# LEGISLATIVE COUNCIL

**Wednesday 3 March 1993**

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

## QUESTION TIME

### STATE BANK

**The Hon. K.T. GRIFFIN:** My questions to the Attorney-General are as follows:

1. Will the Attorney-General confirm that Mr S.J. Jacobs, the State Bank Royal Commissioner, proposes to stand down after delivering his second report?

2. If Mr Jacobs does stand down, what course of action does the Government propose to take? Will it appoint the Auditor-General or counsel assisting the royal commission or some other person to complete the task of the royal commission?

3. Will the Attorney-General consult with the Opposition in respect of the future course of both inquiries?

**The Hon. C.J. SUMNER:** The situation is that the Royal Commissioner, Mr Jacobs QC, has indicated informally a desire to be relieved of his commission but no formal request has been made to date. As members know, originally it was anticipated that the Auditor-General would produce his report first and that would then be fed in to the Royal Commissioner and he would produce his final report; the Auditor-General within six months and the Royal Commissioner within 12 months. As honourable members and the public know, that timetable was not met by anyone, either by the Royal Commissioner or by the Auditor-General. We are now two years on from the announcement of the inquiries and heading for three.

The problem that Mr Jacobs has is that, because of the extended reporting time of the Auditor-General to 30 June, he will have nothing to do for four months and then would have to pick up the reins of the inquiry again after the Auditor-General has reported. He has expressed a desire for that not to happen and to be relieved of his commission if that is at all possible. Whether or not it will be possible depends on what other options are available.

One option that could be considered is to appoint counsel assisting, Mr John Mansfield QC, as a Royal Commissioner to complete term of reference 4. Another option, which I see was floated by the Hon. Mr Griffin this morning in the media, was that the Auditor-General might be asked to do term of reference 4, and I assume from that that, if the Government agreed to that course of action, he would be happy with it. However, they are options that are being looked at. I suppose a third option, although hardly a satisfactory one, would be for someone entirely new to be appointed, but I suspect that that is not particularly practical, given the amount of work that would have to be done.

The Government has absolutely no intention of curtailing the inquiry or, in particular, withdrawing term of reference 4. That inquiry will be concluded appropriately by someone. I should point out that term of reference 4 deals with whether or not any matters should be referred to investigative authorities, police, the Australian Securities Commission or the DPP for further investigation of criminal offences.

It does not actually make findings about criminal offences, under term of reference 4; it does, however, require the Royal Commissioner to refer matters on to those investigating authorities if the commissioner considers that there is some evidence to indicate criminal offences that needs further investigation. I should point out that although an important term of reference it is very much a mopping up term of reference and it is unlikely that all of that report could be made public, in any event, and it may be that only a small amount of it could be made public, because if it refers to the investigation of criminal offences then it would not be appropriate or proper for that to be released prior to those investigations being carried out and prior to any charges being laid. If that were to occur one could foresee the same situation as occurred in Western Australia with Mr Connell who has fought for some four weeks in the courts to have his trial put off because of prejudicial pre-trial publicity.

Term of reference 4 is a mopping up operation and, as I said, it is unlikely that all of it could be made public because if there is anything that has to be further investigated it would be referred to the appropriate authorities. So, term of reference 4 does not make findings about criminal or civil liability. It is a report on whether or not further inquiries should be made by other authorities.

Obviously, the delays that have occurred at the present time are most unsatisfactory for everyone concerned. It seems to me that the former directors are doing all they can to prevaricate, to delay, and to take legal points to stop the truth in this matter coming out. However, I can assure them and the public that there will be no curtailment of the inquiry and the fanciful notions that were emanating from some sources within the former directors that somehow or other if they kept the pressure up on the Government, took technical points and the like, the Government would shut down the inquiry are nothing more than pure fancy on their part. I do not care how many technical points they take or what prevarication they get involved in; the reality is that these reports will come out and the director's role in the State Bank fiasco will be made known to the public.

It is appalling in my view, Mr President, that having lost $3.1 billion of taxpayers' money the directors are now using more of taxpayers' money to try to avoid responsibility for their actions. It is a disgrace. The Government is fed up, the Parliament is fed up and the public is fed up with these tactical legal manoeuvres to try to stop the truth about these matters coming out. As far as I am concerned, the inquiries should be brought to a conclusion as soon as possible.

I make these remarks because, astonishing as it may seem to the Parliament or to the public, there are suggestions emanating from the directors that they will not conclude the inquiry with the Auditor-General by 30 June, and if that does not happen in my view it will be an absolute disgrace to the system and the Government

wants to make it quite clear to the directors and their legal advisers that it will not tolerate the sort of behaviour it has had to put up with over the last few months and the Auditor-General ought not to have to tolerate the sort of behaviour that he has had to put up with over recent months. June 30 is an adequate time for this report to come out and as far as I am concerned the Auditor-General should meet that report time and as far as I am concerned and as far as the Government is concerned the legal advisers to the directors should cooperate to ensure that should happen.

As far as I am concerned the funds that are being made available by the State Bank to the legal advisers of the directors should be shut off immediately. It is an intolerable situation that taxpayers are continuing to fund these directors to undertake tactical manoeuvres and to avoid responsibilities which they undoubtedly have in this matter.

Whether the Royal Commissioner will stand down is a matter that still has to be determined. If it is determined that it is appropriate for him to stand aside, given his desire to do so, some alternative will have to be put in place. The two options I have mentioned will be considered. I am happy to further confer about those matters with the Opposition, but I imagine that either of those options would be satisfactory to them.

**The Hon. K.T. GRIFFIN:** I have a supplementary question. In the light of the Attorney-General's response, can he indicate what timetable is likely to be set within which decisions will be made about the question of retirement, and the subsequent course to be followed? A second supplementary question is that, in the light of his reply about the continuing attempts to frustrate the Auditor-General's inquiry, does that mean that the legislation passed at the end of last year which gave protection to the Auditor-General is not effective? Thirdly, if the Attorney-General has such a strong view in relation to the State Bank meeting the costs of former directors, does the Government not have power under the indemnity to prevent that payment continuing?

**The Hon. C.J. SUMNER:** As to the timetable, that matter should be resolved within the next week or two. Obviously it is not a situation that should be allowed to continue, but there have to be discussions with people to see what alternatives are available to Mr Jacobs completing his commission. Secondly, the legislation was partially effective, although it is interesting to note that after the legislation was passed further court challenges were taken by the directors in the Supreme Court. I understand that they have been put on ice. In other words, they are not actively being pursued at the present time. Nevertheless, the proceedings were taken.

I have made the point privately to people in the legal profession that I have never seen such anger in this Parliament over an issue as I detected and saw when the legislation dealing with the State Bank was before this Council. The anger in this Parliament towards the manoeuvres being adopted by the directors was obvious, and I think that some of the people in the legal profession and the legal advisers to these people are living in a dream world if they think that they can continue with the sorts of actions that they have been taking.

**The Hon. M.J. Elliott:** It is good money.

**The Hon. C.J. SUMNER:** It is good money, of course, as the Hon. Mr Elliott states, but regrettably the inquiries are being delayed. The taxpayer, through the State Bank, is forking out for the legal representation. As I said, as far as I am concerned it is time it stopped. The legislation was effective to some extent, but still legal proceedings were taken. Admittedly they are on ice for the moment, but they could be reactivated at any time.

One can only say that some further progress has been made in recent times to complete the Auditor-General's inquiry, but despite that he has had to request an extension until 30 June, and the information coming from the sources for the directors is that it could go out beyond 30 June. I just want to repeat and make it quite clear in Parliament and to the public that, as far as the Government is concerned, it is completely unsatisfactory. I think there should be justifiable outrage in the Parliament and in the South Australian community if that were allowed to happen.

In relation to the final question, the Government is in a difficult position as far as the costs that the State Bank is contributing to the former directors. The bank for some bizarre reason entered into a binding agreement with the parties—the former directors—to indemnify them for their costs.

That agreement has been modified to some extent, and I have done what I can behind the scenes to try to ensure that the costs are curtailed as far as possible. In the light of current events, I intend to pursue that matter again with the bank but, as far as I am concerned, the bank should bite the bullet and say that from a certain date that is the end: no more indemnities for costs will be given.

## TEACHERS

**The Hon. R.I. LUCAS:** I seek leave to make an explanation before asking the Minister representing the Minister of Education a question on the high turnover of teachers.

Leave granted.

**The Hon. R.I. LUCAS:** A number of parents have voiced concern with my office about the high turnover of teachers that their children have had to endure while attending primary schools both last year and in the current school term.

The parents are concerned that their children's lessons are being severely disrupted by stand-in teachers who are filling in maybe for a day here or there while the regular teachers are off through sickness, leave or professional training. The parents fear that their children's academic progress will be substantially impeded unless they can obtain a regular class teacher with whom they can identify, respect and progress.

Two examples serve to illustrate the depth of the problem. One parent cites the case of his son, a year 6 student attending Paringa Park Primary School. So far his son has had six teachers in the four brief weeks that school has resumed in 1993. I am told that the principal is most concerned about this situation but has told parents that 'his hands are tied'.

Recently my colleague the member for Newland in another place highlighted the Education Department's

plans to remove one teacher from Ridgehaven Primary School, because that school was nine teachers short of its required enrolment. The ironic aspect of this decision, which has angered literally dozens of parents at that school, is that the school told the department late last year that it expected its enrolments to be down slightly on 1992 figures and that it would be advisable to allocate one less teacher to its school for 1993. However, the department went ahead and provided the same staffing levels as in 1992.

Of the literally dozens of parents who rang my office about the withdrawal of this teacher, one recurring theme has emerged: that the students who had lost their teacher because of departmental bungling four weeks into the 1993 school year are the same students who had up to nine teachers over a six-week period in 1992. This was through a series of events with teachers being out on stress leave, teachers being unavailable on leave, and so on. So the students who were disadvantaged last year by the absence of a regular teacher have again been dealt a shonky hand because the department cannot make up its mind on how to resource schools.

Parents are increasingly angry at the effects that these constant changes are having on the quality of education in our schools. My two questions to the Minister are as follows:

1. Have the consultants, Ernst and Young, appointed to conduct a review of the Government's teacher placement policies, been given a brief to examine the issue of the high turnover of class teachers in schools and, if not, will the Minister broaden the terms to include this aspect?

2. Does the Minister believe it is appropriate that primary school students should be subjected to six different teachers in just four weeks and, if not, what steps will she take to eliminate such practices?

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

## BUS SERVICES

**The Hon. DIANA LAIDLAW:** I seek leave to make an explanation before asking the Minister of Transport Development a question about southern area bus services.

Leave granted.

**The Hon. DIANA LAIDLAW:** I have been informed that long overdue proposals providing a $3.14 million boost to public transport for people living in the southern area have been rejected by Cabinet. I have received off the back of a truck—

*An honourable member interjecting:*

**The Hon. DIANA LAIDLAW:** The back of a bus, yes—documents prepared by STA's Manager for Service Development proposing changes to southern bus routes and services that were scheduled to be introduced on 28 March. In the same delivery of documents, I received a copy of a news release prepared for the Minister dated 2 February announcing that Cabinet had approved a $3.14 million public transport boost for the southern areas, but this press statement was never released because apparently the Minister got rolled in Cabinet. My well placed informant advises me that the Minister's submission was rejected by Cabinet because Treasury claimed that there was no money available to implement the proposals. So it seems the 'forgotten South' is to be forgotten again, and the excuse this time is State debt caused by the State Bank and other financial fiascos that this Government has presided over.

The proposals rejected include: a new transit link bus service from Noarlunga Centre via Main South Road to the city; an extension of southern bus services that currently terminate at Flinders Street; an extension of bus services in Sheidow Park; an extension of routes 747 via Noarlunga to Seaford Rise; and there are other extensions in respect to hourly and half hourly services. I ask the Minister:

1. Can she confirm why STA's proposed southern route bus services have been rejected by Cabinet and when, if ever, they are likely to commence?

2. Can she confirm that the STA's proposed changes in the north-western suburbs, which according to the papers I have received were to be introduced concurrently with the proposed changes in the southern suburbs on 28 March, are to commence on 28 March and, if not, why not?

**The Hon. BARBARA WIESE:** The honourable member's informant within the State Transport Authority, or wherever this person resides, has misinformed the honourable member because it is quite untrue that Cabinet has rejected the proposal for the—

**The Hon. Diana Laidlaw:** I checked with the STA today and they said there is no money.

**The Hon. BARBARA WIESE:** I am sorry, but I know what happens in Cabinet; I do not think members of the STA do. The fact is that Cabinet has not rejected the proposal—

*Members interjecting:*

**The PRESIDENT:** Order!

**The Hon. BARBARA WIESE:** Cabinet has not rejected the proposal for the re-organisation of public transport services in the southern suburbs. If members are interested in this topic and interested in services to the southern suburbs then they might want to hear the response that I am about to make about this.

Mr President, it has been known publicly for a very long time that the State Transport Authority and the Government wish to improve the public transport services in southern suburbs. Consultation with local people, councils and other relevant groups within the southern suburbs was commenced quite a long time ago. It has been a very successful consultation in providing the sort of information that the State Transport Authority needs to design a public transport service for the south, which will the meet the needs of the greatest number and encourage people to use public transport. The starting date of 28 March has been a preferred date for the State Transport Authority but it has always known, as has anyone else who knows anything about these matters, that commencement on its preferred date would be dependent on Government approval.

This matter is currently before Government. There has been no rejection of the decision at all but the Government is considering this matter along with a number of other matters that are currently before Cabinet that may require additional funding to implement during the forthcoming financial year. So the matter is being

discussed in the context of the formulation of next year's budget and it may be that there will be a delay in the commencement of services to the southern suburbs, but that decision has not yet been taken. There has not been a decision by Cabinet on this matter and at the appropriate time and in the context of discussions about the forthcoming year's budget there will be a decision made on this and a number of other matters that are currently before Cabinet.

As to the services proposed for the north-western suburbs, Sir, it is the intention to commence those services on the STA's preferred date and that can be done within existing resources. It is a cost neutral proposal and for that reason it is appropriate that those services should go ahead in the near future. I am sure that the people of the north-western suburbs will be very pleased with the changes that are proposed because they will significantly improve services and cut times for travel between those areas and the city, and also improve links across suburbs within the north-western sector.

I am quite confident that the desire of the Government and the State Transport Authority to improve public transport services across the metropolitan area can be met, and I hope that appropriate decisions can be made soon regarding a number of the areas upon which the State Transport Authority has been deliberating for some time in its progressive review of public transport services in a range of suburbs in the metropolitan area.

**The Hon. DIANA LAIDLAW:** I ask a supplementary question. As the information that the Minister has provided this afternoon is at odds with information I received today from the STA when I went to check this story, perhaps she may care to tell the office of the General Manager that these services have not been rejected by Cabinet because Government has no money.

**The Hon. Barbara Wiese:** Is that a question?

**The Hon. DIANA LAIDLAW:** Yes. That was the question.

**The Hon. Barbara Wiese:** What was the question?

**The Hon. DIANA LAIDLAW:** If the Minister wants me to repeat it for the record, I will. I said, 'Perhaps she may care'—and that is a question.

*The Hon. Barbara Wiese interjecting:*

**The PRESIDENT:** Order!

**The Hon. DIANA LAIDLAW:** Would the Minister in the interests of her Government and particularly the credibility of herself and the STA care to advise the General Manager and his officers that they should not continue to provide information to the general public, including myself, that the Cabinet has rejected this so-called $3.14 million initiative because Government has no money?

**The Hon. BARBARA WIESE:** The honourable member told us, first, that her story had fallen off the back of a bus. Now she tells us that she received information from the General Manager's office. I do not think that I can be held responsible for information that may or may not—

*The Hon. Diana Laidlaw interjecting:*

**The PRESIDENT:** Order!

**The Hon. BARBARA WIESE:**—have been provided by a range of sources to the honourable member. All I can say is that I know what happened; I have given the honourable member the facts of what happened, and I have informed relevant people within the State Transport Authority of the situation as it stands. If the honourable member consulted someone within the organisation whom it was not appropriate to consult on this matter and if that person had the wrong information, I can only suggest that in future the honourable member speak to the people most likely to have the information.

## SCHOOL SPORT

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

Leave granted.

**The Hon. M.J. ELLIOTT:** My question follows the news that for the second year South Australia will not be sending a team to the national championships in Australian football for senior primary school children. I am told that it is not a cost problem that is keeping our players at home. In the past, the parents of the boys selected for the squad, helped by contributions from SANFL clubs, paid the travel and accommodation expenses of the competitors.

*The Hon. Diana Laidlaw interjecting:*

**The Hon. M.J. ELLIOTT:** No, I do not believe it has anything to do with sexism. The Education Department had the task of funding the replacement teachers for the staff who accompanied the teams as coaches and supervisors. The problem appears to be the junior sports policy, which states that it is inappropriate for senior primary school children—that is, children aged 11, 12 and 13—to be involved in this level of competition. I am not criticising the whole policy—indeed, I cannot—as it has a focus of wide participation in sport at all levels, something in which my own children are involved, but removing competition for the better performers does not add or detract from that focus.

Some people who have spoken to me have suggested that this is hypocritical when it is remembered that the Education Department supported the involvement of individuals of those same ages in the Pan Pacific Games. This national football competition has been operating apparently since the Second World War.

In recent times the squad was selected after a series of South Australian Primary Schools Amateur Sports Association (SAPSASA) competitions involving city and country schools. These competitions are still running and I have been told that SAPSASA, although it is unable to say so publicly, is still supportive of South Australian involvement in the national competition. I ask the Minister three questions:

1. What is the basis for the junior sports policy conclusion that national competitions for senior primary schoolchildren are inappropriate?

2. Will the Minister reconsider the decision in relation to the 1993 national Australian football competition? If not, why not?

3. Will the Minister acknowledge that involvement in such a competition does not impose a financial burden on the department nor detract from the general thrust of its sports policy?

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

## STATE BANK

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

Leave granted.

**The Hon. L.H. DAVIS:** There has been recent confirmation of the fact that two senior executives of the State Bank of the South Australia—Mr Steve Paddison, currently assisting in scaling back the bank's New Zealand operations, and Mr John Malouf, the Chief General Manager of Commercial Banking—will shortly retire. It has been suggested that the aggregated golden handshake for Mr Paddison and Mr Malouf will total around $1 million.

The *Advertiser* this morning carried a report that the two executives had contracts of employment with a specified term of employment with the bank rather than being employees of the bank. I have been advised that at least one of these contracts is due to expire in a matter of weeks and that in fact they will be retiring before this contract of employment expires. This is a matter of public importance and the Attorney-General, as he might well remember, has already failed to answer a question which I asked about the State Bank on 9 February. So, I would appreciate if the Attorney-General could answer as soon as possible the following questions:

1. Will he confirm that either Mr Paddison or Mr Malouf, or both, have employment contracts with the State Bank?

2. If this is the case, when did this contract or these contracts expire?

3. How many other senior executives of the State Bank have similar arrangements, that is, employment contracts with termination payments built into them?

4. What is the amount of the termination payments for both Mr Paddison and Mr Malouf and what was the basis of calculation of these termination payments?

5. Is it normal for persons on contract with the State Bank of South Australia or other agencies of Government to have termination payments and, if so, has the Government set down any guidelines for the level of termination payments?

**The Hon. C.J. SUMNER:** I assume the bank is not going to make termination payments to these people beyond those to which they are legally entitled.

**The Hon. R.I. Lucas:** You assume or you know?

**The Hon. C.J. SUMNER:** I assume: I do not assume they are just paying them for fun. If their services are being terminated, if they are receiving any payments, I assume that they would receive them in accordance with what they are legally entitled to. However, I do not know the details of the matter and I will refer the question to the responsible Minister and bring back a reply.

**The Hon. J.F. STEFANI:** I seek leave to make a brief explanation before asking the Attorney-General, representing the Treasurer, a question about the State Bank.

Leave granted.

**The Hon. J.F. STEFANI:** Following the report which appeared in today's *Advertiser* suggesting that the bank is likely to pay up to $1 million when the employment of two executives is terminated, I have been informed that similar pay out figures have been made when other executives have had their employment terminated or were dismissed. A particular case in question involves the London manager, Mr Lynn Todd. Mr Todd was recruited to manage the London office by two of the bank's senior executives. His yearly salary package was reported to be approximately $180 000.

An incentive bonus of £200 000 was also payable on achieving yearly budget turnover figures. A group of senior bank executives also received bonuses, which were based on the bank's turnover figures and not on profit figures. These bonuses were paid into a special separate superannuation fund, thus avoiding personal taxation. I have been informed that as at the end of June 1991 the fund accumulated around $8 million, for the benefit of 20 executives, or thereabouts. I have further been informed that this special superannuation fund had flexible cash vesting provisions which allowed executives to draw down against their allocated benefits after 18 months. I have been told that the then Federal Treasurer (Mr Keating) contacted the former Premier (Mr Bannon) to have the special fund terminated because it engaged in tax minimisation practices.

Returning to the termination of Mr Lynn Todd's services, I am aware that Mr Todd was absent from his employment on full pay for a period of time after the auditors found that the target figures that had been achieved by the London branch of the State Bank were, in fact, falsified. During this time, Mr Robin Sewel and the bank's London lawyers were instructed to carefully handle the matter and to reach agreement with Mr Todd on the basis of his termination or dismissal. I have been advised that Mr Todd terminated his employment on receipt of a substantial payment. My questions are as follows:

1. Will the Treasurer confirm or deny the circumstances that led to the termination of the employment of the London manager?

2. Was a payment made to Mr Todd and, if so, what was the amount?

3. Will the Treasurer confirm or deny the existence of a special superannuation fund for a select group of the bank's executives?

4. What were the amounts paid by the bank into the fund for the benefit of the executives?

5. Did the amounts paid into the fund include the incentive bonus payments accrued by the executives on the achievement of turnover figures?

6. Did the fund make payments to the executives whose services were terminated or who left the bank voluntarily?

**The Hon. C.J. SUMNER:** I will need to take those questions on notice and bring back a reply.

## CLEVE TO KIMBA ROAD

**The Hon. I. GILFILLAN:** I seek leave to make an explanation before asking the Minister of Transport Development a question about road funding for Eyre Peninsula.

Leave granted.

**The Hon. I. GILFILLAN:** A 70 kilometre stretch of so-called State highway between Cleve and Kimba on Eyre Peninsula has become a major transport disaster that threatens the lives of those forced to use it on a regular basis. I visited Kimba two weeks ago at the request of the local community and actually was driven along the road. I was appalled at its condition. Despite its official tag as a highway, it is unsealed and, following recent rain in the area, parts have become almost impassable while many other parts have made even cautious driving hazardous when wet. The State Government has responsibility for the road but, despite pleas for help from Cleve and Kimba communities, little has been done to upgrade the road and make it safe for drivers.

The local representatives of the Farmers Federation and the council who were with me told me that there had been a spiral in the number of vehicle rollovers on the road in recent months due to the state of the road surface, and there is a fear in the community that lives will soon be lost unless the road is sealed. Even Government employees are not immune to the road conditions. In recent weeks, an ETSA cherry picker truck travelling at low speed on a straight stretch of the road with no other vehicles in sight veered out of control and rolled over onto the side of the road. Luckily, injuries to the occupants were minor but the truck was badly damaged and it is obvious that it could have been far worse.

