at speed camera locations when the units are in operation.

Further, in a letter dated 26 November 1992 to the member for Fisher the Minister advised as follows:

Police officers who perform speed detection duties with speed cameras are trained in the general principles of radar as well as the requirements of the Standards Association of Australia relating to radar speed detection. They are also instructed in other guidelines for the placement of speed cameras, all of which will be detailed in a speed detection manual currently being rewritten.

The guidelines for placement of speed cameras include the following:

...not setting a unit within 200 metres of the beginning or end of a change in speed limits/zones, except in complaint locations such as schools or road works;

not positing speed camera units or police vehicles on private property whilst engaged in speed camera duties.

At approximately 8.25 p.m. on 1 February 1993, a member of the public photographed a police officer sitting behind a speed camera unit that was positioned on private property, together with a police vehicle. I am advised that the private property in question is situated at 838 Marion Road, Marion, and I am happy to provide the Minister with the photograph taken showing the offending vehicle and speed camera unit. My questions to the Minister are:

1. Will the Minister advise why the operational directives prohibiting the parking of police vehicles on private property are being ignored?

2. Will the Minister advise why the guidelines relating to the positioning of speed camera units on private property are not being observed?

3. Will the Minister obtain an assurance from the traffic police supervisors that similar breaches of operational directives and guidelines will not occur in the future?

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

POWER BLACKOUTS

The Hon. PETER DUNN: I seek leave to make a brief explanation before asking the Minister representing the Minister of Public Infrastructure a question about ETSA power failures on Eyre Peninsula.

Leave granted.

The Hon. PETER DUNN: On or about 23 January 1993 widespread power failures occurred on Eyre Peninsula, caused by severe electrical storms. Power failures are unavoidable. Residents of Eyre Peninsula are pleased to have SWER lines distribution bringing city living and civilised living into their dining rooms at a reasonable cost. In two areas in particular, Mount Cooper near Port Kenny and the Hundred of Kelly near Kimba, power failed on 23 January and was not restored for 30 hours. A number of properties during that 30 hour period had their refrigerators and freezers defrost, and one person indicated that he had lost a considerable amount of food, particularly meat.

Another farmer indicated that, owing to the power failure, he was unable to pump water for the stock on his property but, fortunately, was able to shift the stock to a watered area. These are a few of a number of stories from country people, who accept power failures. I guess that is part of country living. Some people have their own backup power units but many do not. The complaint is that a 30 hour blackout is too long. I wonder what response there would be if the power of the member for Todd went out for 30 hours.

In the case of the Kimba area, the linesmen and maintenance staff must travel 80 to 100 kilometres from Cleve and Whyalla and, therefore, much of their time is spent travelling. I am informed that, having completed a day's work, they returned to base for a rest and no more work was carried out for a number of hours. My questions therefore are:

1. Why did it take 30 hours to reconnect these areas where the power failed on Eyre Peninsula?

2. Can the residents of the said areas expect 30 hour blackouts in future?

3. Why did not ETSA engage private contractors to assist so that the rectification could continue for a 24 hour period?

4. Will ETSA use private contractors if such breakdowns occur in the future?

The Hon. ANNE LEVY: I will refer those questions to my colleague in another place, although it does seem to me yet again to be a most appropriate local member question.

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: If the local member has been raced to the question by somebody else and is not able to ask the question of the Minister who is actually in the other place, I will refer the question, as I said, to my colleague in another place and bring back a reply.

The Hon. PETER DUNN: I ask a supplementary question, Mr President. I ask the Minister whether I can have a list of the questions I can ask in this Chamber.

The PRESIDENT: It is not a relevant question. Every member is free to ask any question they like of any Minister.

The Hon. ANNE LEVY: I think, Mr President, that is probably a question to you, who administers the Standing Orders.

The PRESIDENT: I am administering the Standing Orders. As I said, any member is entitled to ask any Minister any question they like, and the Minister may answer in any way he or she desires.

PRISONS DISPUTE

The Hon. C.J. SUMNER (Attorney-General): I seek leave to table a ministerial statement made by the Hon. Bob Gregory in another place concerning the prisons dispute.

Leave granted.

LOCAL GOVERNMENT ACT

In reply to **Hon. J.C. IRWIN** (25 November)

The Hon. ANNE LEVY: The Minister of Housing, Urban Development and Local Government Relations has provided the following response: Section 70b of the Local Government Act has not yet been brought into force because it relies on regulations to prescribe the classes of officers and employees which are bound by it, the information about their private interests which they must provide, the form of, and procedure for compiling the Register of Interests, the extent of, and procedure for, the disclosure of information from the Register, and all other matters relating to the Register. Although the provisions relating to local government elected members' Register of Interests deal with similar matters and could have been largely translated into appropriate regulations, those provisions are currently under review. A Discussion Paper dealing comprehensively with the conflict of interest provisions of the Local Government Act and related matters will be ready for printing and distribution in the week commencing 15 February 1993. The Discussion Paper makes recommendations in relation to existing sections 70b, 80 and 81a all of which deal with conflicts of interest of council staff. The transitional provisions for the Local Government Advisory Commission, which are contained in section 28 of the Local Government (Reform) Amendment Act, 1992, came into operation on 21 May 1992 when that Act was assented to. These provisions allowed proceedings which were before the Commission on 1 June 1992 to continue before the Commission if all the parties to those proceedings agreed to choose that option by 1 July 1992. The Woodville/Port Adelaide/Hind marsh amalgamation proposal is the only matter now before the Commission. Port Adelaide has now withdrawn from the proposal. The alternative proposal relating to Woodville and Hindmarsh was not required to go before a local government panel because it is not, in terms of the provisions which apply to the Commission's proceedings, a new proposal but an alternative proposal being investigated by the Commission. As such, it is a continuation of the proceedings which were before the Commission on 1 June 1992.

FLOOD DAMAGE

In reply to **Hon. BERNICE PFITZNER** (25 February).

The Hon. ANNE LEVY: The Minister of Housing, Urban Development and Local Government Relations has provided the following response:

The State Government established the Local Government Disaster Fund in 1990-91 after discussions with the Local Government Association. The fund is to be used for purposes related to the effects on local government authorities of natural disasters or other adverse events or circumstances.

The fund is controlled by a management committee comprising two nominees of the Local Government Association, the Chair of the Local Government Grants Commission, a nominee of the Minister of Local Government Relations and the Under-Treasurer.

Submissions for compensation from the Adelaide Hills and other councils were received by the Management Committee for damage relating to heavy rain and flooding during late September.

After assessment of the claims against guidelines for the fund in December, once off grants were made available to the following councils: Gumeracha District Council, East Torrens District Council, Stirling District Council, Mallala District Council, Jamestown District Council, Hallett District Council, Dudley District Council, Saddleworth & Auburn District Council.

Since then, major flooding has occurred throughout the State from heavy rains on 17 and 18 December. The Disaster Fund Management Committee expects to receive claims from those councils that sustained major damage as a result of this rainfall.

The balance of the fund, after payment of grants for the September floods, is $3.8 million.

COMMUNITY TRANSPORT BILL

The Hon. DIANA LAIDLAW: My question is to the Minister of Transport Development. Following the decision last year of former Minister of Transport Mr Blevins to issue instructions to Parliamentary Counsel to prepare a Community Transport Bill, can the Minister advise whether she intends to introduce a Community Transport Bill and, if so, when? If not, why has the Government now withdrawn its earlier instructions to

Parliamentary Counsel to prepare such a Bill? Further, why did the Government in its instructions to Parliamentary Counsel last year ignore the recommendations made by Dr Ian Radbone (included in an earlier paper on the future of the taxi and hire car vehicle industry that had actually recommended this Community Transport Act) and decide to omit including the STA within the ambit of the proposed Community Transport Bill?

The Hon. BARBARA WIESE: I understand it was the decision of the former Minister that it would be appropriate to remove the State Transport Authority from the purview of the proposed draft Bill. As to my deliberations on the matter, it is a matter that I currently have under consideration and in due course I will determine whether I believe that such legislation should be introduced into Parliament.

MEMBER'S LEAVE

The Hon. R.R. ROBERTS: I move:

That four weeks leave of absence, from 21 February 1993, be granted to the Hon. Carolyn Pickles on account of absence overseas on Commonwealth Parliamentary Association business.

Motion carried.

MINING (PRECIOUS STONES FIELD BALLOTS) AMENDMENT BILL

Second reading.

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

The *Mining Act 1992* is the principal act governing prospecting and mining on the opal fields in South Australia.

The *Mining (Precious Stones Field Ballots) Amendment Bill* has the specific purpose of amending the *Mining Act* to allow for ballots of certain portions of Crown Land un-reserved from the *Mining Act.*

Members are aware that the Mintabie Opal Field is part of Aboriginal land but a special set of circumstances apply there. Several attempts have been made to extend the size of the Mintabie Opal Field along the outcrop of the Mintabie sandstone. While many of the local Aborigines favour the continued prosperity of the Mintabie field, the procedures to extend the size of the field have not been successfully completed under the *Pitjantjatjara Lands Rights Act 1981.*

As a result, the Mintabie miners have looked inward within the opal field at areas reserved from the *Mining Act* for purposes of public infrastructure.

In August 1986 a strip on either side of the wide airstrip was released for pegging. The area proved highly prospective.

The Mintabie Miners Progress Association has corresponded with the Civil Aviation Authority and the Royal Flying Doctor Service and have agreed that a further strip on each side of the airstrip could be released for pegging while still meeting CAA guidelines for the operation of the Royal Flying Doctor Service King Air aircraft.

The shortage of prospective land within the proclaimed Mintabie Opal Field suggests that there will be intense interest in the unreserved land, and that care be taken to release the land in an orderly manner to prevent a pegging rush similar to a Wild West cinema-scope production.

Consultation has taken place with the four Opal Mining Associations and all the associations support the option of having a ballot system in this and future un-reserving of land.

Finally, the Bill also recasts the delegation provision of the Act.

Clause 1 is formal.

Clause 2 provides for a new section 12 relating to delegations under the Act.

Clause 3 provides for the enactment of a new section relating to the use of ballots in certain cases where land is to become a precious stones field. The provision will empower the Minister to conduct a ballot where he or she considers that it is appropriate to do so in order to facilitate the orderly prospecting and pegging of claims on the relevant land. A holder of a precious stones prospecting permit will be entitled to register for the ballot. A person who is successful in the ballot will be entitled to peg out the block awarded through the ballot until 5 p.m. on the day following the day of the ballot. No pegging will be allowed during the period leading up to the ballot, and no other pegging will be allowed for 14 days following the ballot. The Minister will be able to fix a fee for participation in the ballot, which will be refundable to unsuccessful participants. The right to peg out a block through participation in the ballot will be non-transferable. Significant penalties will apply if a person pegs out a claim in contravention of the section.

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

HARBORS AND NAVIGATION BILL

Adjourned debate on second reading.

(Continued from 11 November. Page 734.)

The Hon. DIANA LAIDLAW: The Liberal Party will support the second reading of this Bill to establish a Harbors and Navigation Act. However, we are not keen to move beyond the second reading stage at this time, until the Government has prepared and circulated a copy of the regulations that are designed to implement the measures proposed in this Bill. Also, we believe it is critical that the Premier releases a copy of the report that his Government commissioned into the operations of the Department of Marine and Harbors by a subcommittee of the Government Management Board. I believe it was a year ago that this report was commissioned. I understand that the report has been with the Premier for some months.