One Kimba councillor told me that, during a three day period of a local field day event, there were five rollovers on the road with several injuries. In addition, the road is subject to heavy truck use during the November to January grain carting period when dozens of double length semitrailers use it each day. The road also serves as the main link in the region for Port Neil, Arno Bay and through to Port Lincoln and Tumby Bay. It appears to the local residents that the State Government is ignoring the problem and is prepared to leave those people, including its own employees using the road, at risk. My questions to the Minister are:

1. Is the Minister aware of the current condition of the Cleve to Kimba road and the dramatic rise in vehicle accidents?

2. If so, will she give an undertaking to have the road sealed as soon as possible before lives are lost, and when does she have any indication of such work being likely to begin?

3. If not, will the Minister indicate where the road is listed in the State's priority list for upgrading and when the people of Cleve and Kimba can expect improvement to their major road link?

**The Hon. BARBARA WIESE:** This is a road about which I have received representations in the past, but in a very different context from that which is being presented by the honourable member. On the occasion when I was last approached about this matter and I had the Department of Road Transport people look at the questions that were then being asked about that road, it was the view of the department that the road was in a satisfactory state and met the standards expected of unsealed roads in areas such as that on Eyre Peninsula with the level of traffic that uses that road. If there has been, due to recent weather conditions, a change in the surface of that road, it may well be a matter that needs further attention and I will certainly ask the Department of Road Transport for a report on the road and on the matters to which the honourable member referred, particularly the views that the department has about future needs in this area and whether or not it believes that this is a road that in future ought to be sealed.

**The Hon. I. GILFILLAN:** As a supplementary question, I appreciate the Minister's answer and I can see that she intends to do something about it. There are areas of the road that are totally devoid of any cover. I have driven on the road and it is just bare mud. The situation from the answer, as I understand it, is that the Minister does not believe—

**The Hon. ANNE LEVY:** On a point of order, a supplementary question is a question only, without any explanation.

**The PRESIDENT:** That is true, and it arises from the answer that has been given. The Hon. Mr Gilfillan will confine himself to a question.

**The Hon. I. GILFILLAN:** I am seeking clarification of the answer that was given, which I think is normal procedure in supplementary questions. I am asking the Minister to clarify my understanding that at the present time the department has no intention to seal the Kimba to Cleve road; is that correct?

**The Hon. BARBARA WIESE:** From memory, that is the view of the Department of Road Transport at this stage, based on the usual engineering and technical standards that are followed by that department and other road authorities around Australia, which are based on road use and safety issues and, unless something has happened to change the situation very dramatically in the months since I last received a report about this—

*Members interjecting:*

**The PRESIDENT:** Order!

**The Hon. BARBARA WIESE:**—then I would be surprised if the Department of Road Transport had a different view about it. I might say too, from hearing some of the interjections that a change of Government would make a difference, I doubt whether the engineering advice given to a Liberal Government would be any different from the advice being given to a Labor Government on these matters.

## AUSTRALIAN DEMOCRATS

In reply to **Hon. L.H. DAVIS** (11 February).

**The PRESIDENT:**

1. Staffing to the Democrats funded from the Support Services to Parliamentarians budget are as follows:

1 personal assistant, grade 1.

2 research assistants ZA-2.

These staff are full time and are located in the Democrats' office in Australian Airlines House.

2. Equipment supplied to the Democrats from the Support Services to Parliamentarians budget is as follows:

1 Mita 2285 photocopier
2 Toshiba T3100e/20 laptop computers
1 Canon Laser printer
2 Toshiba Express Writer 311 printers
1 Remington 8050 fax machine

This equipment is located in their office in Australian Airlines House.

3. Details of the 1992-93 budget for the Democrats as part of the Support Services to Parliamentarians budget is as follows:

| | |
|---|---|
| Salaries and wages | $145 000 |
| Administration expenses, equipment, sundries | $2 000 |
| Accommodation and service costs | $28 000 |
| TOTAL | $175 000 |

No other Government department provides any funds to the Australian Democrats. I was also asked whether I thought they were getting too much. That implies speculation on my part, and I am not prepared to answer that.

**The Hon. L.H. Davis:** Not the aeroplane jelly Party; its the aeroplane junket Party.

**The PRESIDENT:** Order!

## SWIMMING POOLS

**The Hon. J.C. IRWIN:** I seek leave to make an explanation before asking the Minister for the Arts and Cultural Heritage, representing the Minister of Local Government Relations, a question about swimming pool fencing.

Leave granted.

**The Hon. J.C. IRWIN:** The swimming pool death of a 16 month old child last month again focused public attention on swimming pool fencing or lack of it. On 14 February this year the *Advertiser* reported that a white paper should be ready for public comment by the end of February. It does not say which year. According to Minister Crafter, after the consultation period the necessary legislation will be presented to Parliament, hopefully during the spring sitting. Again, it does not say which year. We seem to have heard all this before.

In November 1990 I was told by the former Minister of Local Government Relations that a draft white paper was being prepared. In November 1991, another year later, I was again told by the same Minister that a draft white paper was being prepared and should be released in 1992. A spokeswomen for the present Minister of Local Government Relations said on 18 February this year that 'the Minister does not wish to rush it through and that the legislation would not have prevented the three drownings of children this year', which is only two months old. How slow can you go to avoid being accused of rushing? The demise of the old Local Government Department is no excuse.

I am further advised that the Department of Environment and Planning in September gave councils legal advice which some fear will leave them open to law suits if they follow it. Building regulations require new pools to be built with the isolation fencing around them. The building regulations are inconsistent with the swimming pool safety legislation which requires fencing only around the perimeter of properties with pools. The advisory notice sent to councils advises them to follow the lower standard laid down in the Act, as the Act overrides the regulations, and one council has a QC's advice that the building regulations were not overridden. My questions therefore are:

1. Exactly when will the white paper be ready for public consultation?

2. Will the Minister give an undertaking to have legislation ready for the spring session—

**The Hon. Diana Laidlaw:** Which year?

**The Hon. J.C. IRWIN:** This year, 1993—or is it the Government's game plan to avoid a hard decision before the next State election?

3. Does the Minister know when the new Australian fencing standards will be completed?

4. Is the Minister satisfied that the building regulation overrides the swimming pool legislation, and will the Minister stand by councils if they are prosecuted for following the Act on the Minister's advice?

**The Hon. ANNE LEVY:** I think the honourable member, as part of his question, is confusing a green paper with a white paper. Certainly, a green paper was released. I understand from my colleague that the white paper is to be released within a matter of days but, in terms of a more detailed response, I will refer the questions, numerous as they are, to my colleague in another place and bring back a reply.

## ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE

**The Hon. T.G. ROBERTS** brought up the committee's third report concerning the process of consideration of supplementary development plans.

## LYELL McEWIN HOSPITAL

**The Hon. BERNICE PFITZNER:** I seek leave to make a brief explanation before asking the Minister of Transport Development, representing the Minister of Health, a question about the child assessment unit at the Lyell McEwin Hospital.

Leave granted.

**The Hon. BERNICE PFITZNER:** This multi-disciplinary child assessment unit at the Lyell McEwin Hospital has still not been resurrected, although similar units at the Women's and Children's Hospital and the Flinders Medical Centre have been specifically funded. My previous communications with the Minister of Health on this subject identified that he was not in touch with the situation as he said that, 'The Lyell McEwin Health Service does not have the specialist backup for a child development unit of the same standard.' Indeed, I have had professional contact with that particular specialist doctor, who is one of the better developmental paediatricians in this State.

I now note that the child assessment unit at the Lyell McEwin Hospital is possibly to be an appendage to the child unit at the Women's and Children's Hospital. This unit at the Lyell McEwin Hospital services the areas of

Elizabeth and Salisbury, and this area is increasingly having the most young families and their children. It is to be noted that the child assessment unit at the Flinders Medical Centre services the south; the similar unit at the Women's and Children's Hospital services the central, western and eastern area; and the child assessment unit at the Lyell McEwin Hospital should service the growing north. My questions to the Minister are:

1. What will the South Australian Health Commission's 'satisfactory arrangements for the child assessment unit at the Lyell McEwin Hospital be?

2. Will the unit at the Lyell McEwin Hospital be a separate entity like those of the Flinders Medical Centre and the Women's and Children's Hospital? If not, why not?

3. What are the numbers of children being referred from the Elizabeth and Salisbury area to the Women's and Children's Hospital child assessment unit in the past year, 1992?

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

## LOCAL GOVERNMENT

**The Hon. PETER DUNN:** I seek leave to make a brief explanation before asking the Minister representing the Minister of Housing, Urban Development and Local Government Relations a question about the Local Government Association and Local Government Act administration.

Leave granted.

**The Hon. PETER DUNN:** While attending a meeting of the Eyre Peninsula Local Government Association in Whyalla the other day it was brought to my attention that there is a conflict occurring between the city and the country regarding the Act, and I quote from a letter from the City of Port Augusta written to Mr Richard Fox, Executive Officer of the Spencer Gulf Cities Association, by Mr Ian McSporran, City Manager. Part of that letter states:

Consideration of all issues both administrative and political associated with the proposed Local Government Constitution Act and the Local Government Administration Act are the most important things that probably happened to local government and the end result of at least the Constitution Act, like the State Constitution Act, should be very difficult to amend or add to, and so it should. So local government and councils must get it right the first time so that the politicians do not have the opportunity of discrediting local government in Parliament when the Bills are debated.

These issues about constitutional matters are very important to non-metropolitan councils. We have already witnessed the formation of the 'metropolitan group' (representing not only the metro regional groups, but all metropolitan councils), which consists of both members and administrators. It is a very powerful lobby group within local government and indeed will be researching the current discussion paper with interest, albeit probably in favour of the metropolitan councils.

We have already seen the separation of country and city councils in Queensland and Tasmania. I am reliably informed that local government is the loser when this happens, and that country based local governments are hard pressed now to seek road funding allocations, etc.

My question is: bearing in mind the advantages metropolitan based councils have—their ability to meet quickly and have cheap communications, and of course their large numbers—and the disadvantages that rural councils have, what advice is the Minister's department giving to the Local Government Association to avoid what potentially could be a country versus city rift?

**The Hon. ANNE LEVY:** I will refer the question to my colleague in another place for a formal reply. However, I would point out to the honourable member that the current legislation recognises the existence of the Local Government Association and that the memoranda of understanding which have been signed between the Premier and the Local Government Association recognise that the Local Government Association speaks on behalf of local government in this State. What the honourable member has read out suggests to me that there may be differences of opinion within the Local Government Association. That surely is a matter for local government to solve if that is the case. I would not have thought it was a matter for the State Government to start interfering in the affairs of the Local Government Association, but I may have misinterpreted the comments from a paid official of a local council which the honourable member has read out.

## STATE THEATRE COMPANY

**The Hon. DIANA LAIDLAW:** I seek leave to make an explanation before asking the Minister for the Arts and Cultural Heritage a question relating to the State Theatre Company Executive Producer.

Leave granted.

**The Hon. DIANA LAIDLAW:** In February the State Theatre Company invited applications for the newly created position of Executive Producer—a position which effectively replaces the current roles of general manager and artistic director. This new position is understood to arise from the report prepared by the Board of Governors late last year by Mr Justin MacDonnell. In respect to this report the Minister, in answer to a question I asked on this same matter on 10 February, said she had not received the report, had not read it and did not know if it would ever be released in the public interest. Yet the decision to create the position of Executive Producer appears to herald a major new direction for the State Theatre Company away from its principal role over the past 25 years as a subsidised company producing a variety of works, from European classics to new Australian plays, coupled with a responsibility to provide employment and training opportunities for local artists and production staff, to a new direction that is essentially that of a production house, buying and selling shows. As the Government provides the State Theatre Company with its main source of operating income ($1.8 million last financial year), I ask the Minister:

1. Did the board, or at least the Chair of the Board of Governors, canvass with the Minister the reasons for wishing to appoint an Executive Producer, and did the Minister agree with this course of action before the first

advertisement was placed for an Executive Producer? If not, why not?

2. What changes does the Minister anticipate will flow from the creation of this new position?

**The Hon. ANNE LEVY:** As the honourable member acknowledges, the report from Mr Justin MacDonnell was commissioned by the Board of State Theatre, and it was a report to the board. I have not seen it; it has not been presented to me; and its fate is in the hands of the Board of the State Theatre Company. I have had some informal discussions with the Chair of the State Theatre Company. It certainly was not the full board, but other members of State Theatre were present at discussions which were in the form of information. I think it would be fair to say that the discussions were before the Board of State Theatre Company had made any firm decisions as to the line that it would take. The position of Executive Producer has been advertised. Obviously that comes from the report which was prepared for State Theatre. It is not a unique situation. There are similar arrangements in other theatre companies both in Australia and overseas. While it is a change from one approach to another, it is not breaking new ground; it is merely following a different model from that which has been followed in the past.

I point out to the honourable member that the legislation establishing the statutory authority of the State Theatre Company does not give the Minister any power of direction or control over the Board of State Theatre, unlike the legislation that applies to many other statutory authorities.

In this respect the Public Corporations Bill, which is going through the Parliament, will be of potential relevance to a number of statutory authorities in this State, including State Theatre.

I can also indicate that State Theatre, despite several requests from me, has been reluctant to permit an observer from the department to attend any of its meetings where an exchange of views would be possible at the time that matters were being considered by the board. However, some members—mainly the Chair of State Theatre—are having regular meetings with officers of the department so that they can be kept informed at a detailed level of the decisions which are being made at State Theatre and the activities and plans which are under way in that institution.

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## SENIOR SECONDARY ASSESSMENT BOARD

Adjourned debate on motion of **Hon. R.I. Lucas:**

That the regulations made under the Freedom of Information Act 1991 concerning exempt agency—Senior Secondary Assessment Board—revocation and replacement, made on 21 January 1993 and laid on the table of this Council on 9 February 1993, be disallowed.

(Continued from 17 February. Page 1262.)

**The Hon. K.T. GRIFFIN:** I support the motion. I hope that the Attorney-General will have something to say during the course of the debate because, after all, he was the Minister responsible for the Freedom of Information Act and he must surely have some very strong views on the extent to which exemptions ought to be granted from the application of the Act.

It was obvious, in answering a question which I posed a week or so ago, that he suffered some embarrassment from the fact that the Government appears to have pushed through just before Christmas, whilst he was away, an exemption for the Senior Secondary Assessment Board from the provisions of the Act.

I have concern about the exemption. It was in a sense a knee-jerk reaction by the Government, instigated by the Minister of Education, Employment and Training, and it seems not to have been based upon any principle or established criteria for determining the requirement of exemption for Government agencies. I am not aware of other exemptions which have been granted specifically under the regulation-making power. If there are any, I should like someone on the Government side to identify them to the Council before the debate on this motion is concluded.

During the course of consideration of the Bill in February 1991, when it was received in this place from the House of Assembly, the Attorney-General in his second reading explanation said that the Bill was based on three major premises relating to a democratic society. He then went on to indicate what they were:

1. The individual has a right to know what information is contained in Government records about him or herself;

2. A Government that is open to public scrutiny is more accountable to the people who elect it;

3. Where people are informed about Government policies, they are more likely to become involved in policy making and in Government itself.

The Attorney-General then went on to say that a number of rights and obligations are established and he spelt them out as follows:

1. A legally enforceable right of access to documents in the possession of Government.

2. A right to amend inaccurate personal records held by Government.

3. A right to challenge administrative decisions to refuse access to documents in the courts.

4. An obligation on Government agencies to publish a wide range of material about their organisation, functions, categories of documents they hold, internal rules and information on how access is to be obtained to agency documents.

The Attorney-General then went on to say:

The rights conferred are not, of course, absolute. They are moderated by the presence of certain exemptions designed to protect public interests including the Cabinet process, the economy of the State and the personal and commercial affairs of persons providing information to, and dealing with, the Government.

That qualification is important, because I suggest that by no stretch of the imagination could one say that the general information kept by the Senior Secondary Assessment Board would fall into that category. Certainly, personal information about the students being assessed by the board is in the nature of private information and should not be made available willy-nilly.

However, as regards the general statistical data, the

identification of schools from which students came and other similar information, I suggest that there is no basis for excluding that information from the public domain. As a result of the regulation which was passed just prior to Christmas to grant the exemption all of the information kept by the Senior Secondary Assessment Board is no longer available to the public for scrutiny.

There are, of course, some exemptions in the Freedom of Information Act set out in the schedule. Those exemptions caused some debate at the time, but they are basically the areas covered by Parliament, committees, officers, the actual business of the two Houses and various statutory committees, royal commissions, a couple of the enterprise activities of the Government, namely the State Bank, the SGIC, and then certain bodies: the Auditor-General, Attorney-General in respect of functions related to the enforcement of the criminal law, Parole Board, Solicitor-General, Crown Solicitor, Crown Prosecutor, Ombudsman, Police Complaints Authority, certain activities undertaken by Public Trustee, which could be described as being of a private nature affecting private citizens, SAFA and certain other areas of law enforcement. There is no suggestion, I would venture to say, that the activities of SSABSA ought to be within the description of an exempt agency under schedule 2 of the Freedom of Information Act. If it does not fall within the category of activities which are encompassed by that schedule, I would suggest that there is no proper basis for the statutory authority to be exempt from the operation of the Freedom of Information Act.

In looking at the objects provision of the Act in section 3, it is important to judge the decision of the Government against those objects, which are expressed to extend as far as possible the rights of the public to obtain access to information held by the Government and to ensure that records held by the Government concerning the personal affairs of members of the public are not incomplete, incorrect, out of date or misleading. It then refers to the legally enforceable right given to each member of the public to gain access to documents subject only to such restrictions as are reasonably necessary for the proper administration of the Government. And then the intention of Parliament is expressed that this Act should be interpreted and applied so as to further the objects of this Act and also to ensure that the administrative discretions conferred by this Act should be exercised as far as possible so as to facilitate and encourage the disclosure of information of a kind that can be disclosed without infringing the right to privacy of private individuals. So the whole thrust of the Freedom of Information Act introduced by the Attorney-General, with the support of the Government at the time, is for openness in Government and not for the covering up or exemption of information and agencies from the operation of the Act.

There has been no clear indication from the Minister of Education or from any Minister in Government, including the Attorney-General, as to why SSABSA should be exempt. As I said at the beginning, it appears to have been a knee jerk reaction at the request of the board, designed to keep certain information out of the public arena and whatever one might say about the availability of the information surely it is for the public to make a judgment about its suitability and not for the information to be covered up by the board or by the Government. The criteria, I repeat, by which exemptions are determined should be identified publicly. Then we can judge all future exemptions granted by the Government against the criteria. I suspect there are no criteria but if there are I think we ought to know about them and I invite the Attorney-General to identify what those criteria might be. As I have said, he is the Minister who steered the Bill through the Parliament and he has a view about freedom of information, that information, generally speaking, ought to be available in the public domain. This prevents that occurring for no valid reason and it is for that reason that the regulation ought to be disallowed and that there ought not to be any other exemptions granted until the Government has clearly identified the criteria to be applied.

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

## TEACHERS

Adjourned debate on motion of **Hon. R.I. Lucas**:

That this Council:

1. Condemns the Labor Government for its school staffing policies which have caused major problems for teachers, students and schools at the start of the 1993 school year.

2. Deplores the waste of teacher experience and expertise as a result of these polices.

3. Calls for an independent review of the current staffing policies of the Education Department.

(Continued from 10 February. Page 1174.)

**The Hon. M.J. ELLIOTT:** I rise to support the motion but I also rise to oppose the shadow Minister's behaviour in the area of education over the past several years and I move an amendment to the motion:

After paragraph 3 insert new paragraph 4 as follows:—

4. Condemns the Liberal Opposition for its constant undermining of public confidence in the public school system.

Mr President, as a person who taught for nine years in the public education system and who has three children now in that system, one who has been in it now for almost seven years, I would claim a great deal of inside knowledge about that system and I also have a great deal of concern about what might happen to it. The concern that I have is not just about the damage that the Government is doing to it by way of neglect and at times inappropriate action, but also by the constant undermining of the public confidence in the system, which has been coming from the Opposition benches. It is a concern which is shared by many former colleagues. I think I can claim a far wider contact base in the Education Department than can the Hon. Mr Lucas. I know some of his sources of information and they are not terribly representative of the system as a whole. I do not think he even begins to understand the amount of damage that he himself is doing by the style of questioning that he has adopted.

The media campaign of the Hon. Mr Lucas on education issues has been nothing short of simplistic, divisive and destructive. In his rush—

**The Hon. L.H. Davis:** You've learnt the word 'alliteration', have you?

**The Hon. M.J. ELLIOTT:** I am pleased that you could actually pronounce it. In his rush to grab a headline and set the talkback shows alight, the Hon. Mr Lucas has consistently failed to notice, let alone mention, any of the good things happening in the education system. Do not for one moment take my comments as being supportive of the Government's record on education because I am not. Its record is one of massive cuts to teacher numbers, almost 800 in one fell swoop at the end of 1991. These cuts meant subjects were dropped from the high school curricular, class sizes were increased to unworkable levels in practical and senior school subjects and specialist school programs, including English as a second language, suffered.

The teachers who are left face the prospect of being forcibly moved because they have been at one school for 10 years and the uncertainty of a merry-go-round of temporary placements, a situation on which the Hon. Mr Lucas has already dwelt at great length. Increasing workloads are having a great effect on teacher stress levels as more and more functions are being off-loaded to schools from the central department with little compensation for the time it takes for teachers to undertake the extra tasks.

No, I am not in this contribution supporting the Government. What I am supporting is the thousands of dedicated professionals who are working hard in our schools and achieving results. These results are not the simplistic statistical achievement-based results that the Hon. Mr Lucas seems to favour in another motion, which I will address in coming weeks. Figures on how many 100 per cents each school's graduating students receive say less about the quality of education than they do about the advantages that individual students bring from outside the school. They tell us little of what the school itself achieves for each individual student not just in academic scores but in terms of social development. For example, they do not tell us how the same student would perform in a different school.

I can speak from experience with my own children. When we shifted suburbs two years ago my children changed their school, from one public school to another. The school they left had the reputation of being the best primary school in the State: the school they went to had a solid reputation. To my way of thinking, the school they went to provided a better education, but if tests were done on the children at the two schools the judgment would have been that the first school was the better one. As a parent and as a former teacher I have no doubt that the second school has been far better for my children in every sense, both academic and otherwise, than the first school. Both schools happen to be part of the public school system, but the point I am making is that simplistic measuring of the success of students at one school compared with students at another school tells us very little.

The Hon. Mr Lucas and the Government together have done an excellent job in dragging down the moral of this State's educators. The following is a cross-section of some of the matters raised by the Opposition within and outside Parliament. They were all good for headlines. I refer to two articles about the women's mafia in the Education Department dated 11 and 25 April 1991. In fact, the Hon. Mr Lucas uncovered several networks of the women's mafia. On 26 February 1991 an article headed 'Liberals want SA schools tested' states:

> Independent standardised testing of South Australian schools is necessary to assess the quality of education, says the Opposition's education spokesperson, Mr Lucas.

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

**The ACTING PRESIDENT (Hon. M.S. Feleppa):** Order!

**The Hon. M.J. ELLIOTT:** The Hon. Mr Lucas went on to justify his claim by quoting Mr Garth Boomer as saying that students were being taught low level crap. However, if we look at the totality of what Mr Boomer said we see that he was questioning the outmoded systems of education which had been used in the past and which included the concept of standardised testing. So, the honourable member quoted Mr Boomer absolutely out of context and played on the rather standard reaction that exists.