The Hon. Barbara Wiese interjecting:

The Hon. DIANA LAIDLAW: Certainly the report has been completed and is with the Government.

The Hon. Barbara Wiese: I have not seen it.

The Hon. DIANA LAIDLAW: The Minister says that she has not seen it, so I think that is even more reason why we should defer debate on this Bill until the

Minister has seen this report commissioned by the Government Management Board, from a subcommittee.

The Hon. Barbara Wiese interjecting:

The Hon. DIANA LAIDLAW: It has; it is about the operations of the Department of Marine and Harbors. The Minister says it has nothing to do with this Bill, but I am not sure how she can argue that when she claims she has not even seen the report. However, there are rumours that in respect of the subcommittee of the Government Management Board there is a major proposal that the Government establish a maritime services board. Such boards have been established in Victoria and New South Wales, and they provide both those States with commercial input into the operations of port activities, and they allow outside interests, other than Public Service interests, to be involved in the management and administration of their port activities.

The Hon. Barbara Wiese: What do you think SAPLAC is about?

The Hon. DIANA LAIDLAW: I think the Minister is referring to the advisory board, but that does not have any legislative powers and, if the rumours are right in respect to this GME subcommittee report, certainly those people on the subcommittee did not suggest that the Minister's advisory committees are sufficient to be charged with responsibility for the management of our port activities in this State. As I say, it is only rumour that there is such a board proposed for implementation in place of having a purely Public Service framework for port management in South Australia. I do not think it should be allowed to be merely rumour when we are debating this major Bill to revamp all the legislative framework for the management and administration of South Australian harbors and harbor facilities, including the role of the Minister, the Chief Executive Officer and delegated responsibilities to authorised persons. So I would reinforce my earlier statement that I do not believe that we should be debating this Bill beyond the second reading stage until we have received a copy of that GME subcommittee report on the Department of Marine and Harbors.

I would also say that without the advantage of sighting the proposed regulations it is difficult to debate this Bill with any sense of conviction or with any confidence that the Bill will achieve the Government's desired objectives. The Bill repeals the Harbors Act 1936, the Marine Act 1936 and the Boating Act 1974 and effectively it seeks to repeal 207 sections of the Harbors Act, 148 sections of the Marine Act and, in respect to the Marine Act, a further 31 rules for preventing collisions at sea and 41 regulations relating to River Murray navigation. There are 38 sections in the Boating Act, and this Bill effectively repeals all those sections.

So, what we have in front of us is a measure by the Government to abolish all the above Acts and all those sections of those Acts but what the Government has done effectively in deciding to get rid of those Acts is to rely heavily on regulations to implement the broad parameters outlined in this Bill. I believe very strongly that it is difficult to know what the Government wants to achieve, and how it proposes to achieve the objectives outlined in this Bill without the benefit of the regulations. The regulations will be critically important in terms of the administration and management of this Bill, and that is essentially what this Bill is all about—administration and management of our ports.

I acknowledge that there are many outdated references and provisions that have been deleted in the process of amalgamating the Harbors, Marine, and Boating Acts and that is a good thing. I note for instance that the Government has removed provisions in the Marine Act relating to 'His Majesty's Government', and has deleted many old-fashioned expressions, and it is worthwhile just referring to a number of these. In the Marine Act, section 2, 'Commencement and reservation', provides:

> This Act shall not come into operation until His Majesty's pleasure therein has been publicly signified in South Australia but after the signification of the said pleasure the Governor may by proclamation appoint a day on which this Act shall come into operation.

It is a relief today that we are speaking in plain English and certainly that the expressions used today, while they tend to be very legalistic, certainly are easier to understand than the terms I have just cited. There is also, in the Marine Act, reference under 'Interpretation' to the Board of Trade, which means the Board of Trade in the United Kingdom. There is interpretation of the 'Merchant Shipping Act' which means the Act of the United Kingdom.

So therefore, Mr President, as I indicated, it is time to clean up many of these archaic provisions in the Marine Act and the Harbors Act, and also use in future gender neutral expressions. So, the Liberal Party certainly endorses those measures. However, in the process of amalgamating the Acts the Government has gone overboard. For instance, in seeking to define 'vessel' it has adopted an all-embracing definition rather than specific definitions for various types of vessels as applies in the current Acts. The definition of 'vessel' states:

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

So what we have in terms of this definition of 'vessel' is a provision which includes anything and everything from an ocean-going liner or container to a boogie board or child's water wings, or indeed a life jacket. Under the term 'device' we have a definition of a person who rides through the water or who is supported in water, and there is no doubt that if you take that definition you very readily come up with water wings, boogie boards and life jackets as appropriate under this definition as proposed by the Government, but definitely inappropriate when you look at the fact that this legislation is also dealing with enormous containers, motor boats and the like. So, I believe the Government has made a mistake in using such a broad definition for 'vessel'. I believe it is most definitely a mistake when one sees this definition of 'vessel' applied through various parts of the Bill, and I refer to part 5 in relation to harbors, specifically division 3, 'Fees and Charges', where in section 30 there is the following provision:

(1) The charges

(a) for use of facilities provided under this Act for—

(i) the mooring of vessels;. . .

(iv) the safe navigation of vessels.

This means that the Government can, in respect of devices such as boogie boards, life jackets or water wings, impose fees and charges for use of harbor facilities. While that proposition may be dismissed as ludicrous, and hopefully it is, there is no reason to believe that such a situation is not possible under this Bill, because under 'Division 3-Fees and Charges' no effort is made to clarify what is meant by 'vessels' or whether the fees and charges are to apply only to a ship, boat or vessel used in navigation or also to a vessel that is transporting passengers or goods by water. I certainly hope that they do not apply to devices including surfboards, windsurfers, water skis or, indeed, water wings, but as I have said there is nothing in the Bill to clarify that matter.

Because of the Government's zeal to be seen to be deregulating in this field, it has established a very messy circumstance, certainly a most confusing one and one which a number of people have argued to me simply raises the possibility of many measures in this Bill being used to raise funds or grab fees. As the Bill has been presented, that possibility is apparent, although I argue that it is most undesirable.

Further problems arise from the Government's zeal to eliminate or deregulate when one looks at part 7 of this Bill relating to certificates of competency. I refer, in particular, to the issue of certificates of competency in relation to a boat operator's licence. Part III of the Boating Act provides considerable detail about what is required of an operator or a person seeking to be an operator and the measures that they must take to gain a licence. There are provisions for an application for a licence, for examinations and for the grant of a licence. There is considerable detail about the department's establishing a register of licensed operators, and there are provisions for the cancellation or suspension of a licence, for the issue of special permits and for the unlawful operation of motor boats.

So, the current Boating Act contains considerable detail about these very important issues but, when one looks at what is required under the new provisions for a certificate of competency for a boat operator's licence, one finds very little detail. For instance, regarding examinations, it has been clearly stated in the past that a person who passes an examination to the satisfaction of the Director may gain a licence and that that examination may be in oral, written or practical form. So, it has been stated specifically in the past that there can be a practical examination. In most cases to date, that provision has not been applied, but it certainly has been possible.

There is no reference in the Bill before us as to the manner in which an examination may be conducted. That is a shame, and it has been put to me by many people who have a great interest in the issue of road safety that the matter of practical examination must be considered for policy development and possible implementation in the future.

The current Boating Act contains specific reference to the granting of a licence. It provides that a licence will continue in operation without renewal. There is no specific statement to that effect in the Bill before us. That raises the possibility of an annual licence. That matter would not be well received by the community at large, but this Bill contains no provision that would not allow for an annual licence, and we have received no expression of intent from the Minister in her second reading explanation, in the explanation of the clauses or in any other policy or media statement that I have noted that outlines the Minister's intentions in respect of this matter. I believe it is important that there be reference to a licence continuing in operation without renewal, if that is what the Government means and wants.

In respect of licences, there is reason to be agitated about what the future may hold when one notes moves by the Murray-Darling Basin Commission in a draft discussion paper issued in October 1992 which recommends the provision of annual drivers' licence fees for private and commercial vessels. It recommends such a policy move in an endeavour to improve the management of boating activities along the River Murray. So, the possibility of annual licence fees raises the further possibility of annual or five yearly renewals and other testing measures. All these matters should be clarified in this Bill and not left to the whim of the Government via regulation.

Further references contained in the current Act but not in the Bill before us relate to special permits. The Boating Act contains provision for special permits to be issued to persons between the ages of 12 and 16 years where a motor boat has a potential speed which does not exceed 18 km/h or to a person in the same age group where a motor boat has a potential speed which exceeds 18 km/h when accompanied by a person who is licensed under the relevant part.

However, there are no references in the Bill to conditions that would apply to special permits; nor is there any specific provision for a temporary licence. Those matters must be addressed in more detail in this Bill. This is another case of where too little information is provided in the Bill, and that could lead to great uncertainty and heavy reliance on regulations at a time when we do not have any idea of what the Government intends to implement by way of those recommendations.

In contrast to the lack of information in the section headed 'Certificates of competency', we find in clauses 69 to 73 of the Bill relating to alcohol and other drugs nine detailed pages mirroring the existing legislation under the Road Traffic Act. When one reads through this Bill, one finds that the nine clauses relating to blood alcohol testing procedures and penalties are almost out of place or at odds with the context of the whole Bill, because they are so detailed. Being so detailed they highlight to an even greater extent how little detail there is and what a skeleton this Bill is.

Under the present provisions in the Boating Act in respect of alcohol testing practices, persons can be breath tested only if they have committed an offence or if the police suspect they are under the influence of alcohol. Now, it will be a case where there can be random breath tests and a police officer can breath test a person whether or not they suspect they are under the influence of alcohol. The Liberal Party supports the recommended procedures as outlined in this Bill.

We have some questions in relation to how the Government proposes that these measures be enforced. We have received representations from the Boating Industry Association and the Recreational Boating Association, and they would like it spelt out in some detail that the persons conducting these breath tests will not be persons authorised by the CEO of the Department of Marine and Harbors but rather the police themselves. There certainly seems to be some confusion in the minds of the two associations to which I have referred although, upon speaking to people within the Police Department, I have had confirmed today that it is the understanding of the Police Commissioner that marine safety officers employed by the Department of Marine and Harbors will be able to intercept or stop any person whom they believed showed signs of having consumed too much alcohol, and they would then call upon the police to do the testing. The advice I have received from the Police Commissioner is that the testing will remain with the police, and the Department of Marine and Harbors does not propose to either authorise or train their officers to do this specialised work.

However, the associations would like this stated specifically in the Bill, and I would appreciate some explanation from the Minister about whether or not she would move in this manner to satisfy the boating associations in this State.

I would also like to refer to the issue of marine facilities for it is on this issue that the three major associations in this State have made long and exhaustive representations to me. During the years of the Tonkin Liberal Government it was determined that $500 000 would be set aside on an annual basis to provide for the establishment of marine recreational facilities in this State, and I understand that a further $500 000 was to be provided for the establishment of commercial fishing facilities in South Australia. After the Liberal Party lost office, this Labor Government has gradually cut the funds to both of those important boating associations in this State.

About four years ago the sum was reduced to $250 000. Last financial year and again this financial year no funds have been provided for that purpose. The people who love boating in this State and those people who depend on their boat for their livelihood, such as fishing families, have been increasingly agitated, and for good reason, about the decline in the standard of facilities in this State. When one goes around the State it is despairing to note the rapidly deteriorating surface condition of ramps, wharves, jetties and slipways. All of them are in a declining state of repair. The associations are becoming increasingly agitated about this sick and sorry state of affairs and are particularly agitated when they look at what is happening in New South Wales and Victoria in particular where each year the Government is investing heavily in such facilities, knowing that they are not only important for the local population but also increasingly important for the tourism image in that State and for encouraging tourists to return there.

That is not the case in South Australia. The Department of Marine and Harbors is not maintaining these important facilities and, because the Government has provided the department with no money to do so, last year the department went to the Boating Industry Association and the Recreational Boating Association and suggested that they might like to consider the possibility of a levy being imposed at the time they paid registration fees. The associations were initially alarmed by the prospect but have begrudgingly come around to accept the fact that they may have no other option under this Government to gain the quality of facilities that they require without the imposition of this levy.

I would like to go into more detail on this matter at the moment. I would point out, however, that while the Government has cut the funds for the maintenance and construction of marine facilities in this State I would argue that the Government has been cheating people who are interested in boats out of the money that they are already paying the Government through fuel franchise fees for their motor boats and also through their registration fees.

I would be interested to determine from the Minister how much is collected in registration fees from boats on an annual basis and what the calculation would be of the collections of fuel franchise fees from those people who operate boats today. I suspect that that figure must amount to hundreds of thousands, if not millions, of dollars, and I would suspect millions of dollars. However, not one of those dollars is returned to the boating fraternity in this State, whether that be for recreational boating or for commercial fishing purposes. That is deplorable when the Government is now looking at imposing a further impost on the boating community by the way of such a levy.

So, I have grave misgivings about the imposition of the levy, except that I appreciate the frustration that the boating community—at least those that the Government have consulted—have felt in this matter and who feel that they can now only gain this money for these facilities by bowing to Government pressure for such a levy.

It is interesting to note that when a draft of the Harbors and Navigation Bill was being circulated in about September of last year it did include provision for a levy to be imposed by way of regulation. At that time it was proposed in regulation numbered AD, to fix:

1. A levy to be paid in addition to the registration fee on the registration or renewal of the regulations of a power driven recreational vessel, and provide for the revenue derived from the levy to be paid into a special fund to be used for the purposes of establishing, maintaining and improving recreational boating facilities; and

2. A levy to be imposed on commercial fishing vessels, the revenue derived from a levy to be paid into a special fund to be used for the purpose of establishing, maintaining and improving facilities for fishing vessels.

It was the term 'maintaining' included in the proposed regulations at that time that raised the ire of the boating associations with which the Government was consulting. They are so desperate for funds that they believed that, if they were paying a levy into a special fund, that fund should be used for establishing new or urgently needed facilities and that the Government, which had established facilities in the past, should not be abrogating its responsibilities for maintaining those facilities but should bring them up to an acceptable standard, as required by Statute under the Act.

So, they took exception to the Government's saying that the levy should be used for maintaining existing facilities as well as for establishing and maintaining future facilities. I had considerable sympathy with that position at that time. Because of that disagreement the Minister decided that she would not include the levy regulations within the Bill she has now introduced. However, I understand that last Wednesday she met with representatives of the Boating Industry Association, SAFIC and the Recreational Boating Association and that she agreed, pending Cabinet permission, to move for the reinsertion of the levy regulations in this Bill. I await advice from the Minister on that matter.

I have received a copy of correspondence to the Minister from all the associations that saw her last Wednesday and they have agreed that, in principle, they will accept that levy provision, although at this stage they have no idea what the levy will be. They have also agreed that they will accept the levy provision on condition that the Minister moves further amendments to establish a board or committee to manage the funds collected through this levy, the committee to comprise two members of the Recreational Boating Association, two members of SAFIC and two members appointed by the Minister.

The primary responsibilities of this proposed management committee would be to advise the Minister on the control of funds collected under the Marine Facilities Levy and to give regard to the objectives of the Act. That would mean that they would be involved in advising the Minister on how the funds should be applied and where, and that condition is most important. I have many other matters I should like to raise in relation to this Bill, but I am still awaiting some information and, on that basis, seek leave to conclude my remarks.

Leave granted; debate adjourned.

FIREARMS (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 11 February. Page 1214.)

The Hon. R.J. RITSON: The Opposition supports the second reading of this Bill. I should say at the outset that it is a rather difficult Bill to deal with. It is, in fact, a Bill that amends an amendment to another Bill, and the Bill it is amending is, in fact, an amending Bill that has not yet been proclaimed. Moreover, this is largely a Committee Bill, and when the Bill comes to the Committee stage there will be many questions and much work to be done. I have here the third draft of the regulations.

The Hon. Diana Laidlaw interjecting:

The Hon. R.J. RITSON: I have the third attempt at drafting the regulations, some aspects of which are controversial. Some of them create extra undesired work for the police, and I point out that the whole sorry history of this legislation has been one of the passage of laws that create the need for certain types of infrastructure that are very difficult to put in place. That is one of the reasons why the legislation that we are today amending has not itself been proclaimed. This is really a continuation of what was attempted to be put in place by the Labor Government just before Dr Tonkin became Premier. I remember in the first year or two of the Tonkin Government we had agreed to implement the measure, but found the enormous infrastructure difficulties even then.

The Hon. Diana Laidlaw: It is really a case for providing regulations at an early stage when the Bill is being debated so we can understand whether they—

The Hon. R.J. RITSON: Yes, and it is a process that continues. For example, the regulations to be implemented regarding the classes of licence create six classes of licence where previously there were three. All of that will have to be taken on to electronic data banks in a form different from the present firearms registry. So the whole firearms registry has to be rewritten using different codes for different classes of licence. I shall come back to some of these infrastructure difficulties in a moment.

Let me make a few remarks about what the Bill hopes to achieve and what it will achieve. Members on this side of the Council support the second reading, but members on both sides should understand that nothing much will change as far as public safety is concerned. I have a substantial background in the use of firearms. I served in the Army Reserve, the CMF in those days. I have been trained in the use of rifles. I was an instructor and platoon sergeant in the Vickers medium machinegun platoon. I was trained in the use of the Owen submachine gun. I have been trained in a course dealing with explosives and demolition. I have training in the use of the three-inch mortar. A lot of this technology of course has now been replaced by more modern firearms and weapons. However, I have more than a passing knowledge of firearms, including clay pigeon shooting and open-range target shooting at the University Rifle Club. There are many former members who took pride in their training in the use of rifles. One can see on the walls of this place photographs of past rifle club teams, entered by this Parliament in competition. One of the most keenly competitive shooters was the late Don Simmons, who used regularly to present the trophy at the Queen's Shoot.

The problem with legislation, as has been said many times, is that it only touches on the people who are prepared to obey the law. We know that there are many thousands of unregistered firearms. We know that people who choose to rob a bank generally use a stolen or illegally purchased firearm. There is quite a big trade in this State, as in all States, in pistols—a lot of them manufactured without a serial number. There is quite a lot of criminal activity with these firearms. No legislation will diminish the unlawful, the criminal, use of these firearms which are present in the criminal element of society.

Shortly after I came into Parliament, I took out the figures for a decade of homicidal firearm deaths. The figures varied widely from year to year, but over a decade they averaged about 12 or 13 per annum. There was no discernible trend over the decade either up or down. I do not think there will be a discernible trend for the better resulting from this legislation. However, there is a community desire to see something done as a result of homicidal use of firearms by emotionally or mentally deranged people. This has an impact certainly on

people's concern about domestic violence and the vulnerability of women to men with firearms. So, recent homicidal use of firearms and fear of their use in domestic violence does cause the body politic to respond with legislation, and in this case the response is to make what is I would think one of the tightest set of controls in Australasia even tighter.

When I contemplate this I think it would be much better to look at the user of firearms in a different light. For example, what this State needs is much earlier intervention in domestic violence cases. That really has nothing to do with the presence of firearms in the community and it has everything to do with training the police and modifying the law if necessary, so that women who go to the police and express fears for their safety are taken much more seriously and so the community does not have to wait until the worst fears are realised. I think that for every hour spent by police in the firearms registry re organising the bits on the computer is an hour not spent in training police officers to recognise which complaint of impending domestic violence should be acted on, earlier than is the case at present. Really that is just an expression of fact—that I believe the principle of targeting the criminal instead of targeting the machinery is the better way to go. I recognise, however, the politics of the situation and the need to appear as it were to 'do something about it', whatever that might mean.

As with the multiple categories of firearms licence and as with the plan to register magazines, the danger is that we will create more infrastructure problems still, and we may find that in due course this amending Act remains unproclaimed because of the inability of the police to devote the resources necessary.

There are tens of thousands of firearms which are lost, and which were virtually lost during the Tonkin years when the police started to convert their card index system to the electronic database. It was a very large and tedious job in the days of the steam driven ballpoint pen, and by the time they had the task completed many, many people had moved or had died and someone else had inherited the firearms. There is no way that the police can identify the present holders of those firearms short of door-knocking the State of South Australia.

The resources that the police have will be stressed by some of the changes, particularly in the regulations. It is my understanding that the Police Department has merged the freedom of information section of that department with the firearms registry, and that the Government has attempted to present this to the public as an increased staffing of the firearms registry. It may be, if the staff that are presently dealing with freedom of information are in fact under-employed and turn their attention to the task of reprogramming the register of magazines and reprogramming the whole registry with regard to the classes of licence, it will work the other way. Maybe the freedom of information people will want to use the firearms registry computers as well, and use some of the police resources and it could indeed be a reduction of resources to the registry.

However, we will go along with the second reading at this stage and I would ask the Minister to have officers present in what I think should be a very detailed examination in the Committee stage, particularly of the proposed regulations, or at least a third attempt to put together a set of regulations. I will not do that now, but I will give an example of some of the things that we have to deal with. On the question of registering magazines, if a person has a firearm of, let us say, the semi-automatic centre-fire type, which normally carries high capacity magazines, if the police simply want to know who has one so that they know what they are facing in a siege situation, I think they would prudently just assume that, if a person shows up on the register as possessing one of these firearms, that person may have a high capacity magazine. In any case the police would behave with maximum caution.

One does not need to register the magazine for that purpose, but only needs to register the class of firearm for the police to have enough knowledge to go by. If the police want to be able to track magazines for the purpose of recovering then if a house is burgled, and the firearms and the magazines are stolen, they need a number or identification on them. Will the police allocate numbers because the firearms manufacturer does not put a serial number on the magazine? Will people have to take those magazines to the police to have an allocated number engraved on them? I do not know. Right through the draft regulations there are questions, questions, questions, but in particular signs of a bigger and more complicated infrastructure and cost.

Having said that, I am going to commend the second reading to the Council and I request the Government to have advisers here during the Committee stage. I support the Bill.

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

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

Adjourned debate on second reading.

(Continued from 10 February. Page 1200.)

The Hon. K.T. GRIFFIN: Mr President, I sought leave to conclude my remarks on the second reading of this Bill because at the time the Attorney-General had not provided me with documents to which he referred in his second reading explanation in support of the Bill. I now have those and I am amazed at what I have received. In his second reading report, he says:

> These amendments tighten up the situations in which members are required to disclose connections with entities with which members have connections of a financial nature.

That is not denied. It certainly tightens it up and makes it very much more onerous for all members of Parliament without, I suspect, any advantage to the community as a result of the increased paperwork which is required of members of Parliament. Then the Attorney goes on to say:

> The Bill also picks up deficiencies identified in the Act by the registrars and by the former Solicitor-General, Malcolm Gray QC. I shall deal first with the minor deficiencies identified by the former Solicitor-General.