**The Hon. Anne Levy:** He did not take someone out of context!

**The Hon. M.J. ELLIOTT:** He certainly did in that case. He played on the rather simplistic notion that testing would tell us something about the quality of education. I have already said quite plainly that I believe that is not the case. An article of 18 November 1991 states:

> Children as young as eight playing truant from school involved in petty theft, vandalism and harassment at Port Adelaide, the Opposition claimed yesterday.

Once again, we have this picture of massive numbers of children truanting from schools all over the State.

**The Hon. R.I. Lucas:** Is that true or not?

**The Hon. M.J. ELLIOTT:** What is important, Mr Lucas, as you know as well as I—

**The Hon. R.I. Lucas:** You know its true.

**The Hon. M.J. ELLIOTT:** He is not going to let me finish this because he does not want to hear it; he does not want to hear it so he is going to try to yell it down instead. There is a difference between truth and distortion by emphasis. I am afraid that what is happening is a distortion that creates something that does not give the true picture. It may be based on the truancy of a couple of students but the picture developed—and he is quite aware of this—is that we have a system which is falling down around our ears with children truanting all over the place. He knows very well that that is exactly what happens. I refer to an article dated March 1992 headed 'Teachers predict more failures: Lucas', which states:

> Up to 40 per cent of children in some secondary schools would fail the new Certificate of Education...

A further article headed '"Bias against boys" claim' of 6 October 1992 ties in nicely, I suppose, with the articles about the women's mafia. Recently, questions were asked in this Council about whether or not teachers were walking around in pairs carrying two-way radios. Once again, the honourable member has taken something which was a truth but a completely inaccurate inference was been drawn by many people.

**The Hon. R.I. Lucas:** So one cannot raise a question because someone might take an inference.

**The ACTING PRESIDENT:** Order!

**The Hon. M.J. ELLIOTT:** The honourable member knows that what comes of this is a nice tidy little headline. They are all negatives, the whole lot of them; nothing positive whatsoever about the public school system. He did not even bother to find out why this was happening. The implication picked up by everyone to whom I spoke was that there is so much violence in our schools and why were we not disciplining our students? In fact, the real story is that, in one case, the violence is coming from outside the school—that it is not a fault of the school system—and, in the other case, a decision was made by school staff that had nothing whatsoever to do with violence in the school. As I said, you can take the truth but you can use it to distort the picture.

The Labor Government's record in education is not great, but just think what the Liberals would do to public education. They have spent the past decade in Opposition bleating about the need to cut services in the State. Of course, one of those services would have to be education. Look at what Jeff Kennett has done in Victoria. The UTLC has supplied me with a neat little poster that outlines the first 100 days of the Liberal Government in Victoria—4 000 teacher jobs have been axed and 51 schools and four campuses closed. The poster has written across the bottom the question: 'Could you vote for over 1 500 days of any Hewson or Brown Liberal Government? Imagine what the Liberals policies could do to you and your family in four long years!' Let us imagine where all Mr Lucas's honourable concern would go. It would go right out the window because, although they have been saying *ad nauseam* that they are different from the Liberals in Victoria, they operate under the same logo.

They are the proponents of the education voucher system. This is a system which, when combined with the ill-informed and the misleading rhetoric that we have been subjected to in this place, would undermine the State's education system. It would entrench advantage for one sector—namely, the private education sector—and State schools in more affluent areas. The Liberals latest contribution to the advancement of modern education is the call to bring back corporal punishment, three years after it was considered inappropriate.

*The Hon. Anne Levy interjecting:*

**The Hon. M.J. ELLIOTT:** The majority of schools had stopped long before that, but that was when action was finally taken. At the same time that the Catholic education system is doing away with the practice, the Liberals are advocating violence as a way of making children behave. They are out of step with all the public education campaigns about the destructive effects of physical violence on children. When a teacher resorts to the cane, the teacher is admitting failure and saying, 'I have no other way of coping with this child.' That is an admission not only of failure but of incompetence on the part of the teacher, if they have to resort to physical violence.

Ultimately, I can assure members that the children who are most difficult to control at school are usually the ones who are subjected to physical violence at home. The kids who get repeatedly beaten up at home are the ones who tend to be the most uncontrollable in a school situation. Anyone who thinks that the cane is going to have any effect on someone who is regularly beaten is really on some other planet.

The Hon. Peter Dunn: You had better stretch that argument out a bit more; say a bit more about what is involved.

**The Hon. M.J. ELLIOTT:** I can tell you that I managed to teach for nine years in the system without having to use the cane. I had classes that were never out of control. I saw other teachers who did use the cane who did not control their classes.

*The Hon. Peter Dunn interjecting:*

**The Hon. M.J. ELLIOTT:** You do not expect someone who says they do not believe in the cane to use it. I did not use it, I did not need it, and nor does any other competent teacher need the cane. As I said, there are any number of articles in the media which have shown that the public are not behind the Hon. Mr Lucas on this matter. The *Advertiser,* soon after the Liberals began this push again, ran a street poll, and a subsequent article stated:

> Most people questioned in the random street poll said the Opposition's pledge to bring back the cane was promoting violence as a solution to conflict.

An article published on 3 June 1991 stated:

> South Australian teachers who resort to corporal punishment could find themselves facing assault charges. The State Government has confirmed that teachers would be subjected to disciplinary action, ranging from a formal reprimand to dismissal, for using physical punishment such as caning against students, which constitutes an assault.

That is one thing the Government has got right. On 5 February 1993, the *Advertiser* reported:

> School heads say South Australia's education system would regress to the Dark Ages under the Liberal Party's policy of bringing back corporal punishment.

I have certainly dwelt a great deal on the damage which I honestly believe the Opposition has been inflicting upon the school system by way of the style of questioning and by the form of innuendo that it has constantly used simply to play upon some inbuilt prejudices within the public. I can assure members that it is not going down well with the education system, which is already reeling under the problems it has with the damage the Government is doing and with the damage the Government has done by way of the matters that the Hon. Mr Lucas has raised in this motion. The Government's school staffing policies have been an absolute disaster this year; that is beyond question. There is no doubt—

*Members interjecting:*

**The Hon. M.J. ELLIOTT:** I have been speaking to the motion as amended. There are too many experienced teachers who have been put on a merry-go-round of temporary placements, going from school to school and already the department is losing people who should be of immense value to the department. What is more, the decline in their morale would decrease their effectiveness even in the locations in which they are now working. There is a need for an independent review. There seems to be an indication that that is on the way. But, of course, this is after the horse has bolted. The damage has already been done. The reason for the amendment to this

motion is, as I said, having been a teacher for nine years and with my children still within the system, I do not want the system to be destroyed either by the Government and its incompetence or by the style of questioning that has been coming from the Opposition over recent years. I understand the great depression that is sinking on teachers, in particular, who seem to be copping it from both sides at this stage. I support the motion with the amendment I have moved.

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

## PARLIAMENTARY REMUNERATION (NO PAY RISE) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 10 February. Page 1178.)

**The Hon. R.I. LUCAS (Leader of the Opposition):** I rise on behalf of the Liberal Party to oppose the Bill. As members will know, we had a long debate in this Chamber some two years ago in relation to the appropriate system for considering pay rises for members of Parliament. That new system, which ties members of Parliament pay rises to that of Federal members, who in turn are tied to the second division of Commonwealth Public Service, was implemented, as I said, after a long debate and much discussion about the appropriateness of other wage fixing mechanisms for members of Parliament.

*The Hon. M.J. Elliott interjecting:*

**The Hon. R.I. LUCAS:** But, it took many months before that, as the honourable member would know, in relation to that particular matter. If every time a pay rise under this new system—and these are the first to flow through—is to be disallowed in this particular way we might as well get rid of the system completely rather than doing as the Hon. Mr Elliott is seeking to do, that is, pick them off one by one. If he does not like the system then perhaps he ought to have the honesty to stand up in the Chamber and try to get rid of the whole system.

**The Hon. M.J. Elliott:** We opposed the original Bill.

**The Hon. R.I. LUCAS:** Well, we will address the hypocrisy of that opposition in a moment. I have been involved in politics for 20-odd years now—ten years in Parliament and ten years prior to that in the Liberal Party. I have to say that in all of those years there has never been the right time for a pay rise: whether it has been in a recession, or in a depression or in a boom period. Whenever it is, it is never the right time for a pay rise for members of Parliament. As I said, that existed prior to my becoming a member of Parliament—I saw the debates that went on.

No system that is ever set up for members of Parliament is ever supported. The old system of the Parliament determining its own pay rises was opposed, for a variety of reasons. One was that we had our own snouts in the trough—to use the phrase that members of the media like to use to portray it—determining our own salaries, and that was inappropriate. We then moved to a system where we had a completely independent panel, where that panel had the power and authority to set the pay rise in accordance with wage fixing principles. Of course, every time the independent panel sat and made a judgment about the appropriate level of pay rise, again, it was never appropriate and was always attacked by the media in particular. The third system—the system we have now—is in effect establishing a nexus between State members and Commonwealth members of Parliament and, as I said, plugged in at about the second division of the Commonwealth Public Service.

I have not been able to get precise details on how many public servants, for example, at those senior levels are earning more than the base grade salary for members of Parliament of about $68 000. However, whatever the number is, I am told that it is many hundreds of public servants in the Commonwealth and other States and South Australia who, working within the Public Service, are earning salaries at a level much higher than the $68 000. We only have to note the most recent press story in the *Sunday Mail* highlighting the number of public servants and officers in semi-Government agencies earning more than $100 000. We noted the salaries of some of the most senior officers in Government departments earning between $100 000 and $175 000 a year by way of remuneration packages—even more than the Premier of South Australia earns for running or attempting to run the State of South Australia.

We have seen the recent debate about the appropriate level of remuneration for the general manager of ETSA when approval was given by the Minister, at least initially, of some $200 000 for ETSA, and my colleague the Hon. Legh Davis will in a little while highlight some other examples. So, no system has ever been supported and this is a new system that has been established. It means that we in South Australia do not have a say in setting our own salaries. It is locked in at a certain level of the Public Service. As I said, many hundreds of public servants earn more than the base grade salary for members of Parliament and, in some cases, earn twice if not three times as much as the base grade salary of members of Parliament.

I get a bit sick of the hypocrisy and cant of the Democrats, and of the Hon. Mr Elliott in particular. It is a bit rich for the Hon. Mr Elliott, every time there is a pay rise, to be cheer chasing in the media, jumping up and down indicating that he is opposed to pay rises, because he knows that every time he jumps up and down he will still get the pay rise, as will the Hon. Mr Gilfillan. He knows he can jump up and down and get the publicity and—

*The Hon. M.J. Elliott interjecting:*

**The Hon. R.I. LUCAS:** The Hon. Mr Elliott can squeal like a stuck pig if he wants to, but he knows that he can jump up and down and pretend that he is opposed to these pay rises, but at the same time every month he knows that he will put out his hand and get exactly the same pay rise that everyone else in this Chamber and in another place will get. He knows that he can jump up and down but he will still get the pay rise. So, he wants to have his cake and eat it, too. He gets his pay rise but he wants to jump up and down in front of the media and pretend that he is opposed to it and does not really need or want it.

So, it is a bit rich, as I said, that the Democrats would act in that way, but I must say that I am indebted to my colleague the Hon. Legh Davis for the information that Mr President has now had placed on the public record about the hypocrisy of the Australian Democrats' position in relation to putting their hands in the public purse and the amount of money that is expended on the Australian Democrats in relation to accommodation and staff. As you noted today, Mr President, the Australian Democrats—just two of them in this Chamber—are provided with a degree of luxury, a degree of staff and a degree of equipment and service that the rest of us in this Chamber, other than the three Ministers, can only long for.

*Members interjecting:*

**The Hon. R.I. LUCAS:** It has been on the wish list for 10 years.

*Members interjecting:*

**The PRESIDENT:** Order!

**The Hon. R.I. LUCAS:** We asked the Government for a $30 stapler and got knocked back for it. The Australian Democrats have three full-time staff for just the two of them—

**The Hon. C.J. Sumner:** There are only two of them.

**The Hon. L.H. Davis:** There are only 10 of us.

**The Hon. C.J. Sumner:** There are more of you to do the work.

**The Hon. R.I. LUCAS:** Mr President—

*Members interjecting:*

**The PRESIDENT:** Order!

**The Hon. R.I. LUCAS:** Exactly. With the whole Government you could have none, if you want to use that logic. And you are not Treasurer.

*Members interjecting:*

**The PRESIDENT:** Order! Everyone will have the opportunity to enter the debate. Order!

*Members interjecting:*

**The PRESIDENT:** Order! The Council will come to order. The Hon. Mr Lucas has the floor.

*Members interjecting:*

**The PRESIDENT:** Order! The Hon. Attorney-General.

**The Hon. R.I. LUCAS:** The Democrats have, as I said, three full-time staff, the Liberal Party with 10 members have three staff between us, one of whom is paid at the level of ZA-2 or whatever that category happens to be, the highest level of staffing within members' offices, and the other two are at electorate officer level. I note that the Democrats have two staff persons paid at the ZA-2 level. But I must indicate, and again I am indebted to my colleague the Hon. Legh Davis, that the taxpayer is fully funding two laptop computers for the Australian Democrats; and there are two printers—

**The Hon. L.H. Davis:** How many does the Liberal Party have?

**The Hon. R.I. LUCAS:** Last year we got a couple of leftovers from House of Assembly electorate offices because the House of Assembly electorate offices did not want them any more.

*Members interjecting:*

**The PRESIDENT:** Order! Everyone can enter the debate in the proper manner—

*Members interjecting:*

**The Hon. R.I. LUCAS:** I noted also that the Democrats are provided with two printers. It did not say whether or not they were laser quality printers.

**The Hon. L.H. Davis:** One of them is a laser printer.

**The Hon. R.I. LUCAS:** Perhaps both of them are laser quality printers. Of course, we are not provided with that quality of printer for all 10 members of the Liberal Party. As my colleague the Hon. Legh Davis has indicated—

**The Hon. C.J. Sumner:** Would you make shorter speeches if we gave you more assistance?

**The Hon. R.I. LUCAS:** We will not speak at all if you give us whatever we want.

**An honourable member:** Is that right?

**The Hon. R.I. LUCAS:** Yes. You give us an open budget, unlimited.

*Members interjecting:*

**The Hon. R.I. LUCAS:** No, we will just vote. But you give us an unlimited cheque.

**The Hon. C.J. Sumner:** No, we would not want you not to speak at all.

*Members interjecting:*

**The PRESIDENT:** Order!

**The Hon. R.I. LUCAS:** We have been trying to replace a photocopier which, as my colleague the Hon. Legh Davis indicated, has churned out over 1.3 million or 1.4 million copies—

**The Hon. I. GILFILLAN:** On a point of order, what does this have to do with the Bill?

**The Hon. R.I. LUCAS:** It has a lot to do with it, I assure you.

**The PRESIDENT:** I do not accept it as a point of order.

**The Hon. R.I. LUCAS:** For some reason, it will not take certain widths of paper that is provided by the Legislative Council.

**The Hon. C.J. Sumner:** It is probably the one I had.

**The Hon. R.I. LUCAS:** It may well be. We have been trying to have it replaced. I note that the Democrats have a new one and Labor members have a new one—

*Members interjecting:*

**The Hon. R.I. LUCAS:** No, a photocopier.

*Members interjecting:*

**The PRESIDENT:** Order! The Council will come to order. The Hon. Mr Lucas has the floor.

**The Hon. R.I. LUCAS:** The point I make is—

**An honourable member:** You'll want electricity next.

**The PRESIDENT:** Order!

**The Hon. R.I. LUCAS:** The point I make is that, because the Democrats have had their staff levels, their equipment and their computers and printers looked after, they do not have to put their hands in their pockets to pay for the staff, for the computers or for the printers. They do not have to do that for a base level of staffing and equipment to do the job of a member of Parliament. Members on both sides of this Chamber are having to put their hands into their salary pay rise pocket to pay for research staff and for computers. The two computers which we have and which are in the twentieth century were purchased by members of Parliament out of the pay rises that they get, out of the salary they get, not paid for by the taxpayers direct as the Hon. Mr Gilfillan and the Hon. Mr Elliott get them paid directly. Members have to pay for it out of the salaries and allowances that they get.

The same thing, Mr President, applies to research staff. I know that two of my colleagues have full-time members of staff who are paid for out of their salaries. I know many others, both Labor and Liberal—

**The Hon. Anne Levy:** They must have other income.

**The Hon. R.I. LUCAS:** That is right.

**The Hon. Anne Levy:** They have other income apart from their salaries.

**The Hon. R.I. LUCAS:** And in some cases they need it to pay for this staff. In both cases, in relation to Labor members and Liberal members, members are putting their hands in their pockets to pay for part-time staff, whether it be for one day, two days or three days. I do not know about Labor members—it might be the case—but I know about our side in relation to computers, printers and even our original fax machine. We could not get one from the Government, so one of our members purchased a fax machine on behalf of all members, and all that base level of equipment comes out of the salary that members of Parliament are paid.

So, it is fine for the Democrats to oppose all of these pay rises and say that members of Parliament do not need a pay rise, because they are getting from the taxpayers $175 000 plus for just the two of them, all this equipment and all this staff. I would not half begrudge them perhaps the stance they adopt if, having accepted all this largesse from the Government, staff and equipment, they at least let other members of Parliament who are paying for salaries and staff to accept the pay rise without their cheer chasing, as they do, in front of the media. One saw the display of cant and hypocrisy which knows no parallel in South Australian politics and which certainly follows the lead set by some former Australian Democrats who used to behave in a similar fashion.

I feel very strongly, as do my members and, I am sure, Government members (although I am not here to speak on their behalf) about this particular issue. It is never popular to have to stand up and defend a parliamentary pay rise, particularly when there are one or two people out there knowing they are going to get the money, anyway, and knowing that they already have the staff and resources, but wanting to prevent other members from getting a 1.4 per cent pay rise in March which is to go through to next March or next year.

Basically that is the meanness of the Australian Democrats and the Hon. Mr Elliott in particular in relation to this matter: 1.4 per cent pay rise when, at the same time, the honourable member knows that he has got both his hands firmly outstretched taking a siphon of taxpayers' money through the direct payment of salaries and computers and equipment in their respective offices.

I make it clear that, whilst I have been critical of the Democrats in relation to their attitude, I am not personally being critical of their positioning themselves across the road, wherever it is. That involves, as I understand it from what you, Sir, are talking about, some $28 000. There has been a problem, and this is a personal view that I have got, in relation to the staffing of Parliament House with *Hansard* in corridors and with heritage requirements. I am sure that the Minister for the Arts and Cultural Heritage would not want to see some of the bastardisation that has gone on of some of the heritage areas of Parliament House continued or made worse by inappropriate use of this building.

I want to make clear that I am not being critical of what, perhaps, is a short-term shift across the road. My focus is on the standing of the Democrats on staffing and equipment, especially when one compares that to the attitude that they take when members of Parliament are offered a 1.4 per cent pay rise over the 12-month period from March of this year to March of next year. I therefore oppose the Bill.

**The Hon. I. GILFILLAN:** I support the Bill. I point out, with due respect, that the Leader of the Opposition tends profoundly to confuse salary with allowances. If I could presume to quote—

*Members interjecting:*

**The PRESIDENT:** Order!

**The Hon. I. GILFILLAN:** If I could presume to quote you, Sir, at an earlier stage (and you can correct me if I get it wrong), you have been known to state that you do not believe that any part of the salary of a member of Parliament should have to be expended in the support structure and staffing of that job. A salary is a salary to be retained by the person.

*An honourable member interjecting:*

**The Hon. I. GILFILLAN:** Well, if he made the point it was very well covered and camouflaged. I certainly did not get it, because when—

*Members interjecting:*

**The PRESIDENT:** Order!

**The Hon. I. GILFILLAN:** When, Mr President, I asked whether the matter was relevant to the Bill, he stridently asserted (and I must admit with your connivance, Sir) that it was indeed very much interrelated.

*Members interjecting:*

**The PRESIDENT:** Order! You called under the Standing Orders for me to say whether the debate was relevant. I considered that it was relevant, and I ruled that way. I do not see that it was connivance: it was an opinion of mine on Standing Orders.

**The Hon. I. GILFILLAN:** I will voluntarily withdraw the word 'connivance', but I want to make the point quite clearly that I believe there is a very clear line of distinction in relation to allowances for a person to do their job, and that is what the allowances are for members of Parliament. We have a remuneration tribunal, and it is still continuing its role. Every member and Party can take their application to that tribunal and have a determination made by an independent body on what is needed for support staff and costs for a member of Parliament to do their job. That is totally separate from the matter of salaries. We have frequently done so. We have made our application for allowances.

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

**The Hon. I. GILFILLAN:** No, we didn't, not specifically. The point I am making, and I am not going to be distracted—

*An honourable member interjecting:*

**The PRESIDENT:** Order!

**The Hon. I. GILFILLAN:**—is that we do not believe that there should be any appropriation of salary to the allowances and, if the allowances are deficient, that is a matter that should be taken up with the independent

tribunal. Salary is a different matter. When I came into Parliament in 1983 the salary was at a level which was apparently attractive enough for the Hon. Rob Lucas and other members who joined me at that stage to come in. We have argued consistently that that salary could be adjusted for CPI and if it was satisfactory as an amount of money and adjusted for CPI over that period of time my position is that it should be satisfactory for us now. The idea that it has to be relative to certain aspects, either interstate, Federal or at certain levels of the Public Service, to me is irrelevant. That may be relevant to other members but certainly not to me.

I would like briefly to reflect on some of the history of the legislation that has been involved with parliamentary salaries, and the first debate that .1 took interest in was on 7 October 1982 when the Hon. Frank Blevins, who was then speaking for the Opposition on a Parliamentary Salaries and Allowances Act Amendment Bill said quite clearly:

ALP policy on parliamentary salaries is perfectly clear. We believe that salaries and allowances paid to members of the South Australian Parliament should be fixed by an outside body. We believe that a Parliamentary Salaries Tribunal should be established to make those decisions.

The Bill being debated, which had been promoted by a Liberal Government, had these two subsections which are quoted in this speech:

(5) In arriving at a determination under this Act, the tribunal—

(a) shall, if prevailing economic circumstances are such that an example of restraint in levels of salary should be set by members of Parliament to the general community, ensure that the levels of salary to be fixed by the determination reflect such restraint to an appropriate degree;

This was moved by the Liberals and now discarded as being irrelevant and nonsense. It is a strange change of heart. I further quote:

(5)(b) The tribunal... shall have regard to the state of the economy of the State and any likely economic effects (whether direct or indirect) of the determination.

They are condemned in their own Party's promotion, when given power. This is the promotion of an approach with which the Democrats have had sympathy and yet the Leader was saying a little while ago that we are a cheer squad. So much for the Liberals and their cheering. They have been shown to be hypocritical and certainly far from stable in approach. In 1984 my predecessor the Hon. K.L. Milne was debating the Bill then before the House regarding the parliamentary salaries and he said:

We want to limit the powers of the tribunal to granting increases no larger than the central CPI increases while the indexing system continues.

At that particular time there was a rise of 18.9 per cent and, as I recollect it, that was the subject of quite a lot of dramatic media attention.

**The Hon. L.H. Davis:** Tell the truth and say why it was 18.9 per cent. Do you know the answer?

**The Hon. I. GILFILLAN:** Yes. It is an accumulation of no rises and delays in rises. The distinction between what should have been a reasonable rise on CPI and a rise which is relating to salaries that are awarded to other sectors of the Public Service or to other members of Parliament are two separate matters.