When I got these documents I got two of them, a copy of a letter of advice dated 6 November 1984 from the Clerk of the House of Assembly, who is the registrar in

relation to that House, and also an opinion from the former Solicitor-General, Mr Gray, which is dated 19 June 1985. This Bill is brought in on the basis that we have some sort of pressing need to amplify the provisions of the Bill, make it very much tighter, and the Attorney-General bases it upon two documents which are eight years old in one case and nine years old in the other case, and they do not provide a substantive basis for this comprehensive legislation.

The Clerk of the House of Assembly as registrar for the purposes of the Bill wrote to the Attorney-General seeking an opinion on some aspects of the operation of the Members of Parliament (Register of Interests) Act 1983, and the registrar referred to a concern which had been expressed by some members that, when the consolidated register had been prepared by the registrar and tabled, the registrar had misinterpreted some of the instructions by individual members on the forms of ordinary return, and the registrar was seeking some advice. He did express two concerns and I quote them:

> Firstly, what constitutes a compilation of the information I have received—
>
> —do I delete an interest when a member advises me (such as changed income source or mortgage) or do I note in my statement both the interest and its subsequent deletion,
>
> —do I continue to record 'one oft' interests (such as travel contributions) or only in the statement for that return period—

he was referring to a continuing accumulation of information in relation to those from year to year—

> and secondly, because of the options available to the member in compiling his ordinary return confusion results as to how the variations are to be recorded (particularly where a member purports to notify a change by not referring to it on the ordinary return).
>
> In my view options for change are to alter the ordinary return to either require deletions to be listed or for the ordinary return to constitute a current compilation of members' interests. I hope I have been clear in outlining the problems I am facing. The Victorian legislation, on which I understand this Act was modelled, does not result in similar difficulties, because after the initial compilation of interests only additions or deletions are recorded in future statements.

The registrar makes some reference to concern, but it all relates to the question of how you fill out the form. Part of that is related to the form which has been prescribed. As I said last week on this matter, the simple solution is for the form to be amended, to make clear what members are required to do, not to delete the ordinary return and to require a consolidated compilation to be filed by the member every year but merely a continuing amendment by addition or deletion of the information on previous returns—and it is dealt with simply. So, there is no justification in what the registrar proposes for this legislation or for the removal of the provision which allows the ordinary return merely to be a program of updates of the earlier returns which have been lodged.

I turn to the Solicitor-General's opinion dated 19 June 1985 in response to a request for guidance from the registrar in November 1984. It comes seven months after the request for assistance, so it could not have been particularly pressing at the time. The Solicitor-General explains the provisions of the principal Act and those sections which relate to the compilation of returns and sets out his opinion on what the registrar of the House of Assembly ought to do. He does not make any recommendations for change; he merely identifies what he understands the law to be. We have not heard any complaints about the way in which returns have been completed for the past eight to nine years, so why rush in with a piece of legislation to make quite significant changes on the basis of that letter and opinion?

In his second reading explanation, the Attorney-General says that the amendments will ensure that public confidence in members is sustained. There is no indication of where the concern about the current requirements of the Act has arisen. There is certainly no evidence of it in that eight or nine year old information to which I have just referred, and there is no other indication of evidence of complaints about the way in which registers are kept or the information that has been disclosed. I suspect that the Attorney-General has been sitting on this for the past nine years and has decided that as it is getting close to election time he ought to put in a Bill which is likely to get support from both Houses whilst he is Attorney-General and the Labor Party is in power, because after the next election he does not know what will happen and he runs the real risk that this legislation will be unlikely to gain any priority—and he is probably right. It demonstrates that he is concerned about the result of the next election and also about trying to cause some embarrassment to various members of the Parliament and increase their workload in compiling more comprehensive reports or, more likely, by the obligations imposed by the Bill, catch members out, because they might have forgotten that they had an upgrade on their overseas air travel or that a company in which they might have a minority interest had some benefits which were unrelated to the member's representation in Parliament but which catch the member because of that minority interest.

The second reading explanation is wrong in a number of respects, and I want to point those out briefly before I deal with several more substantive issues which I did not have an opportunity to deal with on the last occasion on which I spoke. In his second reading explanation, towards the end of his general explanation, the Attorney-General states:

> The amendments provide a definition of 'gift' which sets out that a gift is a transfer of property which is made for less than adequate consideration and not in the course of an ordinary commercial transaction.

That is not what the Bill actually says. The definition of 'gift' in the Bill deals with a transfer of value—not a transfer of property; a transfer of value, however effected, that is not made for adequate consideration or in the course of an ordinary commercial transaction but does not include a testamentary disposition. So, it is not a transfer of property; it is a transfer of value. I suggest there is a significant distinction between a transfer of property on the one hand and a transfer of value on the other. The transfer of value concept is very much broader than the concept of transfer of property.

As I said on the last occasion on which I spoke, it is very difficult to know what 'adequate consideration' means. Of course, members will not have specific guidance about that; they will have to make a judgment as to whether or not consideration is adequate. I refer particularly to raffle and lottery tickets. If a member

presently buys a lottery or raffle ticket in one of the many raffles that members of their branches or constituency organisation foist upon them, if they win the prize, on many occasions they have to divest themselves of it back to the organisation.

The Hon. Carolyn Pickles interjecting:

The Hon. K.T. GRIFFIN: They could always give it back, but it is possible that, in some circumstances, a member may not. For instance, if a member buys a ticket in the Bedford Industries car lottery and wins the first prize, I am not sure what that member would do in those circumstances. However, that is not the point of my argument. The point of my argument is that, under the present legislation, in my view, it would not be necessary for a member to disclose that he or she had been successful in that lottery. The $20 was paid. It was certainly not an ordinary commercial transaction. Was the consideration adequate—a $20 or $30 ticket to win a motor car? That is an illustration of the difficulty that members will have in determining what is 'adequate consideration'. It is certainly not an ordinary commercial transaction, because no business is involved, but the Bill contains no definition of what is a commercial transaction and no description of what is an ordinary commercial transaction as opposed to an extraordinary commercial transaction.

With respect to those people who may have drafted the Bill—for which, I am sure, the Attorney-General takes full responsibility—I do not see that it gives any guidance to members of Parliament who are diligently trying to do their job and honour the commitments which the law requires of them when identifying what is a gift.

I also focused upon the use of a holiday cottage and a friend unrelated to the political environment. If you go to Surfers Paradise and you have a friend there who owns a unit and you borrow that without consideration it is most likely to be worth more than $500 in transfer of value, and in those circumstances presumably will have to be disclosed. There will be a whole range of those sorts of things.

The Hon. Peter Dunn: What if your house increases in value?

The Hon. K.T. GRIFFIN: That is not a gift. That is just good foresight on the part of the member for which you cannot really give any credit to the Government. I am trying to identify that there are some difficulties in understanding what that definition means. It will require members on both sides of the House to obtain their own legal and accounting advice as to what should or should not be disclosed. More particularly, it will require members to keep a day-by-day, week-by-week or month-by-month record, if that is convenient, of those occasions where there is a transfer of value in the circumstances identified by a gift.

Let members be reminded that if you forget one of these it is a breach of the Act and, if you do not keep your records and sometime, perhaps 12 or 15 months later, when this is raised by someone who might be wanting to create mischief, there is a problem under the Act. All I am trying to do is make sure that members on both sides of the House and on the cross-benches understand what the ramifications may be.

The Hon. Peter Dunn: What about discounted fuel; is that hit?

The Hon. K.T. GRIFFIN: Discounted fuel: it raises the question whether the consideration is adequate.

The Hon. R.R. Roberts: What about a X-lotto ticket?

The Hon. K.T. GRIFFIN: That is right. Is the consideration adequate? It is certainly not a commercial transaction, let alone an ordinary commercial transaction. In relation to discounted fuel, is it a commercial transaction? Maybe it could be described as commercial in a sense that one person is selling and one person is buying, but there is no indication as to whether or not that is so, and is it an ordinary commercial transaction, if it is a commercial transaction? It may not be ordinary because the discount may be available to only a few people. How many people make it ordinary: 10, 50, 100, or 1 000? Who knows? I want to focus on the problems that that will create.

The second reading speech is also wrong in that it talks about the disclosure of the name of a source of benefits other than gifts. The Attorney's second reading explanation says:

> The amendments create a parallel requirement to disclose the name of a source of benefits other than gifts. Previously, members were obliged to disclose the names of persons who allowed members to use their real property. The distinction between use of real property and other assets is no longer seen to be justified. Where a member derives a benefit which is worth more than $500, whether from the use from someone else's house or from the use, for instance, of someone else's car, the fact that the member has a close connection with the benefactor is to be disclosed.

What the Bill actually refers to is not a benefit worth $500 or more but where the member has had the use of any property of another person of or above the value of $500. So, it involves the value of the property and that, I would suggest, is a much broader concept than what is referred to in the second reading speech. There are some difficulties in that the second reading speech does not match the Bill, and I would suggest there is a deficiency in the evidence for the justification of the legislation.

I want to briefly go back to an issue that I referred to at some length in the second reading speech last week, that is, this issue of the extension of the definition of a person related to a member to include a proprietary company in which the member or a member of the member's family is a shareholder, or a trustee of a trust other than a testamentary trust of which the member or a member of the member's family is a beneficiary. I should say that that reference to a testamentary trust conveys the impression that the dealings of a testamentary trust are not pertinent to the disclosure obligations of the member.

However, a later amendment in section 4(3)(c) suggests that, notwithstanding what I take to be an exclusion of a testamentary trust, does in fact require ultimate disclosure of information by such a trust under the provision in section 4(3)(c) as amended by the Bill. As I said last time, the problem is that it may be appropriate to focus upon the company of a member where the member has control, but it is quite likely that even in those circumstances there may be difficulties, particularly where you have a trading company in which you have an interest actually to keep the detailed record of all the matters which are disclosable by the member.

It may also be, notwithstanding that difficulty, difficult for the member to gain suitable access to that information. It would be impossible, and I think the company would not be obliged by law to provide the information to the member where the member had only a minority interest. The same applies in the area of the trust. So, that is a problem in relation to a number of the provisions of section 4 of the principal Act as amended by this Bill.

I have made the additional point that the question of the definition of 'investor' will cause some concern, and I do not think it will gain much, but it causes concern also in that broader context of proprietary companies in which a member or a member of his or her family may have a share, even if that be a minority interest. I think there are compelling reasons why the provision ought to be limited to controlling interests.

I also referred to the disclosure of the names and addresses of persons who owe the member money in excess of $5 000, and I think I made the point that that is unlikely to provide any useful basis for determining issues of conflict for a member. I wonder why that information should have to be disclosed. Again, in relation to a company where information of that sort has to be disclosed, one can envisage a situation where there is a business which carries on activity which allows running accounts to be maintained by debtors. In each instance if they exceed $5 000, it may be a problem in gaining access to that information, and in any event one has to question why that information should be disclosed.

I indicate, as I indicated on the last occasion on which I spoke, that we will allow the second reading of the Bill to be passed. We express concerns about the scope of the Bill, for very practical reasons that I have identified. I will be seeking to move a number of amendments that seek both to clarify and to limit the operation of the Bill, and hope that they will be sympathetically considered by the Council. Of course, some amendments will depend on the response by the Attorney-General to issues that I have raised.

The Hon. J.C. IRWIN secured the adjournment of the debate.