**The Hon. L.H. Davis:** What are they based on?

**The PRESIDENT:** Order!

**The Hon. I. GILFILLAN:** I am being asked what they are based on. If the Liberals are consistent they should be based on South Australia. You Liberals moved a Bill to actually lock it into the South Australian economy. Have you changed your mind? It was right in those days, was it, because a lot of those people are currently still in Parliament. When was there such a public change of heart? That is what I would like to know.

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

**The PRESIDENT:** Order! The Hon. Mr Davis will come to order; he will have his opportunity.

**The Hon. I. GILFILLAN:** Talk about hypocrisy! They are strong on noise but not very good on consistency. There was another Remuneration Bill in 1985, and again my predecessor the Hon. K.L. Milne said:

... I believe we would support a Tribunal. The Council must realise that South Australia has a distinct economy, quite different from that of New South Wales, Victoria or Queensland, yet where there are Federal awards they apply to South Australia whether or not South Australia can support them. Also, it is my view that the Federal Arbitration Court has handed down decisions in the interests of industrial peace with scant regard to the state of the economy of the country. The South Australian Industrial Court has done much the same. It gives me the impression that it has considered it its duty to get South Australian wages up to the interstate level, whether or not it suits the South Australian economy.

Later, he says:

What happens interstate does not necessarily say we have to match it.

So there is consistency in the Democrats' position right through year after year each time. We have not varied. In April 1990, in the Parliamentary Remuneration Bill, which cast aside the old Liberal principle and certainly the ALP principle as it was espoused by Frank Blevins, the wagon was hitched to the Federal rocket, and I quote myself on 4 April 1990. What better authority could I find? I said:

The other argument which is put up in support of this Bill which I totally reject is that we must have been linked into a Federal parliamentary structure. In many areas South Australia has steadfastly sought to be on a separate basis from the overall Federal setting of cost of living and salaries.

We have claimed to be separate. We have claimed to have a lower cost of living. I continued:

Therefore it seems to be an extraordinary anomaly to be uniform and locked into a Federal structure in this area when there is no obligation for us to do so. I do not believe the argument that, by linking it into the Federal scene, any of the odium that is attached to rises in Parliamentary salaries will be removed.

In concluding my brief remarks, I suggest that we have been consistent right through. Labor and Liberal members have not been consistent.

*Members interjecting:*

**The PRESIDENT:** Order!

**The Hon. I. GILFILLAN:** The interjections are not based on any historical analysis of how we have dealt with legislation in this place. I repeat, the position that we have taken with CPI increases would have resulted in quite appreciable increases in the salary in dollar terms.

**The Hon. R.I. Lucas:** Why are you opposing 1.4 per cent? That is a catch-up over three years.

**The Hon. I. GILFILLAN:** The actual catch-up being referred to was a substantial rise which took place fairly soon after we linked into this on the apron strings of the Federal politicians. I asked the Hon. Mr Burdett, who introduced the Bill, if he could give some indication. He undertook to give me any indication in writing. I do not recall that I got it, and I do not hold him accountable for it, but I suspect there was a feeling that the Federal politicians were about to enjoy a substantial rise and we just got in in time and collected it. If we had remained with CPI increases, we would still be adequately paid. Our salaries should not have to be alienated to pay for allowances and wages. I remind the Hon. Mr Lucas, who should have known this, that I have paid from my personal salary for an employee during the whole time that I have been in Parliament.

**The Hon. R.I. Lucas:** From your salary?

**The Hon. I. GILFILLAN:** From my salary.

**The Hon. R.I. Lucas:** You should not have to do that.

**The Hon. L.H. Davis:** You started off by saying that you should not do that.

**The PRESIDENT:** Order!

**The Hon. I. GILFILLAN:** The Hon. Mr Davis does not listen.

*Members interjecting:*

**The PRESIDENT:** Order!

**The Hon. I. GILFILLAN:** I said 'should not have to'. I indicate support for the Bill. It is remarkable that, with the outcries of indignation from the Leader of the Opposition (Dean Brown) and his statements about rejecting the money, when a simple Bill is brought into this place to implement that his colleagues are stridently opposed to it. I have not heard from the Government. It may be that they support it.

**The Hon. L.H. DAVIS:** We have just heard hypocrisy, cant, and an illogical and limp and far from lethal argument from the Australian Democrats. I am appalled at the gall of the Democrats who somehow believe that they can rip off the taxpayers of South Australia for $175 000 for just two of them when the calculations, which I shall shortly reveal, show that the 10 Liberal Party members of the Legislative Council receive little more than that sum in total for their accommodation, staff and equipment costs.

On the one hand, the Democrats are saying, how dare the collective 67 members of the Parliament, excluding the two pure Australian Democrats, accept a $960 salary increase, with some loadings for ministerial and other higher duty officers of the Parliament, an annual sum of about $80 000, when the Democrats in this Chamber are costing the taxpayers of South Australia $87 500 a year each. That has been confirmed by the fortuitous reply that we received from the President today in response to the questions that I asked some little time ago. We have $87 500 for the Hon. Mr Elliott and $87 500 for the Hon. Mr Gilfillan, yet the Liberals, as I will shortly demonstrate, are costing the taxpayers $18 500 to $19 000 each. In other words, the Democrats are costing the taxpayers of South Australia about 4 1/2 to five times more than each Liberal member.

The Australian Democrats have the hypocrisy to stand on the steps of Parliament House, in front of ABC cameras, and say what a dreadful thing it is that the total Parliament receives an after tax benefit of $40 000 per annum when individually they are taking about $70 000 per annum more than each Liberal member. It seems that it is all right if you can get two laptop computers under the cover of darkness without any accountability before a tribunal or justification because the Government knows where the numbers lie in the Legislative Council. It is all right for them to have superior printers; it is all right for them to have a more modern photocopier; and it is all right for them to have two research assistants on higher salaries than the one research assistant that the Liberal Party has. Oh, yes, that is good, that is fine, that is justified; but when a mere $960 increase on a base level salary of $67 000 is agreed to—that is no more nor less than the consumer price index forecast will be over the next 12 months—that is a matter of headline grabbing treatment. It sickens and appals me to see the Democrats in this mode. It is worse than aeroplane jelly; it is aeroplane junket stuff that they are embarking upon.

I will elaborate on what the Hon. Mr Lucas quite correctly said. There has always been a problem. There is never a best time when parliamentary salaries should increase. In a period of two decades we have seen three different systems used in South Australia. One was where Parliament itself set the salary, and that was quite rightly criticised. We were sitting in judgment on our own salaries and that was not seen to be proper. That has been reflected in recent times with the State Bank and SGIC, because there has been concern and criticism about the excesses that have occurred in those two institutions.

Secondly, we switched to the Remuneration Tribunal. The Hon. Mr Gilfillan referred to what the Hon. Lance Milne said in 1984 when we got a significant increase in salary. Under pressure he was forced to admit that an 18.9 per cent increase in 1984 was simply because the Tonkin Government, in a period of very high inflation—from my memory, we are talking about double digit inflation or very close to it—had refused to take an increase that had been recommended by the Remuneration Tribunal. That was a catch-up.

The illogicality of the Democrats' argument is demonstrable. If we still had the Remuneration Tribunal and if, as the Liberal Party at the time argued, we should take into account the state of the economy at the time of the determination, and that case was put by both, say, the Government of the day and the Opposition, and the Remuneration Tribunal then said, 'We still believe that there should be an increase and we have, for instance, awarded 5 per cent, which is half the rate of inflation of the day, taking into account the recommendation that the state of the economy should be given due consideration,' what would the Democrats have said? They would have stood on their high horse on the steps of Parliament House, *7.30 Report* time, and said, 'This is unfair, this is outrageous; it should not be taken.'

Of course, with the criticism of the Remuneration Tribunal, in a desperate effort to try to put this beyond our immediate arena, lest we were seen to have some influence on the Remuneration Tribunal for a whole host of reasons, we decided to link ourselves with the Federal

Public Service awards which fed into the Federal parliamentary salaries and which had increasingly been used as a basis for parliamentary salaries around Australia.

The Australian Democrats revealed their extraordinary ignorance about Australian economic matters when they said that South Australia is different from all other States. Indeed it is different. For the last few years inflation rates in South Australia have been consistently higher than in any other State in Australia. If we take the logic of the Democrats' argument and apply it to the facts that they are whimpering before us today, we would be having more than a 1.4 per cent increase. My memory is very clear on this matter and the Hon. Mr Gilfillan can check it with the Parliamentary Library if he wishes.

On some occasions the inflation rate in South Australia has been 50 per cent, perhaps even close to double, of the national average, which would certainly justify a higher increase than the one that has sometimes been received in past years. I just find the cant and hypocrisy extraordinary, that somehow it is all right to have allowances increased—and, of course, the Hon. Ian Gilfillan starts by saying that salaries should never be used to spend on staff, and we have heard from the Hon. Robert Lucas that several of us use staff part-time or full-time and supplement it out of our salaries because our allowances are fully expended on other duties. If I can mention my colleagues the Hons Jamie Irwin and Diana Laidlaw as examples of members who use extensively additional staff, and all of us in various ways have done that on this side. The Hon. Ian Gilfillan having said 'Well, of course you should go before the Remuneration Tribunal and fight for higher allowances', at the end of his extraordinary exposition blew his own cover by saying 'Well, of course I have used my salary for a long time to pay staff.' What extraordinary illogicality in that.

Of course, what would have happened if the Liberal Party had gone before the Remuneration Tribunal this year and said 'We want higher allowances because this is what the Democrats are getting and we cannot get it from the Government, we want to get it from you?' Can you imagine where the Democrats would be? It would be on the steps of Parliament House at *7.30 Report* time. You can never be a winner with the Democrats. They are people of principle, swaying in the breeze.

I just want to say that if we look at the answer presented by the President in response to my question, the facts are very clear. They have two research assistants on around $45 000 for two members, one each. We have one for ten of us on $45 000 or thereabouts. They have one personal assistant for the two of them. We are lucky enough to have two personal assistants for the ten of us. So, they have more money in aggregate spent on staff salaries than we do. They have $145 000 spent on salary and wages for two of them; we have only $135 000. They have two Toshiba laptop computers, which cost $4 000, and with respect to the President's answer we did not actually get a detailed break-down of those costs and I would be grateful in the spirit of this debate and in the spirit of the answers you have already provided, Sir, if in due course and at your own convenience you could provide a detailed break-down of the costs of this equipment.

I can assure the Council that the Liberal equipment has been bought at minimal prices. We have secondhand computers out of store. They were probably discards from the Australian Democrats. We have two incompatible disk drive computers: one a three and a half inch drive microbyte and the other a blue chip five and a quarter inch drive. The Hon. Robert Lucas pointed out that they got a Lazer printer which, of course, is better than a bubble jet. They are doing better than us. They have a brand-new, state of the art photocopier. Ours is a heritage item and I am sorry the Minister for the Arts and Cultural Heritage is not here today so that she could perhaps classify ours as the first heritage photocopier in South Australia, perhaps one day to have pride of place in a special display of historic office equipment at the Museum.

We do have a fax machine but I suspect that ours came later than the Democrats' and they, of course, have two Toshiba Express Writer 311 printers, which are superior to what we have. So in every way and on every day the Australian Democrats do better. We are talking about money, and that is what this Bill is talking about, in its own little hypocritical way. We are talking about money. Photocopiers, computers, printers, fax machines, two research assistants, a personal assistant, a total cost of $175 000—worth $87 000 to each the Hon. Mr Elliott and the Hon. Mr Gilfillan. On our side we spend $135 000 on salaries. They have $145 000 spent on salaries. I assume the administration expenses are about the same. Their accommodation and service costs are $28 000 for two, with modern premises in the Australian Airlines building. I make no comment about that. I have had a real estate agent give me an imputed cost for the value of rent in Parliament House. It is described as substandard, bottom of the range and it is about $110 per square metre.

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

**The Hon. L.H. DAVIS:** I did this myself. So the accommodation is about $40 000 and I have generously estimated that servicing costs and other levels come to about $13 000. So the 10 Liberal Party members of the Legislative Council cost the taxpayers $190 000 and that, I think, is on the high side, on my calculations, whereas for the Democrats, just two of them, it is $175 000. I think those examples demonstrably underline the extraordinary and hypocritical nature of the Lewis Carroll arguments that have been put forward by the Australian Democrats today. I would certainly oppose this Bill. There is no doubt that these are tough times; there is no doubt that any salary increase in parliamentary salaries is difficult.

*The Hon. M.J. Elliott interjecting:*

**The PRESIDENT:** Order!

**The Hon. L.H. DAVIS:** I have put on the public record, for the benefit of the Hon. Michael Elliott, that I am donating my salary increase, which I obtain in this financial year, to children's charity, because I recognise there is suffering out there. I recognise there is difficulty. There is no secret of this. It is on the record in the *Sunday Mail,* and I know many of my other colleagues made similar claims.

*The Hon. M.J. Elliott interjecting:*

**The Hon. L.H. DAVIS:** I am not going to mention that publicly but I am happy to talk to the honourable member privately about it afterwards. But I have had a long involvement with one particular children's charity, as the honourable member might know and I intend to support that, along with others. It is easy in these difficult times for the Democrats to score cheap political points, but they are hoist on their own political petard by the demonstrated facts made public for the first time by the President's answer in this Chamber this very afternoon.

**The Hon. C.J. SUMNER (Attorney-General):** I would like to enter the debate very briefly and perhaps use my almost 18 years experience in the Parliament to argue for opposition to this Bill. I am not quite the grandfather of the House but at least the father of the House. The Hon. Mr Burdett is clearly the grandfather of the House. I do so because at various times I have opposed salary increases for parliamentarians.

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

**The Hon. C.J. SUMNER:** I was not allowed to cheer chase; I did it in the confines of the Labor Party Caucus. Needless to say I did not get very much support. In fact, on one celebrated occasion, shortly after my arrival in Parliament, I could not even get a seconder to my proposal to limit parliamentarians' salary increases. So I have some sympathy for the points raised by the Hon. Mr Elliott about parliamentary salaries increases. However, I can say that with 18 years experience that arguments over parliamentary salary increases are futile, a waste of time, employ an enormous amount of energy in this Parliament and in Government and are to no avail, except for the obvious point that could be made, and that is that if you want to it is possible to curry favour with the electorate by playing politics over parliamentary salary increases.

There is absolutely no point in doing it. The Hon. Mr Davis has outlined the various schemes that have been used in the past to set salaries for members of Parliament. Obviously, Parliament setting its own salaries was unacceptable. In my view, a remuneration tribunal for South Australia is probably the best option in an ideal world, but it simply does not work in practice. We have seen that with the remuneration tribunal that was in place in this State for a number of years. Every time an independent tribunal on parliamentary salaries is set up with members of Parliament, including the Democrats, and the public able to make submissions, what happens when the tribunal makes its decision? Immediately, the question is thrown into the political arena and, no matter how justified the increase, it is almost inevitably altered in some way because of the politicisation of the issue of parliamentary salaries.

**The Hon. R.J. Ritson:** What credit did we get for the pay freeze?

**The Hon. C.J. SUMNER:** What the Hon. Dr Ritson says is correct—there is little credit for pay freezes. At various times, politicians have engaged in a pay freeze. I think the Hon. Mr Davis mentioned one that occurred during the time of the Tonkin Government. Then there was a tribunal; then there was a catch-up; then, as has been mentioned, we were faced in 1984 with the 18.9 per cent increase. Of course, if a tribunal comes down with an 18.9 per cent increase, no matter how much catch-up there is or how justified it is, there will be outrage about it in the public. On that occasion in 1984 the matter became a politicised issue between the two major Parties and they were each trying to make good fellows out of themselves by repudiating the pay rise. However, I will not go into the history of that. What happened was that a Bill had to be introduced; the pay rise was phased in over a two-year period, but it was still achieved. Subsequently, restraint was exercised as well. Then subsequent tribunal decisions saw big increases and there was more public outcry.

So, the remuneration tribunal does not work. If it was accepted by the public and the Parliament as a neutral umpire's decision, that would be fine, but unfortunately it never is, and we have therefore moved on to what I think is a good system of fixing the salary of members of Parliament in this State. It is fixed to the salary of a Federal member of Parliament less $1 000. It might be argued that Federal members of Parliament work harder and that they have bigger constituencies.

**The Hon. K.T. Griffin:** They have more staff.

**The Hon. C.J. SUMNER:** As the Hon. Mr Griffin says, they also have more staff. I suspect that if we compared the amount of time put in by a State and a Federal member of Parliament there would be very little difference. So, the $1000 less recognises that South Australian members of Parliament should get somewhat less than Commonwealth members of Parliament and somewhat less than Victorian members of Parliament who receive $500 less than Commonwealth members of Parliament, but says that that link is justified because there are similarities. In fact, the work is virtually the same whether in State or Federal Parliament; it is just dealing with a different level of Government and different issues. So, it is my view that we should stick with the current system.

I recognise that there will always be members of Parliament, whether it be the Democrats this time, the Opposition the next time, the Government the time after or the National Party, there will always be a Party that will want to cheer chase about parliamentary salaries, but in the short and the long run that achieves absolutely nothing. It probably does not even do much good in the electorate in terms of boosting ratings. It might have some transitory effect in improving a member's profile, but in the long run I suspect that it has absolutely no effect whatsoever on a Party's standing in the community. For that reason I think it is better that the issue be depoliticised as far as it can be in the manner in which it has been by this Federal link.

The fact of the matter is that parliamentary salaries, even if we have a tribunal, do not lend themselves to being set in relation to the usual industrial principles. I suggest that the traditional work value principles that used to be applied in industrial tribunals cannot be applied to members of Parliament. Members of Parliament, because they are democratically elected, do a wide range of different things. A member of the Upper House would probably have different interests and a different constituency from some members of the Lower House. Some members have nice cosy positions on the top of tickets, while others have to fight hard in marginal

seats. So, it is very difficult in my view to assess parliamentary salaries according to the nature of the job.

Looked at on an individual basis, some members of Parliament probably deserve more and others, I suggest, perhaps do not deserve the salary. Some members receive much more than they might earn in a job outside of Parliament while others undoubtedly could be earning more outside of Parliament. So, it is not possible to draw a line through parliamentary duties and the people who become members of Parliament and say, 'This salary is a proper and just salary for a particular individual. As I have said, backbenchers in marginal seats who have to go through the hassle and expense of a marginal seat on most interpretations would probably be underpaid. On the other hand, a backbencher in a safe seat with a reasonably relaxed lifestyle is perhaps receiving more than might be justified and perhaps more than they might receive in a job outside of Parliament. However, that is the nature of the game; that is the nature of democratic politics, and I do not think we can go into those arguments.

We cannot use those sorts of regular industrial principles to set the salaries of members of Parliament, certainly not on an individual basis, because of the variety of work that is done. So, we must set what is regarded generally as a reasonable salary. Salaries are set now by relation to the salaries of Federal members which, in turn, are set by linking to a level in the Commonwealth Public Service, which is by no means the highest level but which is not—and neither should it be—the lowest level. So, the system that we have now is a reasonable system. Linking it to the Commonwealth will ensure that those factors that are taken into account in fixing wages have been taken into account because the Commonwealth Public Service does not get salary increases willy-nilly; it gets salary increases in accordance with the prevailing view of the time about what factors should be taken into account in setting salaries.

So, no system is perfect. However, I believe the system we have at the moment is the best we can have. In so far as is possible, it depoliticises the question of parliamentary salary increases. I think to return to either Parliament's setting the salaries or a tribunal setting them would be a retrograde step. As I said, I think the arguments about parliamentary salaries are generally futile; they achieve nothing; they take up an enormous amount of parliamentary and Government time; and in the long run they do not gain or lose votes for any particular Party. That is really the only objective that people have in making parliamentary salaries a political issue. The system that we now have of fixing them at a reasonable level—a little below that of Federal members of Parliament—is the best system we are likely to get. I urge members of Parliament, not in relation to this Bill but also for the future, to stick with it.

**The Hon. R.R. ROBERTS:** I had not intended to enter this debate, but I am moved to do so at this stage. There has been some debate about the different systems that have been employed over the years for establishing what rate of pay or, indeed, conditions of work should apply to members of Parliament. It strikes me that, in a sense, this place is really no different from any other work site.

I spent some 25 years working in the trade union movement and I faced tribunals on a number of occasions. There have been many systems for establishing wage rates in South Australia and in the Federal arena. I have not always agreed with the methodology or system, but it has been a long-held belief in this country that the arbitration system has been a very good system. In fact, it has been held up around the world by many countries as the best system of industrial relations for handling industrial matters. Of course, that was during a buoyant economy. Some employers are now changing their point of view about the Arbitration Commission and industrial matters.

However, the fact of life is this: the system that has thrown out this particular wage increase is the industrial tribunal or the arbiter. We do not have any part in making the decisions. The submissions have to be put to the arbitrator, the independent commission or the Industrial Commission. The facts are weighed up and a decision is made.

I have fought for 20 years to ensure that every member whom I represented got what they were entitled to under the award. I see this wage increase as being no different from that. It is the award system that is in place. It has thrown out a result and I am quite happy to live with the record that I have pursued over the years and accept the umpire's decision. Consequently, I oppose this Bill.

**The Hon. M.J. ELLIOTT:** Several members made the comment that there has never been a right time for a pay rise. I understand the difficulties to which they alluded. But I put the question: could there have been a worse time for a pay rise? I know there is never a good time, but I ask whether there could have been a worse time—a time of record unemployment in this State (the worst record for the past 45 or 50 years) and a time when the economy at both State and Federal level is struggling. One has to ask whether one can justify people who are comfortably well-off receiving a pay rise at this time.

I do not personally feel uncomfortable about the fact that members of Parliament receive a generous salary. I do not feel uncomfortable that I am being paid more than I was when I was a teacher. Certainly, for a start, my lifestyle has been made more expensive for a number of reasons. For example, jobs I would have done around the house—handyman jobs—I no longer have the time to do and I have to pay someone else to do them for me. There are many things that happen that make one's life far more expensive. For that reason alone I have no problems in justifying the fact that I receive a significantly higher salary than I did when I was a teacher.

*The Hon. J.F. Stefani interjecting:*

**The Hon. M.J. ELLIOTT:** If they are earning less, they must have been well-off before and I would have swapped jobs with them. Obviously one cannot set everyone's salary compared with what they had before. However, as I said, the teacher's salary was not a high one, but it was not bad. I never complained about that when I had it. However, certainly as a member of

Parliament I have many more expenses thrown on to me. For that reason I have not been uncomfortable about receiving a higher salary. I did, however, start feeling uncomfortable about the level of salary increases we received in the past couple of years and then we received another. However, I will get back to that in a moment.

Several speakers digressed and, as they did so, I will have to pick up the issues, because I think there are some matters worth addressing within them. We have said repeatedly that we believe that all members in the Upper House have been under-staffed and under-resourced. They were, and they still are, and there is no doubt about that. We protested long and loud about that and we believe that all members should have far more staff and resources. The point that I would make is that when members of Parliament receive any staff assistance or resource assistance I do not see that as being a pecuniary gain for those members.

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

**The Hon. M.J. ELLIOTT:** Let us look at some of the costs to which the Hon. Mr Lucas and the Hon. Mr Davis alluded. Some of those costs were costs in part foisted upon us. I think at least the Hon. Mr Lucas did not question one of those—the fact we were moved across the road. We did not want did shift from Parliament House: we wanted space within Parliament House. There are rooms with five full-size billiard tables sitting here largely unused. There was space we could have gone to and if we had done so there would not have been the $28 000 a year in rent. We did not want to go: that was foisted upon us. At least the Hon. Mr Lucas acknowledged that he did not really question that. However, the fact that we were shifted across the road is why we needed a photocopier. For God's sake, you were not going to expect us to cross the road each time we wanted to make a photocopy! The fact that we went across the road was the reason why we were given a facsimile machine. We had already bought our own facsimile machine, as other members had to when they were in Parliament House—we had to do that as well. Members opposite alluded to the fact that we have certain equipment. We still have—

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

**The Hon. M.J. ELLIOTT:** We still have in our office three computers that we had to purchase ourselves. In fact—

**The Hon. L.H. Davis:** That is not relevant.

**The Hon. M.J. ELLIOTT:** It is relevant, because the point that you were making is that you have to dip into your pockets and we do not have to dip into ours. The fact is that we still are doing so. We bought one computer in the past 10 months, long after we were given the other resources because we did not have the resources to do the job that was necessary. The allegation you are making is now that we have been given the resources we are not dipping into our pockets. I tell you, I am dipping into my pockets more now than I was three years ago—before we were given this assistance. I am still employing part-time staff and, in fact, I am employing them for longer hours than I was previously.

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

**The Hon. M.J. ELLIOTT:** I did not say that we were not receiving more support. The suggestion and implication that you were making was that in some way we were in some financially better position because of it. The point I am making is that we have made no personal gain from the fact we have staff.

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

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

**The Hon. M.J. ELLIOTT:** It is quite different from receiving a salary rise, which can be seen as a personal gain. We are both paying for staff to work for us. We have bought three computers, a fax machine and quite a deal of other equipment out of our own pockets, just as you have had to do. It is unacceptable that any member of Parliament should have to do that. I do not have any—

**The PRESIDENT:** Order!

**The Hon. M.J. ELLIOTT:** I do not have any dispute with the fact that we need that additional resource or that everybody needs additional resources. As the digression was made, and talking about staff, I will say that the Liberal Party, with 46 per cent of the vote at the last election, has at least—

*An honourable member interjecting:*

**The Hon. M.J. ELLIOTT:** Yes, but I am talking about in votes. With about 46 per cent of the vote, it has 33 staff working for it. We received 11 per cent of the vote and have three staff. How many white cars and drivers is the Liberal Party using that we do not want and have never asked for? If you want to start doing the costings on how much the Liberal Party generally is costing this State, you are costing a damn sight more per head than we are. The fact is that we have been given some staff by the Government, and that enables us to try to make sure that the legislation coming into this Parliament is not held up by the fact that we are still examining it.

Our record shows that over the past three years we have not been responsible for any significant delays in legislation. That is the reason why we were given staff. The Liberal Party has the advantage of having a large number of Lower House members, a Lower House leader with a significant staffing—

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

**The PRESIDENT:** Order!

**The Hon. M.J. ELLIOTT:** Any suggestion that you do not not receive some assistance from members of the other House or from the work they have done is nonsense. I have seen questions repeated and material that is used in speeches passed backwards and forwards. The fact is that two of us have to handle every piece of legislation. The Government did not set out to do us a favour by giving us the staff. We certainly asked for it. What the Government was doing was making sure that the business of this Chamber was being handled in an efficient manner. If that was its goal, that has certainly been achieved. That was the argument that we put to the Government: that we needed more staff so that we could adequately survey the legislation.

Many people expressed surprise that we managed to handle the legislation. It was always very difficult before we had some staff, but we believe that, while people may not agree with the positions we take, at least we have been put in a position where we can look at the legislation and examine it thoroughly.

As I said, there was a great digression there. The question of resourcing is an important one; I have never disagreed with that. But I cannot help it if for years the Liberal or Labor Party have played games of paying each other back for what happened when they were in Opposition. I have no doubt that, if the Liberals get in, they will pay back the Government. It is a very childish way to behave, but I would hope perhaps that—

*Members interjecting:*

**The PRESIDENT:** Order!

**The Hon. M.J. ELLIOTT:** We have not been in a position to control it. I am saying that, if the Liberal Party gets into Government and decides to give better resources to the Upper House, it would be applauded by us. The Government would be applauded by us if it would do it right now for everyone. As I said, I think that the matter introduced by several other members was a digression, because it misses the point that, whilst resourcing is important for members, the fact is that the Democrats have been dipping into their pockets for resources at least as much as the members of the Liberal Party. We have not been done any favours in that regard. I am spending more now than I was previously, and that is a burden that I bear, as do most of the other members in this Chamber.

Some members suggested that the fact that this current increase is one of only 1.4 per cent it is really only keeping up with CPI, and they have asked what we are complaining about, as we have supported CPI rises. The fact is that the 1.4 per cent might be CPI in isolation but it is stacked right on the back of very significant rises that we received over the previous two years after we linked ourselves to a salary $1 000 less than that received by Federal members. While we now have an independent system, I argue (and we argued then) that we were being overly generous to ourselves in that linkage.

The accusation has been made that we are using the issue for (I think the term used was) 'cheer chasing'. However, this is a no-win situation. If we believe that a pay rise is unacceptable, we have two choices: either we think it is unacceptable but shut up and take it, or we try to do something about it. That is really the choice: if we believe that the pay increase is wrong, we shut up or we speak up; and if we speak up we then get accused of cheer chasing.

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

**The Hon. M.J. ELLIOTT:** In our opinion; if we believe.

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

**The PRESIDENT:** Order! The Hon. Mr Elliott has the floor.

**The Hon. M.J. ELLIOTT:** On about the second week of December last year—I do not recall the exact date—I received a phone call from the *Sunday Mail,* asking me what I thought of the pay increase. I did not know that there had been a pay increase, so the question came out of the blue. I must say that, with that question being asked, I felt severe personal embarrassment, because I knew that I had already, in very recent times, had a series of significant pay increases, yet there I was being asked, 'What do you think? You've just got another one.' I was embarrassed. I thought it was wrong and I said so. I was asked, 'What will you do about it?' and I said, 'I will do whatever I can to get rid of it.' That is what I said to the *Sunday Mail* at the time. That was an on the spot reaction, and that was what I felt and believed. I note that on 20 December the *Sunday Mail* quoted a whole series of members interviewed and many, in fact I believe the majority, said that they were embarrassed.

They expressed personal opposition; they said they would give away the pay rise. If a majority honestly believed that, then it would not have been unreasonable to believe that a majority in the Council would vote in such a way. But there seems to be a very real chance that people make these comments and then go and hide behind their Party numbers. Hiding behind those Party numbers, they are willing to call us hypocrites for standing up for what we believe, yet they are willing to say one thing and do another. I guess it is up to others to judge, but the title of hypocrite is one that I will not wear, because it fits others better. I simply do not think that some members are being either honest with the people who are asking that question or being honest with themselves now.

I acknowledge that pay rises always create difficulties and I understand those difficulties. But I do think that this pay rise on top of a series of other pay rises really was wrong. It really was unacceptable—and that is my personal belief. I do not know how much time people have spent in looking at what is happening at the moment, but a heck of a lot of people are hurting right now. Frankly, I cannot see how we can justify saying, 'Look, we cannot help it; an independent tribunal did it at that time.' Certainly, there is never a right time, but this was a wrong time—very much a wrong time. It is on that basis that I introduced the Bill and I hoped that support would be there. I thought perhaps, on the basis of what members said to the media, that it might have been. But of course, that has proven not to be the case.

Motion negatived.

## GOVERNMENT MANAGEMENT AND EMPLOYMENT (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 2 March. Page 1376.)

**The Hon. I. GILFILLAN:** I will speak briefly to this Bill, indicating the Democrats' general support for it, and refer members to some amendments on file. The amendments were principally the result of discussions that I had with representatives from the Public Service Association and, after discussing certain matters of concern, to them I was persuaded that there should be some amendments made. In general terms, the amendments are aimed at minimising the scope for appointment of people to positions other than through the normal selection on capacity to do the work and appropriateness for the job. So, although I think the amendments improve the Bill they do not change the intention of the Bill in any substantial or dramatic way. I briefly outline them, Mr President, although I will, of course, speak to them when I am moving them in the Committee stages. For example, in the matter where

there is the question of appointment on a casual basis the Bill does seek that a casual appointment can be described as for hours that are not regular or do not exceed 15 hours in any week.

It is quite clear that one could have, say, 15 hours which are quite regular and they are an ongoing, almost permanent basis of employment. Under those circumstances I think it is a fair argument to say that that does not qualify as an appointment on a casual basis, so the amendment that I foreshadow there is that hours that are not regular, and do not exceed 15 hours in any week, will be the criterion for determining whether or not it is a case of casual employment.

There are, quite appropriately, measures in the Bill, provisions for appointments of people to a term, without the necessity of going through the rather long process of formalised appointment, and the Democrats accept that from time to time that is desirable, a very appropriate way of making an appointment to a position which needs to be filled expeditiously.

The situation in the Bill is that a person must not be appointed for a term exceeding two years unless selected through the full selection processes. I share with the PSA concern that two years is really an excessive time for an appointment to be made without there being the fulfilling of the due processes.

One of my amendments is to make revision of that amount of time. They have persuaded us that there are other areas where appointment to positions on other than the merit-based selection criteria allow for this possibility of nepotism—or I think 'persuasion' is the appropriate word, even corruption—in relation to appointments to positions that are not required to go through the merit-based selection criteria. The period of two years which is allocated in the Bill, which I believe is too long, is qualified also by this phrase, 'or such longer period as the Commissioner may allow in a particular case'. So there is a scope in the Bill as it is currently drafted that such appointment which has not gone through the appropriate selection criteria could be for over two years, and there does not appear to be a lid even on that, if the Commissioner is of such a mind. Even in the next clause we see: '...the aggregate term of appointment of any employee does not exceed five years'—that would be on an on/off basis one assumes—'or such longer period as the Commissioner may allow in a particular case'. This Bill is very open-ended for the Commissioner to be in a position to make appointments virtually indefinitely without the recipient of that appointment having gone through a merit-based selection process.

Another area where we will be moving to amend the Bill concerns the question of the rights of appeal. The Bill allows that in certain classifications there will be no right of appeal on the normal Public Service criteria to challenge the applicant's appointment to that position. The Public Service traditionally has enabled those who have felt deprived of their fair deserts in getting a position to take the matter to a formal appeal process, and in many cases this is not taken up. In fact, the union tells me that very few promotion appeals are lodged, but if that appeals mechanism did not exist then they believe that a lot of them would be referred to the Industrial Commission, and that in the Industrial Commission it would be a much more extensive and complicated process. I believe it is against a sense of industrial justice to deprive the right of appeal under these circumstances.

Another area of a somewhat less substantial nature is where a person has been nominated for reassignment to a position and, on reflection, the public sector employee has decided not to take up that position. The nomination may be withdrawn by the authority who made it at the request of the appointee in writing or—and this is the objectionable part—with the approval of the Commissioner. The union has persuaded me that the Commissioner's approval of the right of an employee to withdraw from an appointment is really irrelevant. I am informed that people currently cannot withdraw from a job they have secured, but in this case it is not a job that has been secured; it is just a reassignment or a nomination for a job.

A further area of concern to the PSA is so-called temporary assignment to a higher position without any merit criteria being assessed, and the Bill as it is currently drafted would allow for a reassignment to a position at a higher level for up to three years. Once again, I believe that that time frame is too long. I support the fact that we do want more flexibility in the management and in the personnel management of the public sector, but that should not be at the cost of the due processes of appointment in a fair, open and honest way, and this does again leave the position open for an unacceptable appointment where there had been no fair competition for other people who may have been eligible for that position for a period of three years. The suggestion is that it could be six months and that seems to me to be a reasonable period of time.

An issue of serious concern to the Public Service Association, and I share it, is that the suspension of duty in the Public Service for alleged offences can be made with or without remuneration and with or without accrual of rights in respect of recreation leave and long service leave, as foreseen in this Bill.

As a community and society we hold dear the principle that the accused is deemed innocent until proved guilty. There is no justification in justice or morality for the assumption that a person who is suspended from duty on the basis of an alleged offence should be liable to loss of remuneration and/or loss of accrual of rights in respect of recreation and long service leave. Obviously where there is the eventual determination of guilt or fault, one can justifiably say that there should not be any further retention of that person in that position and that remuneration and accrual of rights should cease. It is interesting to contemplate whether that should be retrospective. Where a person has been charged with a criminal offence and is on enforced leave until the case is determined, on being found guilty should that person be entitled to have had the remuneration and accrual of rights in that time? I would think it is worth considering whether the remuneration should be applicable but the accrual of rights forfeited, mainly on the basis that with most people the payment of the remuneration and the seeking of its reparation later is practically impossible and, if a person were imprisoned, it would put an unfair burden on the family. I think that aspect could be considered in more detail in Committee.

A similar concern is applied to suspension where an employee has been considered to be liable to disciplinary

action. It is on a slightly lesser scale, but the same principle applies where the issue has not been determined. Through this Bill the Commissioner for Public Employment would be empowered to withhold remuneration and the accrual of leave rights.

Another matter that needs to be addressed in the Bill concerns the Promotion and Grievance Appeals Tribunal and the Disciplinary Appeals Tribunal. Previously the person to head that tribunal has been appointed from outside the Government sector. The amending Bill seeks to change that so that the chairperson of the tribunal will be a public servant. I believe there is substance to the argument that someone who is involved within the scope of the GME Act could be susceptible to undue influence or pressure. By appointing a person from outside the scope of the GME Act, that concern and risk could be avoided. I am not persuaded that there is a substantial argument for that not to continue to occur.

Finally, I want to deal with the long service leave entitlement for people employed on a casual basis. The Bill seeks to make allowance for an employee who has been employed on a casual basis to accumulate an entitlement to long service leave, but the Bill then qualifies it by saying that it shall be determined by the Commissioner, and there is no further instruction. I believe that people who are employed on a casual basis will have been receiving salaries to a classification level. It may have varied, but it is easily discovered. Therefore, I shall be seeking to amend the Bill so that the entitlement to long service leave will reflect the classification level or levels at which the casual employee was employed. I do not believe that my amendments will substantially alter the intention and substance of the Bill and I indicate my general support for the second reading.

**The Hon. M.J. ELLIOTT:** I support the Bill. I shall be focusing on one element of the legislation. It is a rare occasion when I have the opportunity or the time to look at legislation that is being handled by my colleague the Hon. Mr Gilfillan, but in an idle moment last year, around 23-24 November, a time when I did not have many Bills and the Hon. Mr Gilfillan had many, I was flicking through the GME Act and, whilst carrying out that relatively idle process, I came across clause 23 which amends the second schedule. As I read it, astonishment was probably my first reaction, followed by some anger, because the Government, as I saw it, was up to little tricks. This Parliament has on a couple of occasions had the opportunity to express a view as to whether or not teachers and TAFE employees should be under the GME Act and on each occasion we have said 'No'. The matter has also been before the courts. When the Government tried to do it by way of regulation, the courts said 'No' on their interpretation of existing legislation.

If one read the Minister's speech and looked at the clause notes one would have been lucky to pick up that that was what the Government was up to in this particular clause. I got straight on the phone to Clare McCarty, the President of the Institute of Teachers, and asked, 'Did you know that the Government was doing this?' No, she did not. In fact, nobody at the Institute of Teachers knew that the GME Act was being amended to have the effect of allowing a proclamation at any time to put both teachers and TAFE employees under the GME Act. That is one of the sneakiest, most underhand things of which I can think. The Government was doing something which affected a particular group of people and it had not told them that it was being done.

I then spoke to Angas Story. In fact, I think the first thing that I did was to go across the floor and speak to the Hon. Mr Lucas who I knew had been involved in this issue in the past and asked, 'Were you aware of this?' 'No', he said. Therefore, he went and looked at the clause as well. By the next day Angas Story from the Institute of Teachers had sent to me a submission and he also sent a copy to the Hon. Mr Lucas, who read extracts from it in his earlier contribution.

The Bill then stalled for some months. I am not quite sure what the reason for the stalling was. Nevertheless, I placed on file, on 25 November, amendments to the Bill. I shall be moving those amendments in Committee. The effect of the amendments is that those parts of clause 23 which place teachers, officers and employees appointed by the Minister under the Education Act and officers and employees appointed by the Minister under the Technical and Further Education Act will be revoked and they will be returned to their former status. The Government will not by proclamation be able to take them from the way they function under the Education Act and plonk them under the GME Act.

There has been no special call for it. The Government has been keen to do it but there has been no other special reason for me to do it. It is something that this Council has opposed on several occasions and the last occasion, to my recollection, was about 18 months ago. They have tried to sneak this one through but it appears that we have caught them out. All I can say is, thank goodness for idle moments occasionally.

The Institute of Teachers has no particular problems with the rest of the legislation. In fact they had no problems with any of it because the Government had not told them it was happening. They have expressed their concern. It is a concern that I have. I have moved amendments and I understand from the Hon. Mr Lucas's comments that he also has those concerns, so I am hopeful that during the Committee stage my amendments will be carried.

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

## FIREARMS (MISCELLANEOUS) AMENDMENT BILL

In Committee.

**The Hon. C.J. SUMNER:** Mr Chairman, I draw your attention to the state of the Committee.

*A quorum having been formed:*

Schedule.

**The Hon. C.J. SUMNER:** Mr Chairman, when this matter was last before the Committee I moved that progress be reported and that the Committee have leave to sit again to enable me to get some information on two issues that were raised during the Committee stage. We are on the schedule, and with the indulgence of the

Committee I will respond to the matters that were raised, even though they are not strictly relevant to the schedule. The end result, as far as I am concerned, is that I am not going to move that the Bill be recommitted. However, if honourable members, in the light of what I have to say, wish to revisit the relevant clauses by way of amendment then I would be prepared to recommit to enable them to do it.

First, submissions were made by the Hon. Mr Irwin and the Hon. Mr Gilfillan to remove .22 rim-fire rifles from the proposed class A firearms under the regulations. Regulation 8 of the proposed regulation sets out the proposed seven classes of firearms other than exempt and dangerous firearms. Class A are as follows: air rifles, air guns, paint-ball firearms and .22 rim-fire rifles but not including self-loading .22 rim-fire rifles. Firearms of class A are the most common in the State with almost 200 000 being recorded. The majority of firearms in this class would be .22 rim-fire rifles. Currently, approximately 113 500 persons hold a licence to possess class A firearms. This class is applied to air guns, air rifles and .22 rim-fire firearms since the introduction of the Firearms Act 1977. On 1 January 1980, self-loading .22 rim-fire rifles will be included in the new class E as a result of the recommendation in the report of the House of Assembly Parliamentary Select Committee to Parliament in 1988.

Firearm users are aware that there are to be changes in relation to self-loading firearms. However, it is believed that confusion could arise if class A were to be amended to exempt .22 rim-fire rifles. In addition, the firearms computer system has been redeveloped to accommodate the seven classes of firearms as recommended by the Parliamentary Select Committee. Considerable costs would be incurred to implement changes in order to accommodate an eighth class of firearms.

Consideration has been given to including .22 rim-fire rifles within the proposed class E. However, this would negate the parliamentary select committee's recommendation of keeping self-loading firearms in a separate class for tighter control. Accordingly, I suggest that .22 rim-fire rifles other than self-loading rifles remain in class A to avoid confusion for the majority of licence holders who have become used to the current classification system and, in particular, the categories of rifles that are included in class A licences.

The second point is that submissions were made by the Hon. Mr Dunn and the Hon. Mr Gilfillan about consideration being given to allowing the wife or an employee of a station owner to purchase ammunition on behalf of the station owner who holds an appropriate firearms licence. Section 21(b)(1) of the proposed legislation provides:

A person must not purchase ammunition or accept ammunition as a gift unless he or she is the holder of—

(a) a firearms licence that authorises possession of a firearm designed to fire that ammunition or

(b) a permit granted by the Registrar entitling the holder to acquire ammunition of that kind.

It would be difficult to include an amendment in the regulations to permit such persons to purchase ammunition and exclude the purchase of ammunition by other agents for licence holders throughout the State. After discussion with Parliamentary Counsel, it is suggested that the wife, etc., of a station owner who will purchase ammunition on behalf of a licence holder should hold an ammunition permit. Such permits would be issued by the officers in charge of country police stations on behalf of the Registrar to enable ease of access by the persons requiring the ammunition. This procedure would allow persons with an appropriate reason to purchase ammunition on behalf of a licence holder yet retain controls under the legislation. So, on that point I do not intend to move any amendments to the Bill. If members have any questions on those two points, they might like to raise them now. As I said, if they wish me to recommit the relevant clauses to deal with the issues again, I am prepared to do so.

**The Hon. PETER DUNN:** I am pleased that the Minister has explained that permits will be able to be issued by a police officer in the area. I was under the impression that this had to be done through the central office—so, that helps. However, since I raised this issue a station owner rang me and said, 'Look, I can't even buy the ammunition I want in Leigh Creek; I have to get it from Adelaide.' It is a .22/30 rifle, I think. I am not sure about that, but it is of that order. It is a high powered, small bore rifle. The shells are centre-fire, very high powered with a flat trajectory and the rifle is used for killing dingoes, foxes and other vermin. The person concerned says that he has to get his ammunition from Adelaide. In that case, he has a bit of a problem: either he has to buy a lot of ammunition and take it with him or—

**The Hon. C.J. Sumner:** He can have it sent up.

**The Hon. PETER DUNN:** Is that so? Will the Minister explain?

**The Hon. C.J. SUMNER:** I am not an expert, as members would realise, although I did not do too badly at the Dean rifle range with .303s when I was a cadet. I am advised, despite my not being an expert, that, provided the dealer in Adelaide is satisfied that the person requesting the ammunition is entitled to do so, it can be sent by parcel or courier. I am advised that there are postal regulations that would prevent it being posted, but it could be sent by an appropriate courier.

The person in the country would have to come to some arrangement with the dealer so that the dealer can be assured that the person to whom he sends the ammunition is entitled to it and that identity can be established. The ammunition has to be personally purchased by the person in the country, but that person does not have to travel to Adelaide to collect it.

**The Hon. Peter Dunn:** By fax or telephone.

**The Hon. C.J. SUMNER:** Yes, by fax or telephone, but in such a way that the dealer is satisfied that the person ordering the ammunition is entitled to do so.

**The Hon. J.C. IRWIN:** I thank the Attorney for his indulgence and explanations and, indeed, for the homework he has done for our benefit. However, I still cannot understand the logic of lumping together weapons that are propelled by air and others by explosive charge in the one class. I accept that cost is a factor if more classes are introduced. Yesterday, I asked whether more classes could be introduced so that .22 rifles could be taken out of class A, and the Attorney addressed that matter somewhat.

I am not an expert on computers (I do not even know how they work), but I assume cost is a factor in rejigging the whole computer program to include other classes. Can the Attorney assure me that there will not be large changes to numbers of classes once the regulations are written into the legislation that we are passing today and that the 1988 regulations are included in the Act as well, because that will defeat the explanation that we were just given?

Yesterday, I mentioned that I had heard that the classes were to be doubled, but I could not remember the source of my information. The Attorney has said that that will not happen, but I want an assurance that it will not happen because it will negate the explanation that has been given.

My amendment that would have allowed the purchase of ammunition for each rifle or gun within the class was lost. If people have a licence to own air powered slug guns, I do not see why they could not go out and buy slugs for different guns. Certainly, it does not follow that they should be able to buy .22s under that licence. That is why the amendment was lost, but I assume that, if class A covered only air powered guns and included paint ball operators, most people would be responsible and go out and buy slugs for slug guns or air powered guns. That was the point that raised some of the discussion on the amendment that was lost.