COURTS ADMINISTRATION BILL

In Committee.

Schedule and title passed.

Bill recommitted.

Clause 11—'Powers of the Council'—reconsidered.

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

Leave out new subclause (3) and substitute:

(3) The Council must, before entering into a transaction of a class prescribed by regulation for the purposes of this subsection, observe the appropriate procedures prescribed by regulation.

This is a reworded version of the Hon. Mr Griffin's amendment. On further consideration of his amendment it was considered that, as he had originally expressed it, it was too wide. In fact, the point was made that his amendment could have been used by the Government through its regulation making powers to regulate the conduct of the courts administration authority etc, which was not the intention. There was no difficulty with the intention as expressed by the honourable member when he moved his amendment, but it was the way it was expressed in the drafting that gave some cause for concern. It has now been redrafted to accommodate the honourable member's intention but without what was seen to be widening the regulation making power of the Government to include the conduct of the affairs of the Courts Administration Council.

The Hon. K.T. GRIFFIN: I can see that this focuses upon transactions. Certainly, I intended to deal with the issue of transactions, but I concede that my amendment, which the committee accepted, is broader and may be construed as dealing with a wide range of administrative matters within the Courts Administration Council and, because the amendment of the Attorney-General reflects what I had intended, I am happy to indicate support for it.

Amendment carried; clause as amended passed.

Clause 16—'The State Courts Administrator' —reconsidered.

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

Page 7—

Line 6, leave out 'on the nomination of the Council'.

After line 19, insert subclause as follows:

(3A) A person cannot be appointed as the Administrator unless nominated for appointment by the Council.

My amendments clarify the position with respect to the appointment of the administrator. They make it clear that the appointment of the administrator must be on the nomination of the council in the first instance, which means that there is a discretion on the initial appointment of the administrator for the Governor to refuse the nomination of the council and, obviously, if council nominates someone who was unacceptable to the Governor in Executive Council, there would need to be discussions to reach agreement on an appropriate appointee.

In other words, there is a veto that rests in the council, because it has the power to nominate, and the Governor cannot appoint unless there is that nomination from the council, but the Governor has a discretion to appoint and, if the Governor is not satisfied with the nomination from the council, the Governor can refuse to appoint. My amendment produces that effect. However, a further amendment provides that, where the courts administrator has been appointed on one occasion and is being nominated for reappointment at the expiry of his or her term of appointment, the Governor in Executive Council is obliged to accept the nomination from the council for the reappointment of such officer.

The argument there is that, if the Government could in effect veto the reappointment of the administrator at the end of his or her five-year term, that would seriously undermine the independence of the administrator and that, in fact, the administrator would be in a more vulnerable position even than the registrars and sheriffs, who cannot be dismissed or reduced in status except with the consent of the Chief Justice or, where appropriate, the Chief Judge.

In other words, the argument has been put that the courts administrator cannot really serve two masters and that, if the reappointment of the courts administrator depended on both the approval of the Governor and

nomination from the Courts Administration Council, then there could be a situation of conflict, and a position where the administrator was attempting to serve two masters. The Government has agreed, therefore, that in the circumstances of reappointment it should be on the nomination of the Courts Administration Council and that the Governor, in that circumstance, would not have discretion, but that in the case of the initial appointment of the person it would, in effect, require the concurrence of both the Courts Administration Council and the Governor.

The Hon. K.T. GRIFFIN: I support the first amendment to insert a new subclause (3A). I acknowledge the desirability of the administrator being appointed on the nomination of the council. That maintains the protection that exists in relation to other statutory office holders in the courts arena. I appreciate the indication from the Attorney-General that in consequence of the amendment the Governor will maintain a discretion in relation to the appointment, that is, whether to accept or not accept the nomination of the council. However, I have some concern about the second amendment, which the Attorney will move next. I appreciate the point that the Attorney-General is making, but it seems to me to be wrong in principle that the Governor should be denied (and, effectively, Executive Council) a discretion on the occasion of the second appointment. I do not know of any other instance where the Governor does not have a discretion in relation to appointment. I do not suppose that that is necessarily an argument against this, but this is a new area of an enactment which does severely restrict the Governor's discretion.

I would not have thought that there was a problem, if the Governor overall retains the discretion whether or not to accept the reappointment recommendation, for the administrator, and remembering that, whilst the administrator is accountable to the statutory body, nevertheless, the administrator has the responsibility for administering public funds and providing a service for the community for which ultimately there has to be accountability. If the administrator in the first period has demonstrated some defects in ability but the council for one reason or another decides to press ahead with a reappointment, I think the Government of the day has some overriding responsibility to the community in relation to that appointment. I would expect that there be a communication between the Government and the council in relation to appointments, but that may not necessarily follow and occur. If the amendment is not carried, this will at least still require an appropriate level of consultation about the person who is going to head up an integral part of the functions of the Crown, namely, to provide court services. I thus indicate support for the first amendment and opposition to the second.

The Hon. I. GILFILLAN: I have no objection to the first two amendments that the Attorney has moved together. I shall speak to the third amendment in due course.

Amendments carried.

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

Page 7, line 21—After 'the concurrence of the Council' insert 'and, if the Administrator is nominated by the Council for re-appointment on the completion of a term of appointment, the Administrator must be reappointed'.

I have already explained my position on this.

The Hon. I. GILFILLAN: I am a little uneasy with this measure. In the previous debate I expressed disquiet at the structure of the council and the voting pattern in the council. I doubt that this is a particularly significant issue and very unlikely to result in eruptions of monumental proportions. But as the matter has been raised, I think there is a desirable safeguard in that it is not an automatic reappointment of an administrator, just on the decision of the council without concurrence by the Government of the day. I think there is scope in the Bill as it is now amended so that the council continues to have the right to nominate, and the Government cannot appoint away from that nomination. So I indicate opposition to this amendment which, in effect, would guarantee a council's wish to reappoint an administrator even against the wish of the Government of the day.

The Hon. K.T. GRIFFIN: I oppose the amendment.

The Hon. C.J. SUMNER: I am not sure whether there is very much more I can add. The Government puts forward the amendment at the suggestion of the Chief Justice, who believe that the independence of the courts administration authority would be affected adversely by the Governor, or the Government as it effectively is, having a veto over the reappointment of the administrator. I have fully canvassed the arguments but obviously have not convinced members opposite.

Amendment negatived; clause as amended passed.

Clause 18-'Senior staff.'

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

Page 8 —

Line 3—Leave out ', on the nomination of the Council,'.

After line 4, insert—

(1A) A person cannot be appointed to a prescribed position on the staff of the Council unless nominated for appointment by the Council.

These amendments achieve consistency with clause 16, with which we have just dealt and provide that in relation to certain prescribed positions the Governor may make those appointments, but they have to be appointments made on the nomination of the Council. So, in effect, there is a veto on the appointment that rests with the Government and the Council. I also indicate that it is the Government's intention, with the agreement of the court, or the Chief Justice at least, to prescribe for the purposes of this clause the following positions: the Registrar of the Supreme Court, the Registrar of the District Court, the Registrar of the Magistrates Court, the Registrar of Probates, the Sheriff and the Director of Corporate Services. The first five of those positions are statutory positions and, as it has been explained previously, the Registrar of the Supreme Court and the Registrar of the District Court already have some protection in the Acts governing those courts, in that they cannot be reduced in status or salary without the concurrence of the Chief Justice and Chief Judge.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: I said the first two, but the others are statutory offices, although not with the same protections. So, there is already some protection for the Registrar of the Supreme Court and Registrar of the District Court and possibly the Registrar of the

Magistrates Court—I would have to check that. In any event, those first five positions I mentioned are all statutory positions. The only additional one that will be included is the Director of Corporate Services, who is, in effect, the Deputy Director of the department, and may be called on under this new scheme to take the place of the Administrator as an acting administrator, and accordingly it was thought appropriate that his appointment, and any disciplinary action in relation to the Director of Corporate Services, should also require the approval of the Courts Administration Council.

The Hon. K.T. GRIFFIN: I am prepared to go along with what the Attorney-General is proposing. I acknowledge that several of those statutory office holders already have certain protection. I can see that there is a desirability that they should equally be protected under this Bill, although one does have to question whether it is technically necessary if the protection is already built into the Supreme Court Act, the District Court Act and other legislation relating to the courts.

I have not had an opportunity to check that, so I take it that that is the case on the advice from the Attorney-General. The only one I have some difficulty with is the Director of Corporate Services. I can see the argument which the Chief Justice is proposing, namely, that if that person is likely to be the Administrator in an acting capacity maybe there ought to be some protection against disciplinary action and perhaps some requirement that that person be nominated by the council before being appointed by the Governor.

Because that is being done by regulation it may be that the regulation will actually refer to that person as the Deputy Director, rather than Director of Corporate Services, because if it refers only to the Director of Corporate Services, and no reference is made to deputy directorship being held it seems to me that it leaves it fairly open as to whether that person will actually be the Deputy Director.

What we are looking to do is provide some protection for the Deputy Director and not for the Director of Corporate Services. If it is the Deputy Director, fine. If it is the Director of Corporate Services merely on the presumption that that person will be Acting State Administrator, or however we are describing it, then I do express some concern. That is something that the Attorney-General will have to note for the purposes of the prescription in the regulations.

The Hon. I. GILFILLAN: I am surprised that the Hon. Trevor Griffin is not insisting that these positions be spelt out in the Bill, or if it is feasible a schedule. It strikes me that it is a very much open ended position that we are in, with the Bill as it is currently drafted. However, I do not have enough knowledge of the specific positions, although, it would appear to me—I do not know how extensive the number is, but listening in part to the debate it did not seem that there is an inordinate number - that they could be listed specifically with the flexibility that, if there was a slight change in title, that could be embraced in the wording of the Bill. I respect the Hon. Trevor Griffin's judgment in this, but it surprises me that he is not insisting that they be listed.

The Hon. K.T. GRIFFIN: When I raised the issue earlier I did ask if they could be specified in the legislation. I have not really had an opportunity to explore that further because I received the amendments by fax at lunch time as an advance notification, and I have been too busy to do much specifically in relation to them since then.

I have accepted the Attorney-General's indication, and I have interpreted that as being an indication that there will be no other positions prescribed, and in those circumstances I was prepared to let it ride. Quite obviously, however, the desirable course is to identify them in the Bill. If there is any doubt about it, perhaps we will do that, but I take it from what the Attorney-General has said that they were the only positions. If that is the position, on this occasion I will go along with the indication.

The Hon. C.J. SUMNER: It is the intention of this Government to prescribe only those six positions. Whether a future Government or Courts Administration Council might expand the list in the future, I do not know—perhaps we can face that at the time—but certainly it is not this Government's intention, and that list has been agreed with the Chief Justice. The only problem with putting them in the Act is that, if you get a slight change in the name, you have to amend the Act. Despite the general argument about putting things in Acts rather than regulations I think it appropriate that these people be nominated by regulation because, with respect to the one which the Hon. Mr Griffin has highlighted, a change of name could occur and that could be fixed up easily by regulation without having to go through the whole parliamentary procedure.

Amendments carried; clause as amended passed.

Clause 29—'Regulations'—reconsidered.

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

Page 10, lines I1 and 12—

Leave out subclause (2) and substitute:

(2) Subject to subsection (2A), a regulation may only be made on the recommendation of the council.

(2A) A regulation may be made for the purposes of section 4 or section 11 without the council's recommendation but, before such a regulation is made, the council must be allowed a reasonable opportunity to comment on the terms of the proposed regulations.

The amendment on file does not express the intention that I had in relation to this matter, so I am having another amendment drafted, which I will explain. The current regulation-making power stipulates that, apart from effectively the matters contained in clause 11, a regulation can only be made on the recommendation of the Courts Administration Council. That provision was included in the Bill as a necessary protection for the independence of the council and the courts because, if there were a general regulation-making power, the purposes of the Act could be thwarted by the Governor producing a whole set of regulations governing the manner in which the independent Courts Administration Council would work, and that was considered to be inconsistent with the intention of establishing this independent authority. However, it was considered appropriate that the Governor's discretion to make regulations without the recommendation from the council should apply in relation to clause 11, which deals with entering into contracts, the holding of real and personal property and services, etc.

I considered that the Government should also, without necessarily the approval of the Courts Administration Authority, be able to prescribe the positions that had to be appointed on the nomination of the council and subject to the council's approval for the purpose of discipline; that is the clause that we have just debated.

However, the Government and the Chief Justice agreed that the power to declare a court or tribunal to be a participating court was not one that should be exercised by the Government without the approval of the council. The amendment as drafted is too wide as it includes the whole of section 4; that is, both the regulation making power in relation to the prescribed positions (that is the senior staff) and the regulation making power in relation to participating courts. I am having it redrafted so that in relation to prescribed positions under section 4 and in relation to the matters in clause 11 the Governor may make regulations after consultation with the council. In relation to all other matters the provisions in clause 29(2) would apply, namely, that any regulations would have to be made on the recommendation of the council, and that would mean in particular that under section 4 the Governor could not unilaterally add courts or tribunals to the Courts Administration Authority without the approval of the council.

There has been some considerable debate about this issue because at one point the Chief Justice indicated that in his view clause 4 should be amended by deleting 'or tribunals' so that no tribunal could be declared to be a participating court. I did not agree with that, correspondence ensued and I have indicated that the Government insists that the words 'or tribunal' should remain in and there has been some agreement now as to the tribunals that will be transferred over from the Court Services Department to the new Courts Administration. Eventually the Parliament will have to deal with those individual tribunals in their respective Acts of Parliament and make them part of the Administrative Appeals Division of the District Court. The tribunals will be the Air Pollution Appeal Tribunal, the Business Franchise Tobacco Appeal Tribunal, the Business Franchise Petroleum Appeal Tribunal, the City of Adelaide Planning Appeals Tribunal, the Equal Opportunity Tribunal, the Medical Practitioners Professional Conduct Tribunal, the Motor Fuel Licensing Appeal Tribunal, the Planning Appeal Tribunal, the Pastoral Lands Appeal Tribunal, the Police Disciplinary Tribunal, the Tow Truck Tribunal and the Water Resources Appeal Tribunal. The courts will continue to administer the Legal Practitioners Disciplinary Tribunal because obviously that is a fairly integral part of the courts' role: that is supervision of legal practitioners.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: There is no need to change it except that it is a body that is chaired by a non-judicial person. There is correspondence-which I am happy to let the honourable member have-about what bodies it is appropriate for the new courts authority to administer. The argument put by the Chief Justice initially—that no tribunal was appropriate to be administered by the independent courts authority—was not an argument I accepted because whether it is called a court or a tribunal it may in fact be exercising judicial power and it may be presided over by a judicial officer with tenure. It seemed to me to be somewhat of a semantic argument as to whether we should delete the words 'or tribunal' because a lot of these bodies are referred to as tribunals even though they are exercising a judicial power on appeals. I think it is appropriate for them to be part of the independent courts administration. I am happy to make that correspondence available to the honourable member.

The point I make now is that I argued on this matter with the Chief Justice that the protection for the courts in this matter was that the Government could not make a regulation prescribing a whole lot of tribunals to be part of the Courts Administration Authority without the consent of the council. I think that is a reasonable position because it would be wrong, I think, for executive Government to land the independent courts authority with administering or being responsible for the administration of tribunals which were not exercising judicial power, or which had an administrative or executive Government function or which were in effect tribunals at the behest of executive Government. I think that is an important principle, which I accept.

What this new amendment provides for is that the Government cannot declare, as a participating court, a tribunal unless the council agrees to that. That was the original formulation of the regulation making power, namely, that a regulation could be made only on the recommendation of the council. There were two exceptions to that, which are provided for in the amendment, which I have explained, which is why I had to have it amended. The important point that needs to be made is that this will mean that the Government cannot prescribe the whole lot of tribunals as participating courts if the council does not agree to that course of action.

The Hon. K.T. GRIFFIN: Mr Chairman, I take it from what the Attorney-General is saying that those various tribunals to which he referred have been agreed as appropriate tribunals to be transferred because under this proposition there will still need to be a regulation and that cannot be made without the consent of the State Courts Administration Council. In those circumstances there is still the possibility that once the State Courts Administration Council is established there may not be a majority of two to agree with that.

It is by no means certain that that will all occur, with all due respect to the Chief Justice, because there are two other persons who have to be involved in the decision. So, I express some concern about the amended amendment in that context. In any event, it may be that there has to be some legislation to deal with those various tribunals, their composition and lines of authority so that, if there is opposition by the State Courts Administration Tribunal to any of those tribunals being part of the council, that can be overcome by legislation anyway. The Parliament can enact it, and that is it.

It may be that both paragraph (f) in the definition of 'Participating courts' in clause 4 and this restriction on the regulation making power might be irrelevant when it comes to deciding what is going to happen to the various tribunals. I find it rather strange that a body such as the State Courts Administration Tribunal should be dictating who should or should not be a participating body within the council, but if the Attorney-General has accepted that it has that right to place that embargo on regulation making power, there is not much we can do about that.

Whilst there would obviously be consultation if legislation were to be introduced to change the structure of the council, ultimately Parliament makes the decision and, if the courts do not like it, they do not have much option but to accept the will of the Parliament. So, I suppose that ultimately one can overcome the difficulty, although I do have some difficulty about the proposition the Attorney-General is putting. I am prepared to go along with the original amendment that he had on file, and I certainly believe that that is preferable to what is in the new amendment he has circulated.

The Hon. I. GILFILLAN: I agree with the Hon. Mr Griffin. I see no justification for altering that original amendment. I believe that, if the Government wants to be influenced entirely by the wish of the council, it can no doubt initiate moves to that effect, but I do not believe there is any reason why this Act should establish the power of the council actually to nominate or to veto those other courts tribunals that should be embraced by the Courts Administration Board. I assume that the Attorney-General did move that original draft of amendments and that that is, in fact, what we are debating. I seek some clarification from the Chair on that. I think it is unlikely.

The Hon. C.J. SUMNER: I did move it, but I withdraw it because it was not drafted in accordance with what I had intended. I seek leave to withdraw that amendment.

Leave not granted.

The CHAIRMAN: The Attorney's amendment is still before us.

The Hon. C.J. SUMNER: I sought leave to withdraw it. If members opposite are going to conduct the Chamber like that—

The Hon. K.T. GRIFFIN: I am happy to let the Attorney-General withdraw it, but I intend to vote against it, then propose to seek leave to move his amendment that he had on file originally. That is the way I would be happy to deal with it, if that solves the problem.

The CHAIRMAN: I do not care how it is dealt with as long as it is dealt with in a machinery manner that is consistent with the Standing Orders of the Chamber.

Members interjecting:

The CHAIRMAN: To my understanding, the Hon. Mr Griffin said that he wanted the original amendment that the Hon. Mr Sumner moved.

The Hon. K.T. GRIFFIN: I am sorry if the Attorney misunderstood me. I expressed concern about the new amendment that he had put on file and expressed support for the earlier amendment. What I had intended to do in light of that was to indicate that if his amendment which he now has on file and which he now seeks leave to move were defeated, I would seek the opportunity to move his original amendment.

The Hon. I. GILFILLAN: I was not intending to cause any disturbance or unpleasantness in this debate. It seemed to me that if this amendment were to be withdrawn the chance of our discussing it has gone, because we would then have the Attorney moving the second amendment. In an attempt to talk this thing through rationally, I was saying that I believe that the original draft is the one I would support, for the very reason that 1 do not believe there should be this power of the council to control which courts will come under the purview of the Courts Administration Board. That is my opinion. I want to pick the amendment that reflects that, and I was seeking some guidance from you in the Chair.

The CHAIRMAN: My guidance would be that if you are going to achieve the same ends by not granting the Attorney-General leave to withdraw, that should stand.

The Hon. C.J. SUMNER: I object to this, Mr Chairman. The courtesies of this Chamber normally are that if someone has moved an amendment he is not happy with and seeks to have it redrafted, you seek leave to withdraw it and that leave is granted, and if someone else wants to move the amendment that was originally moved by that proposer, he or she moves it as an amendment to mine. But I do not think that I should be forced by this Council to move an amendment and to vote on an amendment that is not now my amendment. If people in this Chamber want to behave that way, that is fine, but it is certainly not the way that this Council has behaved in the past.

Members interjecting:

The CHAIRMAN: Order! Assessing the position from here, I am prepared to put that amendment again. The amendment was originally moved and the Attorney sought leave to withdraw it. I propose to put that now again. Is leave granted?

Leave granted; amendment withdrawn.

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

Page 10, lines 11 and 12—

Leave out subclause (2) and substitute—

(2) Subject to subsection (2A), a regulation may only be made on the recommendation of the council.

(2A) A regulation may be made—

(a) designating a position on the staff of the council as a prescribed position for the purposes of section 4; or

(b) for the purposes of section 11;

but, before such a regulation is made, the council must be allowed a reasonable opportunity to comment on the terms of the proposed regulation.

This is a fairly important principle, and I think that the Parliament is being quite wrong in its insistence on the original amendment that I moved, which was drafted in mistake, I might add, contrary to my instructions, but the original Bill, which has not been contested up until the present time, contained the clause that a regulation could not be made by the Governor except on the recommendation of the council. Section 29(2) has been in the Bill ever since it was introduced into the Parliament, and absolutely no objection has been raised to it.

What I am doing, in fact, is limiting what was in the Bill originally. Now, because I seek to do that, the Hon. Mr Griffin and the Hon. Mr Gilfillan say that that is no good and we will take out that power virtually completely. It has not been raised except as we reach the end of this debate. I was trying to limit the powers of the council in that respect and now, apparently, this Parliament is going to overthrow the principle.

The principle simply is this: if we are going to have an independent courts system and we are going to have an independent courts authority, I do not think it is consistent with constitutional principle for that courts authority, unless it is sanctioned by Parliament, to get loaded with tribunals which may not be exercising judicial power but which might, in fact, be tribunals

which are the creatures of the Executive Government, and which might be tribunals which exercise administrative and not judicial power. That would be quite inconsistent with the principles of the separation of powers and the principle of the independence of the judiciary, which we are trying to enshrine in this legislation.

For instance, as presently constituted I think it would be inappropriate—and I do not think the courts ought to accept it—if the Commercial Tribunal was to be made a part of the independent Courts Administration Authority, because at the present time the Commercial Tribunal is responsible for what I would characterise as administrative responsibilities—it issues licences and the like. That is an administrative responsibility. If the structure of the Commercial Tribunal were to be changed so that it was in effect an administrative appeals tribunal and the Government department was the one that was responsible for issuing licences and the like, I think we could say that the Commercial Tribunal would be a candidate for being nominated as a participating court.