**The Hon. C.J. SUMMER:** It is intended that the four classes that were in place under the 1980 legislation will remain. There will then be a further three classes that will deal with self-loading rifles. Class A, which has been well-known since 1980, has always included .22 rim-fire rifles, but self-loading .22 rim-fire rifles will now be taken out of that class and put into class E, because we are establishing three new classes to deal with self-loading rifles.

Whether or not it is logical, .22 rifles have always been lumped in with air rifles and air guns as a class A licence. I say 'always', but they have been in that class since 1980. So, people understand the system. As I said yesterday when this matter came up, I am inclined to agree with the Hon. Mr Irwin that there would be more logic in separating air-powered guns from others, but that situation has not applied for the past 10 years, and for the reasons I have outlined we do not want to change the legislation to give effect to what logic might indicate but practicality militates against.

**The Hon. J.C. IRWIN:** I accept that explanation and do not wish to take it any further. However, I cannot help observing as a now more experienced lay person in this place that every amendment we talk about is changing something and people have got to used what it was before. It seems illogical that we go all the way back to 1980 and say that because it has been in place since then the powers that be will not think of changing it because people are used to it. I have to make the obvious observation that every amendment we make is in fact changing something.

**An honourable member:** Plus the expense.

**The Hon. J.C. IRWIN:** Yes, I guess there is an expense, but if it can be seen to be a logical improvement, and that is the case with a lot of things we do here, that is appropriate. As I said, I do not want to take it any further. No doubt there will be some commonsense on the part of those who deal with this and advise Governments on what to do next. Hopefully that will be addressed later on.

**The Hon. I. GILFILLAN:** Can the Attorney seek advice as to what is the effect of clause 6, relating to a firearms licence that authorises possession of an air rifle or air gun by a person under the age of 16? I remember that when we were discussing this during the Committee stage in relation to the matter of the licence for those aged between 16 and 18, I understood that it was restricted to air rifles. However, whether or not that is correct, I feel there is a distinction already in the legislation between people able to get a licence to use air rifles but not the .22 rifle. So, if I am correct there is already a distinction in the legislation between certain items which are in class A.

**The Hon. C.J. SUMNER:** What the honourable member says is correct, and I think that became clear from the debate yesterday. If one is between the ages of 16 and 18 one is entitled to purchase air rifles, air guns or paint-ball firearms. However, one has to be 18 before one can purchase a .22. That was what led to this point being raised in the context of yesterday's debate. I said that from my point of view I understood the logic of what was being said.

At the present time the age is 15, and anyone over 15 can get a licence for all the class A categories, including the .22. After passage of this Bill the .22 will be available only to those 18 and over, and air rifles, air guns and paint-ball firearms will be available to those between 16 years and 18 years. Therefore, there is a difference in how the weapons in class A are dealt with in terms of who can purchase them.

The honourable member is quite correct, and that is why yesterday I raised a query about it. I cannot really say more than what I have said, namely, that, basically for practical reasons and despite the logic of what we have been saying, the Government is not intending to move on it.

**The Hon. I. GILFILLAN:** I think that is a pity. It is obviously not a matter of enormous influence on the way in which firearms will be controlled. However, I fail to see the logic in not separating out two obviously different categories with two obviously different requirements in the Act. I am not persuaded that computer systems could not digest one subset to class A. It seems to be a very logical, sensible way to go. I will leave it with that remark. I am not sure what opportunities there are through regulations to simplify this. Let us hope it is considered in terms of that category.

On the other matter of the availability of purchase and provision of ammunition for more remote areas, I appreciate the information given by the Attorney, and it seems to me that those two measures—a permit to purchase and the ability to order and have delivery by remote communication—should eliminate the concerns that I expressed when we discussed this in Committee previously.

Schedule passed.

Bill read a third time and passed.

*[Sitting suspended from 6.7 to 8.45 p.m.]*

## WHISTLEBLOWERS PROTECTION BILL

Adjourned debate on second reading.

Continued from 2 March. Page 1364.)

**The Hon. R.I. LUCAS (Leader of the Opposition):** I want to address the contribution to this legislation made by the Hon. Terry Roberts and that made by my colleague the Hon. John Burdett. At the outset, it is clear that there has been a slimy and cowardly conspiracy by Peter Duncan, Terry Roberts and the Labor Government to defame, under parliamentary privilege, a Liberal candidate in the coming Federal election. I want to trace briefly the history of the debate on this aspect of the whistleblowers legislation. It is clear that the information that was used by the Hon. Terry Roberts in the debate was given to him by Peter Duncan. I thought it unusual that, as Leader of the Party in the Legislative Council, on the Tuesday before the Thursday debate I was told by members of the Government that the Hon. Terry Roberts wanted to speak on this issue but that he was not going to be able to speak until the Thursday of that week, bearing in mind that there would be a break of some 12 days between that Thursday and the next sitting day, as there was to be a non-sitting week following.

On that Thursday, in discussions that I had with the Attorney-General and others in the Government, we had a batting order of business to be discussed in the Chamber that afternoon. Without going through all the detail, we were to debate a number of matters and then to debate the Land Agents, Brokers and Valuers (Mortgage Financiers) Amendment Bill, number 4 in the batting order. Number 5 was to be the whistleblowers legislation and number 6 was to be the Harbors and Navigation Bill. When we reached around five clock on that Thursday afternoon and there was only about an hour of scheduled sitting left to go, I was informed that the batting order would be reversed to ensure that the Hon. Terry Roberts was able to get his speech up before Parliament rose at 6 o'clock or 6.30 on that afternoon.

In retrospect, it is clear why that was done by the Attorney-General and by the Government, as that particular speech by the Hon. Terry Roberts had already been given to Debra Read, the journalist from the *Advertiser,* who wrote the particular story. That journalist, as all members know, was not present in this Chamber at all on that afternoon.

**The Hon. Anne Levy:** They listen over their loudspeakers.

**The Hon. R.I. LUCAS:** That journalist was not here that particular afternoon and had been provided with a copy of that particular speech, and the Attorney-General, in connivance with the Hon. Terry Roberts and others on the Government side, made sure that the batting order of legislation that afternoon was altered to ensure that that attack—as I said, a slimy and cowardly attack on a Federal Liberal candidate at the coming election—was placed on the record under parliamentary privilege that afternoon so that there would be no opportunity for immediate response by members of the Liberal Party, because there was not to be a sitting day for some 12 days following that afternoon session.

I want to place on record that it is clear that the Attorney-General aided and abetted this defamation by the Hon. Terry Roberts, under parliamentary privilege (at the behest of Peter Duncan), of a Federal Liberal parliamentary candidate at the coming Federal election. My colleague the Hon. John Burdett late last evening placed on record the facts in relation to the wild accusations that had been made by the Hon. Terry Roberts in a number of areas. I want to refer to only two of the more serious allegations made by the Hon. Terry Roberts, and I urge others who did not hear the Hon. John Burdett's contribution last night to read that contribution in full for a full rebuttal of the contribution of the Hon. Terry Roberts. The Hon. Terry Roberts on 18 February said:

> The liquidator has also alleged that Irving and other former directors of Hay Australia used the assets of the company to make payments to reduce their personal liabilities prior to the company's going into liquidation.

Further on he said:

> Here we have a company director not only with defunct companies but people who dishonestly moved money to him and his wife as directors so the company's assets could not be used to pay creditors. That happens quite regularly.

The key words there are 'dishonestly moved money', an allegation of criminal intent and action, and the earlier allegations that I referred to. The Hon. Mr Burdett replied at length, but I want to quote from only one aspect of his response, which was to highlight a letter that Mr Irving wrote to Mr Bruce Carter, who was the liquidator of Hay Australia Pty Limited. I quote from that letter, as follows:

> In view of the political consequences arising from statements made in the Legislative Council last week by Terry Roberts MLC under parliamentary privilege, I ask you to provide me with answers to the following questions.

The Hon. Mr Burdett read the whole letter. I wish to refer only to the first question, as follows:

> (i) In the records of payments made by Hay Australia Pty Limited, have you found any payment made to Alan Irving, Robert Irving or Ruth Irving by way of wages, dividends, refund of expenses or any other payment to them personally or any other company in which you suspect they might have a beneficial interest?

That was quite a clear, concise question that went to the liquidator of Hay Australia Pty Ltd, and the response equally was clear and concise from that liquidator, and I quote:

> I refer to my appointment as liquidator of the abovenamed company and to your letter dated 23 February 1993. In response to your question I advise as follows: I have no evidence of any payments being made by Hay to any of the directors of the company.

That was a very clear and unequivocal denial and rebuttal of the defamatory allegation made under parliamentary privilege by the Hon. Terry Roberts on that particular issue.

I do not intend to go over all of the rebuttal made so very well by my colleague, the Hon. John Burdett, but I do want to refer again to one other slimy inference made by the Hon. Terry Roberts in his contribution. After he talked about the company called Porky Pigs, he said as a throwaway line, 'There is another tale of an Irving plane in Queensland that mysteriously caught fire.' In the context of a series of separate attacks on Dr Alan Irving the clear inference of that statement from the Hon. Terry

Roberts is there for all to understand and appreciate, as members opposite whom I will not name smile knowingly at the moment. There is a clear inference there, in the words that were used, 'tale of an Irving plane in Queensland that mysteriously caught fire'.

Last night the Hon. John Burdett indicated that he presumed the Hon. Terry Roberts was talking about an incident that occurred some 16 or 17 years ago in 1976 when there was a refuelling accident in Queensland in relation to a plane that was thoroughly investigated by all the appropriate authorities at that time and the insurance moneys were paid out in accordance with the appropriate policies. In that reference to an incident which occurred some 16 or 17 years ago in that slimy way, the inference is quite clear; an inference in the context of everything else that was being placed on the public record by the Hon. Terry Roberts in relation Dr Irving; an inference that was quite clear to all members who were in the Chamber or who have subsequently read the transcript of that speech.

Members ought to be indebted, as I am, to the Hon. John Burdett for having placed on the record the facts in relation to many of those claims last evening. Last night I was alarmed to hear from the Hon. Terry Roberts by way of interjection that there was more to come. After a response like that from the Hon. John Burdett, I was alarmed to hear the Hon. Terry Roberts, who represents the Arnold Government here in South Australia and who is someone whose contribution in this matter was aided and abetted by the Attorney-General as the Leader of the Government in this Chamber in ensuring that it was placed on the record, indicate last night that there was more to come. How low are we going in the last eight or 10 days prior to a federal election? We have seen the dilemmas in relation to another particular candidate, but a member, having already had one go in this Chamber, quite boldly says that there is more to come.

I can only hope that the Arnold Government will reconsider its strategy in relation to attacking, under parliamentary privilege, people who are not here to defend themselves, particularly when members have to dredge up incidents from 16 or 17 years ago in an effort to smear and defame the reputation of a candidate of an opposing political Party. I am the last one to resile from a good political stoush, and there have been a number in this Chamber over the years, and there have a number of good political stoushes out on the hustings over the years as well. Peter Duncan has been involved in a number of political stoushes through the years as well. However, on this occasion to have done it in such a slimy and cowardly way where he is not prepared to put his head up himself, but is prepared to provide the material to a factional colleague in the State Parliament and to use that factional colleague in that slimy way to attack, defame and smear the reputation of a candidate in a political election is beneath contempt.

The final point that I want to place on the record is a comment to the Attorney-General, because his actions in aiding and abetting this particular act exposed the hypocrisy of the attacks he has made against individuals of the Liberal Party in recent years about the use of parliamentary privilege to smear and defame other persons.

*The Hon. Anne Levy interjecting:*

**The Hon. R.I. LUCAS:** Let us look at the Attorney-General is the point I am making here this evening. Let us never again have an Attorney-General stand up in this Chamber and attack individual members of the Liberal Party or the Liberal Party generally for the use of parliamentary privilege, because his role in ensuring that the Hon. Terry Roberts got this particular issue on the parliamentary record under parliamentary privilege on the Thursday of that last sitting week is on public record. I believe the whole exercise to have been shameful and beneath contempt, and I can only hope that the Premier is prepared to drag the Hon. Terry Roberts into his office, in the light of Mr Roberts's threat last night that there was more to come, and tell him enough is enough, because the actions of the Hon. Terry Roberts—and Terry Hemmings in another place—in the last couple of weeks have been beneath contempt and it is time for the Premier of this State to haul his troops into line and to ensure that that threat made by the Hon. Terry Roberts last evening is not proceeded with. The responsibility rests clearly with the Premier, Mr Arnold, and it is his responsibility to ensure that we do not have any repeats in this Chamber or in another place.

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

## ECONOMIC DEVELOPMENT BILL

Adjourned debate on second reading.

(Continued from 17 February. Page 1265.)

**The Hon. R.I. LUCAS (Leader of the Opposition):** The Liberal Party supports this legislation and the creation of the Economic Development Board and Authority. However, the Liberal Party expresses concern that this legislation, which in general has the support of business groups in South Australia, the trade union movement, the Government and the Opposition, has taken eight to nine months of inaction before being presented and brought before the Parliament. If legislation which has that wide measure of broad support takes that long to come before the Parliament, heaven only knows how long it will take to bring important legislation before the Parliament on a controversial issue and an issue on which there is divided opinion in the community.

The delay and procrastination in presenting the legislation to the Parliament is, in my view, an indication of a Government in decline. After 10 years of governing South Australia we have a Government that is unable to take tough and hard decisions quickly, is unable to be decisive and, even when there is broad support for legislation in general terms at least, takes eight to nine months before presenting the legislation. Then, when the legislation is presented, the Premier returns from an overseas trip of three weeks duration and indicates that he needs to make changes to the legislation by way of amendment. The Premier, after a three-week trip overseas, has now decided that this legislation, which has been so long in coming, needs to be further amended.

At this stage I seek some clarification from the Minister. In another place the Premier introduced amendments which were supported by the Liberal Party in that place, amendments which, in my judgment, were not overly significant but were supported by both sides of the Parliament. I note in the second reading speech that the Attorney-General said:

I foreshadow that some amendments will be moved in the Committee stage to cover matters that were raised in debate in another place.

I am presuming from that that the Government, in the Legislative Council, intends to introduce further amendments to its own legislation which it amended in the House of Assembly in the first place. I made some inquiries during the dinner break and I am not aware of what amendments, if any, the Government intends to move to this important Bill. Clearly it places the—

**The Hon. I. Gilfillan:** Have you asked the Government?

**The Hon. R.I. LUCAS:** The Minister is here and I am asking the Government now.

**The Hon. I. Gilfillan:** Did you ask during the dinner break?

**The Hon. R.I. LUCAS:** No. I asked the messengers whether there were any amendments on file and whether they had been provided to anyone. Have you got any?

**The Hon. I. Gilfillan:** No.

**The Hon. R.I. LUCAS:** If the Hon. Mr Gilfillan has not got any, I am sure they have not been circulated, because I believe that he would get first look at any amendments that were being circulated or considered. It is important that the Government, through the Minister in this place, should indicate at a fairly early stage the nature and substance of the amendments to this Bill. It is hard for non-Government parties, if I can include the Liberal Party and the Democrats in that general description, to make a sensible contribution during the second reading stage if there are to be further substantive amendments to be moved by the Government during the Committee stage. If there are amendments floating around somewhere, it would be useful, and certainly it would be helpful, if the Democrats and members of the Liberal Party could be provided with copies, even if in draft, of the Government's intentions during the Committee stage.

The Economic Development Bill, including the Economic Development Board and Authority, basically came about as a result of the Arthur D. Little report, which was released by the Government in August last year. As members will be aware, without my having to repeat all the detail of the Arthur D. Little report, it was scathing in its criticism of the economic performance of South Australia over the last decade. It indicated that we needed to shake ourselves out of our economic lethargy and turn ourselves into an internationally competitive State-based economy if we are to survive in any sensible way as a State and, more importantly, do something about reducing our 11 and 12 per cent unemployment. I will quote one paragraph from the Arthur D. Little report which summarises the views of these international consultants on the South Australian economy. It is as follows:

Fundamental structural problems which persist regardless of the stage of the economic cycle are the root cause of South Australia's poor performance. South Australia arguably faces a greater challenge than any other State in Australia. South Australia has a very low level of competitiveness in the global economy.

I welcome back the Hon. Terry Roberts. It is a shame that he was not here earlier.

**The Hon. T.G. Roberts:** I was listening.

**The Hon. R.I. LUCAS:** With the Attorney-General, I trust.

*Members interjecting:*

**The PRESIDENT:** Order! The Hon. Mr Lucas has the floor.

**The Hon. R.I. LUCAS:** That quotation from the Arthur D. Little report summarises best the economic malaise that confronts South Australia. The sentence, 'South Australia has a very low level of competitiveness in the global economy,' indicates that our future as a State and nation relies on international trade, on being internationally competitive, and obviously boosting exports from South Australian-based manufacturing and other industries.

The other sentence in that quotation to which I draw attention is, 'South Australia arguably faces a greater challenge than any other State in Australia.' Perhaps I may be permitted a non-political and a political comment on that. I will make the non-political comment first. Clearly our industrial base is such, with our reliance on what is termed in Access Economics as the rust belt industries and the rust belt States of Victoria and South Australia and our reliance on manufacturing industry, that we shall have to do much more if we are to compete with the other States in Australia and then, more importantly, if we are to be internationally competitive. I am sure the Hon. Terry Roberts would be disappointed if I did not inject at least one partisan political comment. Part of that malaise and the reason for our lack of competitiveness has been the disastrous scorched earth policies of the State Labor Government, aided and abetted by the scorched earth economic policies of Paul Keating.

*The Hon. T. Crothers interjecting:*

**The Hon. R.I. LUCAS:** TC, I would not enter the debate at the moment. Mr President, we have a position in South Australia, after ten years of disastrous economic policies, where we see that we have the highest taxes on business of any State in Australia and that is the prime reason for our lack of competitiveness. Our workers compensation rates, our electricity rates, our financial institution duty, our BAD tax rates and our stamp duty rates—all of our business taxes are either the highest or second highest of all States in Australia.

**The Hon. T.G. Roberts:** Negative opposition; knocking all the time.

**The Hon. L.H. Davis:** Plenty to knock.

**The Hon. R.I. LUCAS:** As my colleague says, there is plenty to knock.

**The Hon. L.H. Davis:** Knock, knock, who's there? Nothing much.

*Members interjecting:*

**The PRESIDENT:** Order! The Council will come to order. The Hon. Mr Lucas has the floor.

**The Hon. R.I. LUCAS:** I enter this debate in a generally bipartisan way, offering support for the essential elements of the legislation before us but, as I

said, the Hon. Terry Roberts would have been disappointed had I not interjected at least one element of partisan political view in relation to the debate on the legislation.

*The Hon. Anne Levy interjecting:*

**The Hon. R.I. LUCAS:** I am the last person in this place, Minister, to complain about interjections. You are the first.

**The PRESIDENT:** Order! The Hon. Mr Lucas will address the chair.

**The Hon. Anne Levy:** Only when you repeat them. I do not mind one, but when it is repeated twenty-five times the novelty wears off.

**The PRESIDENT:** Order!

*Members interjecting:*

**The PRESIDENT:** Order! The Council will come to order. The Hon. Mr Lucas has the floor.

**The Hon. R.I. LUCAS:** In relation to seeking information from the Government, as I said earlier, it would be useful to get the amendments that the Government intends to move. Secondly, the Premier in debate in another place gave various undertakings to provide information to members of the Parliament in this Chamber and the other Chamber in response to questions asked during the Committee stage. I do not intend to go through all of them but I am sure the Premier's many staff officers can go through that Committee debate. I refer the Premier's staff in the first instance to page 1956 of *Hansard.* There are two indications there that the Premier would provide information on the cost of establishing the Economic Development Authority. He said that he would make that available in another place before the matter was debated. I have not seen that information yet and it would be useful.

Secondly, on the same page he indicates that voluntary separation packages might be involved with members of the former Department of Industry Trade and Technology and he says, 'I will get some more information on that in due course.' I am sure the Premier will concede that that is an undertaking to provide information as well. Could I ask the Premier and his staff to whip through the record of the Committee stage debate in the House of Assembly. There are a number of other undertakings to provide information and it would be useful for members in debating this legislation if those responses could be made available to us before we get to the Committee stage of debate.

As we will be waiting for the Government's amendments for debate in the Committee stage and because by its nature I believe the legislation is substantially a Committee Bill, I will only refer at this stage to one or two matters that I believe we ought to consider in greater detail in the Committee stage of this debate. The major one I want to talk about is in relation to ministerial control of the Economic Development Board. In doing so I must say that, whilst the Liberal Party is supporting this legislation, both publicly and in the Parliament by way of our vote, personally I have some concerns about the potential future operations of the Economic Development Board. I will be seeking clarification from the Government as to the direction it sees this particular board operating. I certainly hope that we are not, in our support and in the Government's support for this board, creating the vehicle whereby a board, a collection of people with public and private sector expertise are in the business—

**The Hon. T.G. Roberts:** People's Court.

**The Hon. R.I. LUCAS:** Not the People's Court—of picking winners. We have seen in South Australia and in other States, in particular in Victoria and Western Australia, the dangers of small groups of people backed by an immense Government resource, trying to pick winners. Admittedly this board is different in that there is the injection of private sector expertise, people with real world experience, and people who might be better placed to make judgements. But nevertheless I still have the view that the way to turn around our economy, the way to make us nationally and then internationally competitive is to create the right economic environment within which industry can make its own decisions and that, in the main, it will be the survivors of those who make the best decisions. It is to be hoped that through the operations of the Economic Development Board we will have just a further refinement of a small group of people picking winners, injecting Government support, Government incentives and then being locked into supporting those industries or companies through thick and thin and then eventually finding that the bottom line shows a significant loss to South Australia and to the taxpayers as well. I seek clarification from the Government as to the intended role of the Economic Development Board in relation to that particular aspect of its operations.

There is a provision in clause 7, under the ministerial control section of the Act, which says that the board is subject to control and direction by the Minister, and then under subsection (4), we have, 'A direction given during a particular financial year or a performance agreement for a particular financial year must be published in the report of the board for that financial year.' Mr President, one of the matters I have not yet had the opportunity to discuss with my colleagues, but I certainly intend to do so, is whether or not it might be sensible to have a direction that is being issued by the Minister to the board not only published in the report but also perhaps being tabled in the Parliament within a certain specified period.

It is my recollection that we have used such a provision in previous legislation, and I know that there are similar provisions in Commonwealth legislation. The problem with the current construction of clause 7(4) is that an instruction may well be given very early in the financial year but that it may not become publicly known until 16 or 17 months later, because, if the instruction is given in July of one year and the annual report does not have to be produced to the Minister until September of the following year, and the Minister has 12 sitting days, which is four full sitting weeks, and if we have Estimates Committees at that stage, it may well be some time in November before the public becomes aware of an instruction that the Minister has given to the board on a particular matter. As I said, my Party does not have a firm view on that issue at this stage. It is a matter that we will debate, and I flag it as a possibility for discussion and consideration in Committee.

In the Committee stage of the Bill in another place, there was an interesting debate between the Premier and members as to the relationship between directives issued by the Minister to the board and how they may or may

not affect performance agreements in a particular year between the Minister and the Economic Development Board. The discussion in the other place related to the setting of an economic target such as the growth rate in gross State product. As members know, the Arthur D. Little report referred to the requirement for 4 per cent growth in gross State product during the decade of the 1990s, and the discussion was based on there being a hypothetical difference of opinion between the Minister of the day and the board as to what might be realistic in relation to growth in gross State product, the Minister wanting a higher rate and the board saying that that was not sensible.