However, for the Courts Administration Authority, the independent judiciary, to get landed with whatever Executive Government wants to give them, I think is quite wrong in principle, and I do not think honourable members who are contesting the amendment I have put up have thought the issue through, because, as I said, if the tribunal is characterised as an administrative tribunal carrying out administrative functions, in effect an administrative tribunal which is a part of Executive Government, it would be wrong for us to lump that into an independent Courts Administration Authority, no matter how it was characterised.

Things are called tribunals that clearly exercise judicial power and have judicial heads as chairmen, and it is appropriate that they be transferred over to the independent Courts Administration Authority, and that is the list that we have agreed should be transferred, but for any other tribunal that is established to be transferred over, by regulation, willy-nilly without the approval of the Courts Administration Authority, I think is wrong. That is the basis of the argument. It actually goes to the heart of what we are trying to do with this legislation. However, if the Parliament in its wisdom—and one would assume that it would not do it if it was objected to by the courts—decided that a particular tribunal should end up in the Courts Administration Authority, by legislation, then that is the end of the matter. I agree with the honourable member that there cannot be any argument about that. But I do not think the regulation making power to give to the independent Courts Administration Authority tribunals which are, in effect, executive tribunals should be there, and that that should be able to happen without the recommendation of the council. That is the reason for my having the amendment redrafted.

The Hon. K.T. GRIFFIN: I am pleased that we are back on to the basis of rational discussion on this. In consideration of the Bill, I have expressed my reservations about the but I have been cooperative in moving amendments and the Attorney-General has accepted a number of those. I appreciate that the way we have debated the matter has meant that we have improved the Bill quite considerably. So we are now back, fortunately, to the basis of rational discussion, and that is the way that this ought to be considered. I made the point that the Parliament can legislate to include tribunals and courts if it wants to and the Courts Administration Council will have no option but to accept that. It may be that in those circumstances, because in relation to the tribunals to which the Attorney-General referred, there will have to be legislation coming before the Parliament, anyway, in respect of most of them, and that the regulation making power in relation to adding courts or tribunals is not going to be necessary, in any event.

The Hon. C.J. Sumner: It is not a big issue in practice, but it is a big issue in principle.

The Hon. K.T. GRIFFIN: Sure. So it may be that it is not necessary in the Bill, because we are going to have amending legislation coming before us to deal with these various other tribunals. I am willing to be persuaded that my initial response in relation to the two amendments was not correct, because I raised this issue of Parliament legislating, and I acknowledge that there is a distinction—and I have made the distinction on a number of occasions—between the Executive arm of Government promulgating a regulation which is subject to disallowance and if not disallowed that becomes law and, on the other hand, the Parliament having an opportunity in both Houses to debate a Bill which deals with a substantive issue.

I can see the point that the Attorney-General is now making, as a result of the discussion we have had and I am prepared to concede that in those circumstances it probably is appropriate that there be some way by which the Executive power can be limited in relation to the transfer of tribunals to the Courts Administration Council. I have made the argument fairly vigorously in my second reading speech that I think the Industrial Court ought to be part of it, and hopefully we can develop that at some time in the future. It is not to be for the present. I acknowledge that that has some other powers which perhaps are not appropriate for real judicial bodies, particularly in respect of the Industrial Commission. But that is an argument for some time in the future. I am prepared to concede that my initial reaction to the second amendment was not appropriate and I indicate that in those circumstances I will not be opposing it, on the basis of the arguments which we have now debated in the Chamber.

The Hon. I. GILFILLAN: On reflection, my preferred position would have been to delete paragraph (f) in clause 4. 1 think it is totally inappropriate to, by regulation, add another court or tribunal to this purview of the council. If it is such an important issue I do not see how we can avoid the responsibility of dealing with it as an amendment to the Act. On that basis I do not think there is much point in nitpicking about the actual wording of the amendment. In relation to section 11, as it is referred to in the amendment, it appears to me that the only regulation there is the one identified in subsection (2)(a) regarding the limit of—

The Hon. K.T. Griffin interjecting:

The Hon. I. GILFILLAN: That can be fixed by regulation? I had not picked up that amendment. Those seem to me to be regulations which would actually fix amounts of money, and I think that is a reasonable use of

regulation, as being an easier and more rapid form of making alterations.

I certainly repeat that it is my considered opinion that we ought not to be continuing to have the power of adding to the courts and tribunals under this council by way of regulations. However, under the circumstances there is no point in my opposing the amendment moved by the Attorney.

The Hon. C.J. SUMNER: I thank the Hon. Mr Griffin for his indication. I should say my problem during the debate, if I had a problem, was the fact that the normal courtesies in relation to my seeking leave to withdraw an amendment were not, for some obscure reason, accorded to me by the Hon. Mr Gilfillan. However, now that we have set that aside I am quite happy to be my usual tranquil and good-humoured self.

The Hon. I. Gilfillan: I am terribly good natured.

The Hon. C.J. SUMNER: That was not the point I was making. The point was that it is usual (and I expect it still to be usual) that if a member seeks leave to withdraw an amendment that leave is granted.

The Hon. I. Gilfillan: Fair enough; I apologise for that.

The Hon. C.J. SUMNER: Thank you. That was the only thing that made me uncharacteristically testy. I can say that I appreciate the Hon. Mr Griffin's comments and his acceding now to the amendment for the reasons that were given. I should say in answer to his point that if, for instance, the Courts Administration Council did not agree to recommend that these tribunals be transferred there would be a number of options. One would be that the Government would not proclaim the legislation until it did. The second would be that we would then bring back a substantive Bill to fix them up, but I do not think, given that this has had a fairly long gestation period, that that should be delayed unduly.

In any event, I understand that the Chief Justice is speaking on behalf of those who will constitute the council, that the transfer of those tribunals is approved and that subsequently in this session, if possible, a Bill will be introduced to change the individual Acts governing those tribunals. If it is not possible in this session, it will happen early in the next session. So, I appreciate the honourable member's support for the amendment.

Amendment carried; clause as amended passed.

Schedule.

The Hon. K.T. GRIFFIN: The only question I have in relation to the schedule is that the present Chief Executive Officer of the present Courts Services Department is not to be transferred. Do I take it that the Chief Executive Officer is not to be the Administrator, or is there some other reason why the Chief Executive Officer of the Court Services Department is not to be transferred; and, if he is not to be transferred, can the Attorney-General indicate what legally will happen to that Chief Executive Officer when the legislation is proclaimed?

The Hon. C.J. SUMNER: It was not considered appropriate to include in legislation transitional positions dealing with the Chief Executive Officer, because the Commissioner of Public Employment felt that, as a matter of good public employment practice, when a new authority was set up, one should start from scratch with the appointment of a Chief Executive Officer and that, certainly whatever private arrangements are made, it ought not to be expressed in the legislation that the current incumbent should necessarily come over as a matter of legislation and be the new courts Administrator.

The Hon. K.T. Griffin: But the Director of Corporate Services would.

The Hon. C.J. SUMNER: Those who are public servants, yes, but the Court Services Department head, although he is a public servant and has tenure anyhow, also has a contract for five years, like all Chief Executive Officers. However, I can indicate that I expect that the new Judicial Courts Administration Council will nominate the current Director of the Court Services Department for the position and that that will be acceded to by Government; that is as I understand what will happen. However, it was not considered appropriate to include it in the legislation.

Schedule passed.

Bill read a third time and passed.

ROAD TRAFFIC (PEDAL CYCLES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 10 February. Page 1193.)

The Hon. BARBARA WIESE (Minister of Transport Development): In closing this debate, I thank the Hon. Miss Laidlaw and the Hon. Mr Gilfillan for their contributions and support that they have generally expressed for this legislation. A number of issues were raised by both those speakers during the course of the debate, and to the extent possible in reply I would like to address those matters for the consideration of honourable members.

First, the Hon. Miss Laidlaw raised concerns about comments that have been made by the RAA that perhaps some of the provisions of the Bill were not consistent with national requirements. In response to that, I would like to indicate that basically the provisions do meet the proposed national road traffic regulations and the national road traffic code. However, the national road traffic regulations are at this stage only in draft form for discussion purposes.

I am advised that there is a long way to go before agreement will be reached between all the States and Territories. Numerous amendments have been proposed from most States, including South Australia. Therefore, the detail in the draft is subject to change, although basic principles will be retained.

A number of issues will be raised by South Australia, and some of them are contained in this Bill. The sorts of things that were questioned are among the issues of concern to South Australia and on which we will be seeking change in the finalised national regulations.

With respect to questions that were raised about whether or not specific sections of the Road Traffic Act would apply to cyclists, I indicate, first, that no specific give-way laws have been proposed in this Bill as a general requirement to give way is already provided in section 63 of the Road Traffic Act, and that would apply to cyclists.

I confirm the Hon. Ms Laidlaw's interpretation that section 45 will apply to cyclists. The requirement of due care and attention, which is the subject of that section, applies to all road users. I confirm, too, that section 46 relating to reckless and dangerous driving and section 47 relating to driving under the influence apply also to cyclists. Keeping to the left and overtaking on the right are extensions of existing rules relating to the duties of a vehicle on a carriageway.

The Hon. Ms Laidlaw and the Hon. Mr Gilfillan raised concerns which I believe are shared by the Australian Conservation Council 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 reason for this provision in the Bill is that it is considered to be a practical and sensible requirement that in the absence of any other indication it is reasonable in the interests of road safety that, generally speaking, cyclists should give way to other vehicles when entering a main traffic carriageway. However, that does not preclude the opportunity for the installation of traffic lights, which would allow cyclists to have precedence, where appropriate. In the case of a minor roadway, which I think was an example used by the Hon. Mr Gilfillan, it could be possible to erect signage which would give precedence to cyclists, if it were safe to do so.

The point I am making is that, although this general principle is contained in the legislation as a road safety measure, it is sensible for cyclists to give way when entering a carriageway. It is possible that in certain circumstances other measures could be put into effect which would vary that principle where the conditions are safe to do so.

Questions were raised by both members concerning box turns. I do not intend, as the Hon. Mr Gilfillan has suggested, to give a demonstration of what is intended by this Bill, but I would like to clarify some of the points that were raised. When making a box turn, cyclists should proceed across the intersection on the left-hand side and then, upon changing direction into the carriageway of intended travel, they should only have to give way to vehicles on the right and not to all vehicles, as suggested in the national draft.

This is one of the issues that the South Australian Department of Road Transport intends to take up with the national body which is considering national regulations, because it is considered that the normal 'give way to the right' rule should prevail in this situation. If a cyclist is moving across an intersection on the left and turning the bicycle into the direction in which the cyclist intends to travel, any vehicles approaching that intersection from the opposition direction will not necessarily be in a position to make a judgment about whether the cyclist is actually doing a box turn or just proceeding across the intersection from the opposite direction. If such a cyclist is required to give way to traffic coming from both directions, it may be quite confusing for the drivers of vehicles coming from the opposite direction, because they will- be uncertain whether or not the cyclist is required to give way to them.

It is the view of the officers who have drawn up this legislation—and I share that view—that the normal 'give way to the right' rule should apply in all circumstances except where a cyclist is approaching a T-junction intersection with the intention of turning right into the stem of the T-junction. Only in those circumstances should the cyclist be required to give way to traffic coming from all directions.

That point was raised in general, but a specific concern was raised by the Hon. Mr Gilfillan regarding proposed new section 70a(2)(d). He felt that the intention was not clear as to the duty of a cyclist to obey traffic lights when undertaking a box turn. It is intended that that clause provide guidance to a cyclist where there are traffic signals that incorporate a green arrow for right turns. It is intended by way of this clause that a cyclist, who is approaching an intersection where there is a green right-turn arrow, should not use a box turn to turn right if all the traffic going through that intersection has been asked to stop. If there is a red light for through traffic it would obviously be nonsensical for the cyclist who is on the left-hand side of that traffic to turn right across the traffic in accordance with a green arrow, which is actually there to assist vehicles that have pulled up to the intersection on the right-hand side of the carriageway.

So, it is intended that the cyclist should approach the intersection from the left, but before proceeding into a right turn the cyclist should wait until the appropriate changes have occurred in the traffic lights to allow that manoeuvre to be undertaken.

The Hon. Diana Laidlaw: You are saying that they can turn right at the arrow if they are in the right lane?

The Hon. BARBARA WIESE: Of course.

The Hon. Diana Laidlaw: It is only if they are intending to do a box turn that they would not proceed when the arrow was green to go right?

The Hon. BARBARA WIESE: That is correct, yes. The Hon. Ms Laidlaw also raised concern, which I understand has been raised by the Local Government Association, concerning the question of liability and the effects that such changes to legislation might have on the Mutual Liability Scheme. As I understand it the association has not yet sought legal advice on this matter and I certainly hope that they will seek formal legal advice on it. My understanding of the situation is that, as I think the Hon. Ms Laidlaw suggested, the liability for councils with respect to bikeways would not be any different from the liability that currently applies with respect to footpaths and roads and other access ways that councils currently provide for citizens. So that as long as councils abide by the general engineering standards and other standards that apply for signage and so forth in the construction of bikeways, then they should be safe or in an equal position to that which applies with respect to footpaths and other roadways for which they are responsible. I do not believe that the outdoor advertising billboard debate, which was had previously, has any relevance here.

With respect to the funding issue, the Hon. Ms Laidlaw requested information about moneys that were likely to be spent on matters relating to cycles and bikeways and other matters. I can give some information about. that. The State Bicycle Fund, which is used to subsidise local government initiatives for bicycle

facilities, is currently of the order of $250 000 per annum. As well there is the Arterial Bikeway Program with a budget currently of $500 000 dedicated to the establishment of a network of commuter routes in the metropolitan area. Future planning will see the establishment of similar routes in large regional centres. Additionally there is an undefined amount of funding of considerable proportion spent on road construction within which bike facilities are involved. These facilities include: wider kerbside lanes, for example, the changes that have been made to Kings Road, Mclntrye Road and South Road; and marked on-road bike lanes, for example, Panalatinga Road in the south has such a facility. Cyclist push buttons at signals as well have also been provided. As well there is the contribution from the Department of Road Transport in housing the State Bicycle Committee, provision of its administrative support staff and the staffing of the department's Bicycle Planning Unit.

Also, the Federal Government has selected Adelaide as one of a series of national demonstration projects to highlight the viability of bicycles as an alternative to cars. Under this scheme the Federal Government has granted $300 000 for the construction of 25 km of bikeways along three of Adelaide's major arterial roadways. Under the Federal Government's Black Spot funding program, which is aimed at accident reduction, $50 000 has been allocated for the establishment of bike lanes on an arterial road in clearway times.

The honourable member also asked about what powers the Minister has with respect to ensuring that bikeways and other facilities for cyclists can be provided and I think that question was asked particularly in the wake of the original decision that was taken by the Walkerville council to not support—

The Hon. Diana Laidlaw interjecting:

The Hon. BARBARA WIESE: They must have—to not support the bikeway proposal through the Walkerville council area, which was part of the plan to develop a bikeway from the City of Adelaide right out to the Levels Campus. Last week when we were discussing this matter we understood that the Walkerville council's decision was in the negative but I believe it was just one day later that the council met again and resolved after all to support the proposals that had been put forward by the Department of Road Transport to allow the bikeway to proceed through the council area. I am very pleased that on re-election they have agreed that this is an appropriate proposition and I know that work will proceed quickly to complete the final stages of that bikeway and that it will provide a satisfactory facility for people from the northern suburbs wanting to come into the city and *vice versa*.

On that general question of what powers the Minister has in this respect the legislation provides for the Minister to act in the circumstances. For example, the Minister would have the power to override the wishes of the Walkerville council should it be deemed an appropriate thing to do. I must say that my preference in these matters is always to work in cooperation with local councils and it is for that reason, of course, that when any proposals for bikeways or bicycle lanes are being put forward individual councils are consulted and their agreement sought. As I say, that is the way I would prefer to proceed. But there is the reserve power there should the Minister decide that the interests of the broader community outweigh local considerations to override any objection that a local council may have.

What is happening in practice is that many of the powers that are contained in the legislation for the planning and construction of facilities for cyclists are already delegated to officers within the Department of Road Transport and also to individual councils. So that they have the ability to produce their own plans for cycleways and other facilities for cyclists as long as they comply with the standards and guidelines that have been established. Increasingly I expect that these delegations will be taken up by local councils. Should they not be, then there is that power still residing within the legislation for the Minister of the day to take control if that is deemed to be desirable.

There was also a question raised about whether it was intended that there would be an education campaign accompanying the introduction of the provisions of this Bill and I indicate that there will be such an education campaign. Notionally at this stage the Department of Road Transport is suggesting $20 000 to $30 000 may be required for such an education campaign prior to the introduction of the provisions. The nature of the campaign is yet to be determined but certainly I believe there needs to be a suitable education campaign put together to inform people about the changes that we are proposing. We will use whatever methods we are able to use to reach as many cyclists and potential cyclists as we can.

There was also a question raised about the speed limit which applies to Australia Post employees and persons in wheelchairs. There is a speed limit of 10 km/h provided for in this Bill when those people are operating on an existing footpath. This is certainly considered to be essential for safety reasons as not only is there a mix of pedestrians but vehicles with private access to driveways, which could create a hazard when crossing the footpath.

However, cyclists on a bikeway or bicycle path would not be expected to restrict their speed to 10 kilometres per hour. Bikeway facilities will be provided only where there is an absence of private driveways, so the potential hazards for cyclists on routes of this sort are likely to be fewer, therefore the need for speed restrictions is not there. That explains the difference between the two categories. The Hon. Ms Laidlaw also raised some questions about roller blading and pointed out that an anomaly applied in the penalties area.

As I understand it, the penalty for a person using roller blades is currently $78 on the footpath and $20 on the carriageway. That certainly is an anomaly and is one of the issues being considered by the working party that was recently established to examine the whole question of roller blading and whether there need to be changes to our regulations to make provision for people who want to use footpaths and carriageways with roller blades. A number of issues must be taken into consideration here. It will take a little time before all those matters are worked through and recommendations can be made to me, but I hope that possibly by some time in May a report on these issues can be made to me for further action.

The Hon. Mr Gilfillan raised the question of whether or not it is legal for a bicycle to move up between the near side of the vehicle and the footpath, which is often quite a narrow access. This raises the question of whether it is currently permissible for a cyclist to pass a stationary vehicle at an intersection on the left-hand side of that vehicle.

The Hon. Diana Laidlaw: Or even the right. Like motor cyclists, they are everywhere,.

The Hon. BARBARA WIESE: Yes. The current position is that, where a stream of traffic has stopped at traffic lights, section 58(3) makes it illegal for a vehicle to pass on the left of another vehicle in the same lane. So, the practice currently undertaken by numerous cyclists is illegal, although I am not aware from the inquiries I have made that prosecutions have been launched by the police against people who undertake this practice. It may well be that this issue ought to receive further examination by the Office of Road Safety. As I understand it, that is not a matter that has been considered in any detail in the past.

The Hon. Diana Laidlaw: How are you going to identify the illegality with the box turn? When you have a box turn, we are suggesting that cyclists come up on the left ultimately to turn right. How does that equate with its being illegal to pass on the left of a stationary vehicle?

The Hon. BARBARA WIESE: It is expected that a cyclist will take his or her turn in the traffic queue so that, instead of passing on the left of a vehicle to reach the front of the line of traffic at an intersection, a cyclist will sit behind stationary vehicles and take his or her turn as motor vehicles must. That is the situation currently. A number of matters must be taken into account should we decide to change the current legislation. For example, often when cars pull up at intersections pedestrians take the opportunity of alighting from vehicles on the left-hand side, and this could create problems with accidents and that sort of thing.

There are two other issues that I want to address briefly. One is an issue raised in relation to the problem that cyclists have in not being able to activate traffic lights because the cycle does not weigh enough to activate the lights. I acknowledge that that is a problem that exists now. Some attention has been paid to it nationally but, so far, no-one has come up with any bright ideas as to how it might be overcome. The matter is receiving attention.

The last point relates to the use of lightweight trailers towed by bicycles. Although there are no specific provisions for trailers towed by pedal cycles, regulation 8.02 of the road traffic regulations restricts the width of a trailer to 660mm. If used at night, a rear red light must be displayed. Again, this is a matter that may in future require further attention, since I am not sure that it is a matter that has received detailed attention as to whether there should be other specifications relating to the towing of trailers behind bicycles.

That deals with all the issues that were raised during the debate. No doubt, further questions will be raised during the Committee stage. I thank members for their contributions.

Bill read a second time.

ECONOMIC DEVELOPMENT BILL

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

WORKERS REHABILITATION AND COMPENSATION (DECLARATION OF VALIDITY) BILL

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

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

In November 1992 Parliament passed the *Workers Rehabilitation and Compensation (Miscellaneous) Amendment Bill 1992*. Clause 22 contained some minor clerical errors which were corrected by the Clerk of the House of Assembly, on the advice of the Parliamentary Counsel, for the purposes of the version of the Bill that was certified correct by the Speaker of the House of Assembly. The text and the corrections were as shown below:

22. (1) Subject to this section, the amendments affecting entitlement to, or quantum of, compensation for disabilities apply in relation to—

(a) a disability occurring on or after the commencement of this Act; or

(b) a disability occurring before the commencement of this Act in relation to which—

(i) no claim for compensation had been made under the principal Act as at the commencement of this Act; or

(ii) a claim for compensation had been made under the principal Act but the claim had not been determined by the Corporation or the exempt employer.

On either reading, the intendment is quite clear: the amending Act is to apply in relation to disabilities occurring after the date of its commencement and also to those that occurred before its commencement but in relation to which a primary determination of liability was yet to be made by the Corporation or the exempt employer as at the commencement of the amending Act. The textual emendation made by the Clerk of the House of Assembly merely corrected the misdescription of an Act in order to bring the text into conformity with the obvious intention. The emendation is of the kind frequently made by the presiding officer at the Committee stage of a Bill - such an emendation not being regarded, for the purposes of parliamentary procedure, as an actual amendment of the Bill.

Proceedings have now been brought in the Supreme Court challenging the validity of the Act. The Government believes it inappropriate that the propriety of parliamentary procedures should be exposed to question in the courts. Hence the present Bill seeks to place beyond question the validity and the textual authenticity of the amending Act.

The provisions of the Bill are as follows:

Clause 1: Short title

This clause is formal.

Clause 2: Declaration of validity and textual authenticity

This clause declares the amending Act to be, and since the date of its assent to have been, a valid Act of the Parliament. The text of the Act, as certified by the Clerk and the Deputy Speaker of the House of Assembly, is declared to be the authentic text of the Act.

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

ADJOURNMENT

At 6.30 p.m. the Council adjourned until Wednesday 17 February at 2.15 p.m.