The point at issue was whether, if the Minister insisted against the wishes of the board and issued a directive under clause 7(1), that would be part of the performance agreement. Clause 7(3) provides:

> The board must, in relation to each financial year, enter into a performance agreement with the Minister obliging the board to meet performance targets established by the agreement in that financial year.

If the Minister has directed that a particular target be included in a performance agreement, clause 7(3) obliges the board to meet the performance target established by that agreement. The use of the word 'agreement' might not be technically correct in that case, because the board would have disagreed with that target. Nevertheless, if the directive was issued, the board would be obliged to meet that target. I am not sure whether this is one of the areas that the Government will seek to amend in Committee, because it was a matter of some debate in the House of Assembly.

For the benefit of members, I cite that one example, although many others were used during the Committee debate in the other place. If the Minister or the Government intends to seek to amend those provisions, it will shorten our discussion on this Bill during the second reading debate and the Committee stage. So, if amendments are proposed I urge the Minister responsible for the Bill in this place to circulate them to members in this Chamber. I will leave the matter at this stage. I believe that a number of matters will have to be pursued in Committee. I indicate again the Liberal Party's support for the Bill and for the authority being vested in the board. However, I note my personal concern or wish that the Economic Development Board not head off in the direction to which I referred earlier.

**The Hon. K.T. GRIFFIN:** As my colleague the Hon. Robert Lucas indicated, there is support for the second reading of the Bill. I want to deal not with the principle of the legislation which arises out of the Arthur D. Little report but more with one or two issues directly related to clauses of the Bill.

Before I do that, I should note that the Arthur D. Little report, as I understand it, saw the Economic Development Board as a body of experienced business people with a range of expertise which would be able to be a facilitator and coordinator of economic activity and economic opportunities rather than an initiator of developments.

Clause 3, which deals with the objects, suggests that this board will have not only that facilitating and coordinating responsibility but also a more proactive responsibility in initiating development in South Australia. The difficulty one can see with that is that, if that is the intention of the Government, we will then have a board which has not only a broad overview of development activity and opportunities in South Australia but which also becomes one of the players.

That immediately could introduce a situation of potential conflict of interest and the possibility that, because it is essentially an instrumentality of the Crown, Government through that agency will begin to become involved in developments which cannot otherwise be attracted to the State and which would not otherwise be viable. We have seen that to some extent with the State Bank, the old South Australian Development Corporation under the Dunstan regime and in other areas, including SGIC.

I think there is a danger in the current economic climate, with the experience of the 1970s and 1980s behind us, to allow a statutory authority to get involved in the picking of winners and the actual development of projects rather than maintaining a broad overview and responsibility for encouragement, facilitation and coordination.

So, whilst we are indicating support for the Bill, one must have a sense of reservation about some of the powers which are proposed and the extent to which this body will become itself a developer and promoter.

It is interesting to note that in clause 3, paragraph (e), one of the objects of the Bill is to establish the Economic Development Board as the State's primary agency for determining, coordinating and implementing economic development strategies for the State. Quite obviously, whilst that will be an agency bringing together a wide range of expertise, one should not expect that it will be able to wave the magic wand and encourage development without a coordinated approach with Government, which ultimately must accept the responsibility for the economic climate in South Australia, the opportunities which may be made available and the impediments which may be placed in the way of such strategies.

The board is subject to the control of and direction by the Minister. My colleague the Hon. Robert Lucas has already made reference to this. I want, though, to use it as the basis for raising questions about the structure of the statutory authority and its relationship to Government. Obviously the Government has made a decision that the board is to be subject to ministerial control. It is not therefore a situation where the board will second guess the Government but really will be subject to the Government's policies.

There may be a tendency in that then to subvert the development of strategies, although one must recognise that any board of this nature must work in conjunction with the elected Government and mesh in with the direction set by it. The Government cannot sit back and expect the Economic Development Board to set the directions, undertake its responsibilities and then belatedly come in and exercise the power of ministerial control and direction.

However, in that context I ask whether this is one of those statutory authorities which is likely to be subject to the Public Corporations Bill. There are some similarities between this Bill and the Public Corporations Bill, particularly in respect of the duties of directors and in so

far as the Bill imposes ministerial control and direction and makes a reference to performance agreements and performance targets. However, it does not pick up all the provisions of the Public Corporations Bill, particularly those relating to the liability of directors and other aspects of the Bill.

I notice that the liability of directors is in similar terms to that provided in the Public Corporations Bill, both of which are inconsistent with the relevant provisions of the Corporations Law and, as I indicated in the Public Corporations Bill, do introduce a different standard for directors of statutory authorities from those of directors of public companies. So, the question is whether the Government proposes that if the Public Corporations Bill passes the Economic Development Board will be one of those agencies to which that Public Corporations Bill will apply.

In the context of clause 7 of the Bill, I ask whether the Government can indicate what is likely to be the form of a performance agreement. I raised the same question in the debate on the Public Corporations Bill. It is all very well to talk generally about a performance agreement, but it is going to be much more difficult to define it. At one stage the Premier in the other place, when asked questions about performance, talked about economic targets for the State. It appeared that, having set those targets, the meeting of those targets or not was to be a performance target to be met by the board.

Subsequently, however, the Premier discounted that and it was not clear from the response in the other place as to what were to be the performance targets and what was to be the nature of the performance agreement, how they were to be measured, who was to do the measuring and whether, of course, those performance targets were to be affected by the power of the Minister to control and direct. Quite obviously, a board which is seeking to meet performance targets and which is overridden in its direction by a Minister will then be seriously prejudiced in respect of the meeting of the performance targets.

In respect of the composition of the board, I think it is important to note that, notwithstanding the Government's strategy to have at least half the members of its boards women and half men, this is a board where there are only two women out of 13 members, as I understand it. It surprises me that in the context of economic development the Government—and I take that to be the Cabinet—has appointed a board that does not have a broader cross section of community representation, particularly in relation to the sexes.

It also surprises me that we still have to include in Bills, where a board is established, the requirement that at least one of the persons must be a woman and at least one a man. I would have thought that the age of relative enlightenment was here and that, regardless of any personal views that individual members of Parliament or members of a Government might have, they would recognise, notwithstanding the issue of equity, that the public would find it intolerable if there was not a fair representation of qualified men and women on its boards and committees.

One has to ask whether the continuing inclusion of that obligation is a token statement or whether it demonstrates that even the incumbent Government cannot be trusted to appoint a more representative board.

**The Hon. Anne Levy:** It is a statement of principle enshrined in legislation to make sure that future Governments have to abide by it.

**The Hon. K.T. GRIFFIN:** The Hon. Ms Levy says that it is a statement of principle. What is the principle? There has to be at least one woman. There has to be at least one man. I would have thought the better statement of principle was that there should be a more equally representative group appointed to these boards. To me that is a token of what should be the norm in the appointment to boards and committees, particularly with one that is to have such strategic importance for the future of South Australia. In relation to the disclosure of interest clause in clause 12, I should like the Attorney-General to give some indication as to what is intended by the description 'private interest'.

The clause relates to disclosure of interests. I recollect that I raised the same issue in relation to the Public Corporations Bill. It is a departure from the normal description of financial or pecuniary interest. What sorts of private interests are to be disclosed? It is to be a defence to a charge of an offence to prove that the defendant was not at the time of the alleged offence aware of his or her interest in the matter. The question I ask is whether it is necessary to provide for a defence to the charge where the defendant was able to prove that he or she was not and could not by the exercise of reasonable diligence have been aware of his or her interest in the matter, whether that is a more appropriate provision.

I make one other observation in relation to the description 'private interest', because in the Public Corporations Bill the interest is a direct or indirect personal or pecuniary interest in a matter. In addition to that, under the Public Corporations Bill, not only must the member with the interest not take part in any deliberation or decision of the board but must not vote, and also must be absent from the meeting room when any such discussion or voting is taking place. I can realise that disclosure of interest clauses can be particularly difficult to interpret and, in some respects, particularly burdensome, and there have been difficulties experienced at the local government level with a disclosure obligation that is so broad that members, in disclosing an interest, are prevented from raising issues of importance to the general topic under discussion.

It is also interesting to note that the disclosure obligation is in relation to a contract or proposed contract. There are, of course, other arrangements and activities where disclosure of an interest might equally be appropriate. In the context of the member's duties under clause 13, there is a reference to a member of the board being culpably negligent in the performance of official functions. In those circumstances the member is guilty of an offence. I raised an issue under the Public Corporations Bill debate, again, about culpable negligence and what that meant.

That must be read in conjunction with a later subclause of clause 13, where a member is deemed not to be culpably negligent unless the court is satisfied the member's conduct fell sufficiently short of the standard required of the member to warrant the imposition of a criminal sanction. That is vague and uncertain. It gives no guidance to members of the board, and I should like

some exposition by the Attorney-General of what actually is intended by that proposition.

Under clause 13(5), a member is not to make improper use of information to gain directly or indirectly a personal advantage for himself, herself or another or to cause detriment to the board. One must question the necessity for repeating that, particularly in light of the Statutes Amendment (Public Offences) Act that we passed last year dealing with public offences. It seems to me that it overlaps but, in any event, again lacks some definition as to what is a personal advantage. The same can be said about clause 13(6), where a member of the board must not make improper use of his or her official position to gain a personal advantage for himself, herself or another, or to cause detriment to the board. Again, whilst the qualification is the word 'improper', I wonder whether that is sufficiently precise, particularly in the context of a personal advantage, to give adequate guidance to the board members.

In association with that I raise the question as to the disgorging of profit or the liability for loss, and whether there is any proposition to apply the Public Corporations Bill provisions that deal with that to this board, particularly if the board is involved in initiating developments as opposed to looking at strategies. I draw attention to clause 16(2). I must say that I am not able to fully comprehend the reason why an agreement negotiated by the board for industrial expansion or development is to be binding on the State and its instrumentalities if the agreement is ratified by the Governor.

There is power under clause 17 for the board to enter into any form of contract or arrangement. I would have thought that, if it entered into the arrangement as a statutory body, which is an instrumentality of the Crown and which holds its property on behalf of the Crown, there would be little doubt that the State ultimately had a liability for any agreement that was entered into. So, it is a rather curious provision when read in conjunction with clause 17, and I would like some explanation as to how that is to be construed and the reason for it.

The same can apply to clause 16(3), where the board may, if authorised by resolution of Executive Council to do so, exercise in relation to a specified proposal for expansion or development of industry a specified statutory power to grant an approval, consent, licence or exemption.

Does that mean that this board takes over planning and other responsibilities if the Executive Council so resolves, and thus overrides those provisions of the Planning Act or any other legislation which requires an environmental impact statement or some other approvals after investigation? It is curious that there should be a reference to a resolution of Executive Council. I would have thought that the normal provision would be 'if authorised by the Governor', which is of course the provision in the immediately preceding subclause. Can the Minister give some indication as to why that is to be treated differently?

The remaining matter to which I refer is the provision of the annual report. There is in legislation relating to statutory corporations, which we have passed recently, a provision that delegation is one of those items which is to be reported upon and I would have thought the same ought to apply in the context of this Bill. There are a number of issues which will be obviously the subject of questioning and comment during the course of the Committee stage of the Bill, in addition to those matters that I have raised. However, for the moment I indicate support for the second reading.

**The Hon. L.H. DAVIS:** I join with my colleagues the Hon. Mr Lucas and the Hon. Mr Griffin in supporting the second reading of this legislation. I must say that the second reading explanation from the Government is disappointingly sparse. It really gives no outline at all of some of the very important measures in this Bill, and it reinforces a concern that I have expressed on more than one occasion in this Chamber, that this embattled, tired and run-down Government seems to have totally lost the reigns of the political horse which they are attempting to ride. It is disappointing when one has the first legislation emanating out of the all important Arthur D. Little report, which has bipartisan support of the major Parties in South Australia, that we have less than one page—just a column and a half—of scant information about how this Economic Development Bill intends to work.

Both my colleagues the Hon. Mr Lucas and the Hon. Mr Griffin have addressed the matter of the performance agreements which are set down in clause 7. There has been no reference at all as to how a performance agreement works. All we are told in clause 7 is that the board must, each financial year, enter into a performance agreement with the Minister obliging the board to meet performance targets established by the agreement in that financial year, and a performance agreement for a particular financial year must be published in a report of the board for that financial year. Unless there is some extraordinary explanation to be given in response to the second reading or during the Committee stage I must say I am nonplussed by the meaning of all of this. There has been no explanation in the second reading as to what a performance agreement might be.

Let us be quite precise about what the Economic Development Board is doing. The Economic Development Board has the role of promoting development within South Australia; partnership between public and private enterprise; facilitating investment; commercial development in this State; encouraging better community understanding of economic development; and establishing the Economic Development Board as the primary agency for coordinating, implementing and determining the economic development strategies for the State. Some of those functions and powers of the board are simply not measurable. It is one thing to establish performance standards for a commercial enterprise of Government such as SGIC or the State Bank, but it is quite another to set down performance standards for an Economic Development Board, and I will be fascinated to see the Minister's explanation. What are the performance targets intended?

The second reading explanation of the Government is totally silent on this. What on earth can it mean? It is something which is totally novel, yet the legislation in this State is introduced without comment. What does that say of this Government? It says it is very much a tired and run down Government. The concept is commendable if it was purely a commercial enterprise,

but I reserve my judgment until I hear from the Government as to what it actually means, how it will effectively operate and what the implication is for the board if the target established by the performance agreement is not met? If performance agreements and performance targets had been established with the State Bank and SGIC heads would have rolled—probably in their hundreds over recent years. The Committee stage will obviously provide an answer.

Indeed, the second reading made only one useful comment and that was that pursuant to the terms of clause 16(3) one of the board's key functions is to establish a single point of contact for companies, whether they are overseas, interstate or local companies, that want fast tracking for major investment decisions—for instance establishing a manufacturing plant in South Australia. We have been talking about this *ad nauseam* for many years, and whilst it is commendable to see this in the legislation, and one accepts the merit of having a focus such as the Economic Development Board to ensure that important investments can be expedited, it is distressing to see how slow this Government has been in over a decade of power in implementing sensible ideas which will make South Australia an attractive haven for investment capital.

Let us just remember two or three examples which the Government has been talking about for so long. An example is the one-stop shop for small businesses and medium size businesses that are wanting to establish and expand in South Australia. Instead of going to many Government agencies, spending time and money and experiencing frustrating bureaucratic delays and perhaps often confusion, there is a one-stop shop where you can, with the assistance of Government officers, establish through a computer search what are the appropriate licences and what are the appropriate pieces of legislation which have to be complied with. We have nothing like that in South Australia, but New South Wales, Queensland, all the other States of Australia, and indeed all the territories of Australia, have a one-stop shop. We are the last off the lot in this area. There is no one-stop shop in South Australia. The Labor Government has been talking about it for a decade and it has been promised election after election, but it has never happened. That is how close this Government has been to the important issues and frustrations facing business in South Australia.

A matter raised in the Council only yesterday is the very sensible idea of establishing a register of statutory authorities and lists of board members so that people know exactly what those statutory authorities are, what their functions and powers are, their key board members and when their annual report is published. That matter was raised by me in this Chamber in 1984 and we find the Minister of Public Sector Reform, newly appointed, who happens to be the Attorney-General, still grappling with this issue 8 1/2 years later. Hardly Action Man, is it? There is no need to go into a telephone box and change. It is so slow that the telephone box would have been removed. We simply have not observed those basic issues that have been addressed in all other States.

It is one thing to establish an Economic Development Board—it is commendable and we have supported this important recommendation in the Arthur D. Little report—but it is another thing to recognise that there is no point in having an Economic Development Board if the economic and financial settings are not in place and if the climate is not conducive to attracting business and building up the investment base in this State. We have the highest WorkCover in the land, the highest financial institutions duty in the land, the highest cheque stamp duty in the land and the highest land tax at certain levels in the land. Those are issues of fundamental importance which no piece of legislation such as this will properly address.

The Arthur D. Little report was scathing of this Government in terms of its inability to recognise what is important in this State. This Government lacks business culture. The Arthur D. Little report clearly demonstrated that there was an economic malaise in South Australia and that the cost of operating business in this State was too high. In what was a damning indictment of this Government's economic leadership in a decade in power, the Arthur D. Little report said:

> South Australia's performance in manufactured exports is more typical of a less developed country, a performance in manufactured exports that is lower than that of India and Malaysia.

In other words, the banana republic, under a Bannon and Arnold Government, is with us.

Fundamental structural problems exist along with the high cost of operating business in South Australia. In a debate in this Chamber only this afternoon I made the point that inflation in South Australia has been consistently higher than in all other States in Australia. With inflation in South Australia at 1.8 per cent, as it was last year, against a national average of .3 or .4 per cent, it makes the lives of business people intolerable.

The functions of the board are commendable and it is difficult to disagree with any of them. It is important to recognise the potential for regional development. I note and support that the board has a specific function to collaborate with appropriate regional authorities in the development of the regional economy of South Australia and to make available to those regional development authorities appropriate expertise and employees of the board. I am uncertain as to what is intended by this Government under clause 16(5) where it provides that the board can acquire shares or interest in the capital of a body corporate if approved by the Governor and can enter into a contract to carry out any kind of development project or to participate in a development project as a partner or as a joint venture if approved by the Governor.

I thought that we had been through that in the 1980s—this brave new world where we had the Victorian Economic Development Corporation (VEDC) which blew tens of millions of dollars away in Victoria. In Western Australia WA Inc. has been the subject of a commission. I am talking not only of the corrupt aspect of those excesses, but of the enormous waste of money on joint venture projects with such notoriety as Laurie Connell and the WA Government acting in concert. I am not putting the Economic Development Board in the same league, but I am nervous to see that the board has that power.

What is anticipated by the inclusion of subclause (5)? We recognise that in the restructured parliamentary

committee system the old Industrial Development Committee, which was established by the Playford Government in the 1940s and enjoyed bipartisan support and membership over nearly 50 years, is now a creature of the Economic and Finance Committee. Sadly, I think that was a most retrograde step. That committee, which was made up of one member from each side of each bench of both Houses, a total of four parliamentary members, supplemented with a representative of the Treasurer, presided over financial assistance by way of grants and loans to many businesses in South Australia.

Some of those decisions were not successful, because necessary risk-taking was involved, and we accepted that. Some, of course, had magnificent success. Some of the support was given to very large publicly listed companies. Others were small companies which, as the years rolled on, emerged to be great companies and, in fact, listed companies. I am sure that the Chairperson of the Industrial Development Committee for a period of time, the Hon. Anne Levy, would attest to the accuracy of my remarks. However, I am wondering what the role of the Industrial Development Committee, which is now a subcommittee of the Economic and Finance Committee, will be, given that the board has a specific power to enter into joint venture projects, to carry out development projects and to acquire shares. Again, very disappointingly, there is no reference to or expansion of this important issue in the second reading explanation.

Clause 16(2) provides:

> Any agreement negotiated by the Board for industrial expansion or development in the State is binding on the State and its instrumentalities if the agreement is ratified by the Governor.

What does that mean? Does it mean that, for instance, if a local, interstate or overseas company negotiates with the board and enters into a commitment to invest, say, $20 million, the board, under its powers in subclause (5), can say, 'We are going to be a joint venturer and we are going to acquire an interest in this project'? Does it mean that once an agreement has been negotiated for industrial expansion and development it is binding on the State, even though very early on we discover that the interstate or overseas company project is not what it is cracked up to be, that there has been a change in circumstances, and we suddenly find the agreement negotiated by the board cannot be avoided? I am just wondering whether subclause (2) is too inflexible. Again, that will be a matter for the Committee stage.

Another point that has to be made is that not only has the Economic Development Bill been inadequately described in the second reading explanation, but the board was appointed only a matter of weeks ago—five months after the Premier promised the board membership would be announced. During budget Estimates in September last year he said that it would be only a matter of days before the membership of the board was to be made public.

It was nine months before the Government introduced this legislation into the Parliament following the all important release of the Arthur D. Little report and then it took five months after the Premier said that the board would be announced for those names to come to light. As my colleague, the Hon. Trevor Griffin quite rightly observed, the board's balance is subject to question. We had what the Hon. Anne Levy might have almost thought was a role reversal, that the Hon. Anne Levy was going in to defend a position which she would never defend normally when the Hon. Trevor Griffin made the very telling observation that the board's female representation amounted to just 15 per cent; it was two out of 13. One of the points that the Hon. Anne Levy would be well aware of, with her interest in the arts and perhaps with the State Bank and the SGIC debacle, with a heightened understanding and interest in matters financial, is that the most significant trend in small businesses in Australia is that, generally speaking, women are the initiators and instigators of many of the successful small businesses in Australia, that the number of women entering small business is enormous.

They are making a significant contribution in this area. Many of them are seen to be greater risk takers than men and given the loosening of attitudes in a positive way by financial institutions to making loans available for women entering small business there have been significant changes. The other point that the Hon. Anne Levy would surely be well aware of is that 70 per cent of all the employment growth in Australia in the 1990s is likely to be generated by small business. I am talking about businesses employing less than 20 in the service sector and, for those manufacturing goods, by definition small business is defined as those employing less than 100. So small business should have a voice on this Economic Development Board. I am not satisfied that it is properly represented. I would have thought some of the successful women in South Australia could have been included in that 13 person board.

The other question that has to be asked is what else has this Government done about the Arthur D. Little recommendations. I have talked about the fact that the Government has taken nine months to introduce this legislation into Parliament after the Arthur D. Little report was made public. Now, putting that in the context of a large public company, like BHP or National Australia Bank or SA Brewing, nine months is an awfully long time. The reaction time of any public company to a major change in attitudes, or to a major change in economic circumstances, or to a major shift in markets is to react far more quickly than nine months.

So, this embattled and beleaguered Government has, arguably, presided over the biggest corporate loss on a *per capita* basis in the world's history—and I am talking about the State Bank's $3.1 billion loss. If you look at that in terms of a State with a population with only 1.45 million, I would challenge the Government to come up with a bigger loss anywhere in the world on a *per capita* basis. Certainly, the General Motors-Holden $US31 billion loss in recent times was a staggering loss but on a *per capita* basis far smaller than the State Bank loss. This Government, this embattled Government, this financially illiterate Government, given the pressures on it to get this State up and running, has still taken nine months to get the first cab off the rank from this all important Arthur D. Little Report. It would be interesting—

**The Hon. R.R. Roberts:** This speech was boring the first 10 times.

**The Hon. L.H. DAVIS:** You see, that is the problem with this Government: the Hon. Ron Roberts says that

this speech is boring. Mr Acting President, this speech is not boring; it is on a most important subject and this Government still does not understand. It is reflected in the apathy of this Government in its preparation of the second reading explanation, where we are told absolutely nothing about the intention of this Bill.

**The Hon. T.G. Roberts:** I thought you were supporting the Bill.

**The Hon. L.H. DAVIS:** We are supporting the Bill but we do not know too much about it from what we are being told in the Government's second reading.

**The Hon. T.G. Roberts:** I would hate to see you speaking against it.

**The Hon. L.H. DAVIS:** I am not speaking against the Bill; I am speaking with all the passion that I can muster against this Government because it has so much to answer for. This State's economy, as the Hon. Terry Roberts would well observe, if he has any business contacts, although certainly not too many of his colleagues appear to have, is still deteriorating. Retail sales are still falling. This State is trailing all other States of Australia in terms of economic recovery. You only have to look at the ANZ Monthly Employment Series where they measure the advertisements month by month in the major newspapers of Australia. For South Australia, with 8.4 per cent of the nation's population, we would expect to have 8.4 per cent of employment advertisements. However, what do we find?

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

**The Hon. L.H. DAVIS:** Yes, this Government is out. I would put my finger up for them too. They are definitely out and they should march. They should walk. They should leave the political wicket, no doubt about it. What do we find? Not 8.4 per cent of advertisements for jobs in Australia, but 5.9 per cent. Forty per cent less than we should have and they are still going down. We have deteriorated from 7.1 per cent two years ago and we are on the slippery slope of economic recession. That is a fact. The Attorney-General, whose knowledge of economics is not his long suit, would certainly know that from the latest financial and economic briefings he has had.

So whilst I support the second reading for the Economic Development Bill I cannot leave the opportunity pass by to say, first, this Government should do its homework and tell the Parliament what it has in mind when it prepares a second reading explanation and, secondly, I hope that it recognises the magnitude of the task that it has in front of it, if this economy is going to recover this side of the next century.

**The Hon. I. GILFILLAN:** The Democrats enthusiastically support the Bill. We believe that the Economic Development Board has the potential to make a dramatic difference to the speed with which economic recovery and economic development can take place in South Australia. Mr Acting President, from the Premier's speech in another place there were some observations made about the intention, as he saw it, of the board and I would like to raise them in my second reading contribution, both as a matter of comment and also perhaps for expansion in due course by the Attorney in concluding the debate. Several times there is emphasis placed on the potential for a strong partnership between the private an public sectors, which was a recommendation of the Arthur D. Little report. The Premier stated:

> The Economic Development Board will oversee the development of strategies and plans for economic development, encourage and facilitate investment and develop collaborative arrangements between the public and private sectors.

It would be of interest to this Chamber to hear detail of where this public and private sector collaboration is anticipated and in what form it is expected it will be established. I think it is quite an exciting concept, if it works. I would like to hear the Government indicate the ways in which they foresee this collaboration taking place.

My most profound concern is the emphasis on the fast tracking, which is identified as one of the aims of the Bill, certainly not the only one by any means but certainly one which is referred to and again I quote comments made by the Premier in Committee in the other place. The Premier said that the member for Kavel correctly identified this as a fast track mechanism when he spoke earlier to an amendment, which I want to discuss further in some detail. The Premier then said:

> This is not an attempt to circumvent or undermine the policies behind the various licences, consents or exemptions required in government. It is quite clearly within the spirit of the policies that are laid down. However, it is to provide opportunities for decisions to be made more quickly within the spirit of those requirements.

The amendment was to insert what is now clause 16(3) in this Bill. On the understanding that I have to date, I will oppose that subclause because, although fast tracking may be worthy as an aim, the way in which this amendment is phrased leaves a wide open door for evading the requirements, obligations and scrutiny that must be in place before any development or industrial proposal goes ahead.

There were some interesting contributions by members in the other place during the Committee stage. The Premier used as an example the Boral extrusion plant at Angaston. He described it as a very exciting project that is working very well, and he said:

> But it [the establishment of it] would have been even quicker had the department had, by the decision of Executive Council, within the spirit and letter of the law, the power to sign off those exemptions as the delivery agent of those approvals—not as the policy maker but simply as the fast-tracking agent.

Again, this does not give me any assurance that there is not a dangerous avenue there for the board with the approval of a gung ho enthusiastic Executive Council avoiding the scrutiny and responsible requirements that I believe no-one in this State should condone, however desirable it may be to speed up the processes required to get proposals approved. The Premier talked about 10 different 'in' baskets, and each of them going on for three weeks causing an inordinate delay. I believe that the aim of speeding up the process is a worthy one, but it should apply to all proposals. We should evolve in this State a much quicker way of dealing with the necessary requirements but not avoiding the responsibility to do them properly.

I agree totally with the following comment by the member for Kavel during the Committee stage in another place:

Given all the qualifications identified by the Premier, he will get no argument from me on trying to establish predictability and certainty in major development projects for South Australia. Given the very high costs of feasibility studies and the costs to industry of getting a project up to the point where it can be considered by the relevant agencies, I think the history of the past 10 years or so in South Australia has been such that, given the qualifications, we need to introduce some predictability and certainty, so that people will put those funds. into feasibility studies. They will simply not risk those funds in feasibility studies unless they are able to see some light at the end of the tunnel.

That is absolutely right. We have no argument with the aim of speeding up the process by establishing predictability and therefore the confidence for those proponents of projects to move into South Australia.

The member for Kavel actually suggested that there could be a need for the Executive Council determination and that, where it may be used to give the board these extraordinary powers, that should be done by notification in the *Gazette*. I note that the Premier was somewhat attracted to that idea, and that may be one of these up until now somewhat indeterminate amendments which were referred to in the second reading speech in this place but which, to date, no-one in the Opposition Party has been able to see or knows anything of their contents. That may, indeed, be one of them.

Questions were asked in the other place that will have to be asked and answered in this Chamber also. The second amendment which was moved in the other place inserted a new clause 16(e), which relates to negotiating for the expansion of industries in this State, or for the establishment of new industries in this State as being one of the functions of the board. The member for Kavel asked:

What does it mean? Is the board expected to both attract and negotiate with large trans-national organisations about establishing operations in South Australia, for example? If so, what are its powers and, to do that, with what is it negotiating? Is it up to the board to grant tax holidays and industrial award dispensations, or are we simply dealing with the old Department of State Development, which had plenty of good ideas but not the means to carry them out?

The information given in reply in the other place was not full of detail. There was reference to an amount of money which would be made available to the board. The Premier mentioned $40 million as the normal allocation that appeared in the budget papers for 1992-93 under the Department of Industry, Trade and Technology. So, one assumes that the board will have some sort of substantial Government funding.

I am interested to know whether the Government has formulated plans to attract specifically private enterprise funds, whether there will be some form of specific proposal investment or a general pool of funds to provide financial resources for the implementation of the functions by the board. I remind the Attorney, who is probably now fully aware, that in his second reading speech he foreshadowed that some amendments would be moved in Committee to cover matters that were raised in the debate in another place. I assume that he will refer to those amendments in his second reading reply. It will remain to be seen whether that assumption comes to fruition.

**The Hon. C.J. Sumner:** I just do what I'm told.

**The Hon. I. GILFILLAN:** That may well be the case. There is some indication from the second reading speech of amendments, but the only one to which I have been able to refer was the possible gazettal of authority given by the Executive Council to the board for this extraordinary granting of statutory power .for approval, consent, licence or exemption.

Regarding the amendments moved in the other place, we thoroughly support the move to assist the regional boards to implement regional development strategies. For a long time that has been an issue of enthusiastic support by the Democrats. My colleague Mike Elliott has been involved personally with regional development boards, and we welcome that initiative. I have referred already to fast-tracking. I will spend some time asking specific questions about that matter, and I will come to that in a moment. However, in the second reading speech, I was pleased to note the following:

...the EDB would be able to offer as a competitive advantage for South Australia that the EDB would be able to facilitate all the required approvals, that the EDB would act as the single point of contact for the company with South Australian Government agencies.

So far so good. If the board is able to achieve that, we will have achieved a remarkable breakthrough and made South Australia dramatically more attractive for proposals to take off and for investors to invest in South Australia comfortably and confidently knowing that the outcome of any of the uncertainties would be clarified expeditiously.

In his second reading reply the Minister goes on to state that this claim would be supported by the existence of what I regard as this contentious clause 16(3). He stated:

It would be recognised as a statement of intent by the Government not to place unnecessary delays in the way of industry development simply because of the way the Government must organise its processes of approvals.

That should not be anything special; that should in fact be the way any industry development proposals are dealt with right across the board. It should not just be the preferred favoured treatment for some particular projects that the Economic Development Board chooses to be its favoured projects.

I will now refer to the Bill itself and make some observations of my understanding of it. I was interested to hear the Hon. Rob Lucas mention in relation to ministerial control his concern about clause 7(4), which provides:

A direction given during a particular financial year [that is, a direction given by the Minister to the board] or a performance agreement for a particular financial year must be published in the report of the board for that financial year.

He made the point that that could be some quite unacceptably long time—well over 12 months perhaps—from the time of that direction. It may be worth considering whether there could be an amendment to that providing that if the board chose to publish the detail of that particular direction, or the Minister, it could be published at any time so that it would not be restricted just to the report. That would give the board the opportunity, if it felt disgruntled with a ministerial

direction, at least to air it before that annual report was made.

Clause 16, which deals with the functions of the board, is the most significant and the most important in analysing the Bill. I look to paragraph (*j*) in the first instance, where the board is given certain functions, which are to be carried out in consultation with the Minister. I have no problem with close cooperation with the Minister. This is a board set up by the Government; I do not see any reason why there should not be communication and collaboration between the Government and the board provided that it does not become just a lackey of Government. To my mind that would defeat its purpose. Paragraph (*j*) spells out the functions of the board as follows:

> To integrate scientific and technological research and its commercial exploitation within the economic framework of the State;

That seems to me mighty like a duplicate MFP. I would be very interested to hear from the Government how it sees this in any way as being a separate entity to the MFP and whether in fact it will be in cooperation with the MFP. If it is, what is the formal or informal connection between the EDB and the MFP? Paragraph (*m*) states that one function is:

> To assist regional development authorities, by making available to them (on terms mutually agreed between the board and the authorities) the expertise of officers and employees of the board to develop and implement regional development strategies and to empower such authorities to act on the board's behalf to an appropriate extent in pursuance of delegated powers.

What are the regional development authorities either currently in existence or anticipated to be established? They are going to be given, through the facility of this particular paragraph, quite considerable power. The delegation of powers is unfettered, and I ask whether that means that the board could delegate to a regional development authority the power under clause 16(3), that is, the specified statutory power to grant an approval, consent, licence or exemption. I do not see anything in the Bill which excludes the board from being able to do that. In fact, that brings me to subclause (3), which provides:

> The board may, if authorised by resolution of Executive Council to do so, exercise, in relation to a specified proposal for expansion or development of industry, a specified statutory power to grant an approval, consent, licence or exemption.

I ask the Attorney to detail in his response what are foreseen as the approvals, consents, licences and/or exemptions that are embraced by this clause. As it reads, I certainly interpret it as meaning virtually the whole gamut of the authorities, approvals and consents that are given for a proposal to get off the ground. We have seen such a series of sad failures because of the inept and at times dangerously wrong preparation of proposals resulting in their being unacceptable from an environmental and planning point of view and from the general public's assessment. Although these have been long, tedious processes and have left a very bad taste in the mouth of people who have been attempting to develop in South Australia, our challenge must be not to avoid accurate and responsible assessment of the proposals but to facilitate the procedure to the point where it is a quick, effective and responsible assessment of the project with the granting of the appropriate licences in due course.

Nothing is to be gained, I believe, for the long-term advantage of South Australia if we shortcut by avoiding the proper processes of granting the licences, assessing for approval and consent and the EIS requirements just to draw development into South Australia. We will pay a very high price for that sort of forfeiture of our responsibility down the track. I will keep and open mind on clause 16(3) until I have either heard more explanation from the Government or seen some way in which this can be amended to make it satisfactory. However, as I understand it and read it, I believe it is an obnoxious, unnecessary and dangerous clause and it should be opposed.

My only other comment relates to the powers and functions of the board in clause 17(2)(*e*) of the Bill, which provides:

> The board may... delegate any of its powers to the CEO or to any other person or groups of persons.

I ask the Government to indicate what is envisaged with any other person or, in particular, group of persons that justifies this clause being included in the Bill.

So, I conclude by repeating our enthusiastic support for the setting up of the Economic Development Board. I have noted that all three speakers from the Liberal Party have supported this initiative but rather begrudgingly, and I feel that it is important to dissociate the Democrats' approach to it from that begrudging attitude. We believe that it is a good step and, whether belated or not, the fact is that it is now being taken. But I repeat that this exemption clause that is tucked in there concerns people who believe that planning is an important and responsible part of Government parliamentary decision making. It cannot be fast tracked by avoiding the proper assessment of the impact of proposals from wherever they come: from overseas, from within, as extensions or expansions of current industries. On that note, I indicate our support for the Bill.

**The Hon. C.J. SUMNER (Attorney-General):** I thank the Opposition and the Democrats for their support of the Bill. There are a number of matters that have been raised that need replying to and amendments have been referred to which I will need to place on file if the Government intends to amend them. To enable me to get further responses to the specific issues raised by members this evening, I seek leave to conclude my remarks.

Leave granted; debate adjourned.

## PUBLIC CORPORATIONS BILL

Adjourned debate on second reading.

(Continued from 10 February. Page 1190.)

**The Hon. C.J. SUMNER (Attorney-General):** In replying to the second reading debate I again thank members opposite and the Australian Democrats for their support of this Bill. The Hon. Mr Griffin, in particular, raised a number of issues, which I will now deal with. As stated in the second reading explanation, this Bill

should not be perceived as being solely in response to the State Bank issues but as a reflection of the Government's commitment to the reform of public trading enterprises generally. Contrary to the arguments raised by the honourable member, the principles underlying this Bill are not dissimilar to those which are in place or which are being considered in other States of Australia and in the Commonwealth for the reform of public trading enterprises, and are in accordance with the principles of effective commercialisation of Government activity stated by the Industry Commission.

Reference to legislation or legislative proposals from New South Wales (State Owned Corporations Act 1989), Victoria (State Owned Enterprises Act 1992), the ACT (Territory Owned Corporations Act 1990), Queensland (Policy Guidelines for Corporation in Queensland) and the Commonwealth of Australia (Policy Guidelines for Commonwealth-State Authorities and Government Business Enterprises) reveals a general consistency of approach, although each jurisdiction has its own emphasis. I acknowledge that the model for reform adopted by this Government is one of commercialisation rather than corporatisation.

The latter, which most often involves the incorporation of statutory authorities under the corporations (that is, companies) legislation, is believed to have the potential to weaken rather than to strengthen accountability of public trading enterprises. The following specific similarities between the South Australian approach and that of other jurisdictions may be noted:

Governance of PTEs (public trading enterprises) is in the hands of an essentially commercial board which is accountable for overseeing management and ensuring that the Crown's interests in the entity are protected.

Each entity is subject to ministerial control and direction, with a requirement for such directions to be reported in various ways.

There is a requirement for a charter (sometimes called a statement of corporate intent) to be executed between the board and Government or for the corporate plan to be submitted to Government and a requirement for the PTE to operate within the charter.

There is an explicit performance agreement between each board and the Government.

Any Government controls and restrictions (for example, pricing restrictions) are explicitly stated in the charter.

Non-commercial functions (or community service obligations) are explicitly stated and an agreed basis for compensation is negotiated.

Turning to the specific issues raised by the honourable member, I would like to place the following on record.

1. The appropriateness of control and direction by the Minister:

This legislation has principally been prepared with public trading enterprises in mind. The Government has adopted the view that control and direction by the Minister is an essential feature of accountability for all such enterprises subject to safeguards to ensure that this power is not inappropriately used. I refer to the Sixty-first Report of the Public Accounts Committee on Accountability of Statutory Authorities, etc., in which it was acknowledged that a power of control and direction is essential to the preservation of a chain of accountability to Parliament and is, in its own words, a 'cornerstone' of that accountability.

There are, of course, some statutory authorities where Parliament has determined that ministerial control is not appropriate; authorities fulfilling certain judicial or other functions in which independence from the political process is a matter of constitutional principle. However, in general, the presumption when establishing any new authority should be that ministerial control and direction will apply unless this can be shown to be incompatible with an authority's functions. When considering whether specific authorities should be brought under this legislation, one factor to be taken into account will be whether the authority is appropriate to be subject to ministerial control and direction and, if it is not, then it is likely that this may disqualify the authority from being made a public corporation.

It follows from what has been said that it is the view of the Government that both the State Bank and the SGIC should be subject to ministerial control and direction in order that the Government is able to exercise its responsibilities over these entities and that, in due course, both those organisations would be candidates to be brought under this Public Corporations Bill, although the time at which that would occur is yet to be determined. It should be borne in mind that this legislation requires any ministerial direction to be in writing and reported in the annual report. This is a significant departure from past practice which ensures the accountability of all parties.

2. The provision of information to the Minister:

The principles enunciated in the second reading explanation emphasise the need for accountability and monitoring of performance. It further emphasises that, vis-a-vis public trading enterprises, the Government can be regarded as fulfilling the role of owner on behalf of the State, guarantor of their debts, and in the case of monopolies the Government is also regulator of their activities. It is essential, in these circumstances, that it have access to such information as is needed to ensure that it can fulfil those responsibilities. There can be no question of hiding behind a veil of commercial confidentiality to prevent the Government from making such inquiries as are necessary to fulfil its responsibilities.

This is not to say that such information should be placed in the public arena or tabled in Parliament where this might clearly be detrimental to the commercial interests of a corporation or of a client of a corporation. Nevertheless, I believe that the bias should be towards openness. It is useful to remember that, in recent years, advances in corporate regulation has focused, amongst other things, on the adequacy of disclosure to shareholders. If effective disclosure is important in these circumstances, how much more important is it in the public sector where the Government is accountable to Parliament for fulfilling its functions as both owner and guarantor? This principle is well recognised in similar legislation as may be seen, for example, by reference to the New South Wales State Owned Corporations Act 1989. It should be recognised that, realistically, the Government has no desire to inquire into the affairs of persons doing business with public trading enterprises.

In the main, any information accessed would be aggregate information about investment portfolios, etc., such information being necessary to monitor the financial viability of PTE operations. The honourable member raises the issue of attendance of an authorised person at meetings of a board. There is certainly no intention that, as a matter of course, a ministerial adviser would be in attendance at meetings of boards. It is acknowledged that it is important to preserve a chain of accountability from a board to the Government and this is best achieved via normal processes of reporting and monitoring etc. However, one can envisage circumstances in which it is desirable that for specific purposes a person is able to attend meetings, particularly where the Minister is on notice that problems exist.

3. Publication of ministerial directions:

Whilst a requirement to publish a ministerial direction is an important part of the checks and balances proposed under this legislation, it should be evident that there are circumstances where such publication might be detrimental to the interests of a corporation or that there may be other good and proper reasons for not publishing.

It should be noted that the Bill proposes that it be the relevant board which determines whether grounds exist to not publish a direction rather than the Minister. It might also be remembered that many of the authorities to be considered for inclusion under this legislation are presently subject to ministerial direction and that there is no existing requirement to report such a direction. This provision is therefore a substantial change from existing practices in favour of stricter processes of accountability.

4. Commercial operations of public corporations:

The honourable member queries the meaning of the term 'commercial principles' and the onus placed upon a board by requiring them to use their best endeavours to secure a profit consistent with their functions. Ordinary commercial usage seems to play a significant role here and rather than define the term in a legalistic way it would seem preferable to leave this to circumstances to dictate. As the honourable member himself points out public corporations operate in a wide variety of circumstances.

This provision is meant to be one which makes a general statement reinforcing the need for both commerciality and prudence in the approach of the board. The provision must be read in the context of the rest of the Bill. The Government and board will participate in the development of a chartered performance agreement. Directors will have quite specific statutory duties pertaining to skill, care and diligence. The management and functions of the board will be stipulated in legislation. There is no question, as argued by the honourable member, of boards having to interpret the obligations in this clause in a vacuum and then under threat of dismissal.

5. Public corporation charter:

The essence of a charter is that it provides an opportunity for the Government to define and redefine parameters within which a public corporation may operate. The charter will contain provisions relating to the objectives of the corporation and its subsidiaries, its main undertakings, the nature and scope of its activities, etc. Bearing in mind that Government is guarantor of a public corporation it has a vital interest in such issues. The charter has the potential to restrict corporations' statutory powers and functions and as such it is necessary that these be capable of being limited by the charter.

6. Duties of directors and boards:

The duties of directors individually and of boards requires careful consideration. This Bill deals in a reasoned way with both, not in order to be in any sense punitive, but to provide reasonable guidance to directors as to what is expected of them. Reference to any reputable handbook of practice for directors will reveal that the management duties of boards stated in the Bill closely resemble what such handbooks stipulate as best practice for boards of private sector companies. As to the specific duties of directors, this Bill aims to provide a more objective statement of the duty of skill, care and diligence similar to that recommended in the Cooney report. That is a report of the Federal Parliament chaired by Senator Cooney. This report acknowledged that the common law standard is not satisfactory in that it provides limited guidance to directors and establishes a relatively low benchmark for performance by them.

It should be noted that, contrary to the assertions made by the Hon. Mr Griffin, the liabilities of directors under this Bill are not more onerous than those of directors of boards in the private sector. First, with one exception, relating to disgorgement of profits, etc., directors are indemnified by the Government against the consequences of any civil liability. Secondly, the Bill only provides for criminal liability in the case of culpable negligence, which is a lesser liability than that contained in the corporation's legislation. The Cooney report recommends the adoption of a business judgment rule which involves the application of a number of relatively objective tests to any action taken by a director. If these tests are satisfied, then the director is absolved from any consequential liability. Whilst this is not strictly applicable to public corporations because directors will, in any case, be indemnified by the Government, there is arguably a need for an objective standard for skill, care and diligence which encourages informed business judgments and innovation. The formulation in this legislation is believed to go a long way towards providing such a standard.

7. Transactions by directors and associates:

The Bill does not provide an excessively onerous duty for directors in respect of conflicts of interest and related party transactions. The Bill is explicit in stating the requirement to seek ministerial approval does not apply in respect of services provided by a corporation in the ordinary course of its business and on ordinary commercial terms. Furthermore, the term 'associate' is defined in a relatively restricted way and the arrangements are similar to those contained in the Corporate Law Reform Bill 1992 which require shareholder approval for related party transactions unless they fall within a narrow range of excepted transactions.

8. Civil liability of directors for breach of conflict:

It is understood that the provisions potentially allowing both disgorgement of profits and payment of damages are similar to the provisions in the corporations legislation. Whilst the honourable member is critical of this provision, reflection for a moment will lead to a conclusion that the provisions are not mutually exclusive. There are conceivably circumstances where it would be

appropriate for a director who is in breach both to disgorge profits and to compensate for losses suffered by the corporation.

9. Liability of directors in respect of subsidiaries:

There is no intention that directors be liable for breaches by directors of a subsidiary. However, it is intended that boards have a general requirement to oversee subsidiaries to ensure that they are operating within the parent body's Act and charter. This may be achieved in a number of ways; for example, by entrenching suitable provisions in a subsidiary's memorandum and articles of association and by normal management processes of review.

10. Government guarantee:

I suggest that it is unreasonable for a person having dealings with a subsidiary of a public corporation to believe that its liabilities are guaranteed by the Government unless such a guarantee is explicitly stated. Such is not normally the case in the private sector and it should not become the case in the public sector. It is clear that it is essential that a board of a public corporation not be able to extend the Government guarantee without the guarantor's specific approval for that action.

11. Dividends:

The honourable member is critical of the fact that the Treasurer has the power to determine the quantum of dividends. It should be realised that the Treasurer presently has this power under the Public Finance and Audit Act and it is quite appropriate that this is so. If an analogy is to be used, statutory authorities are not like listed public companies. Their relationship with the Government is more in the nature of a subsidiary and holding company, and that holding company, in this instance the Government, has a vital interest in whether funds are reinvested or used for other public purposes. Notwithstanding this, the Bill puts in place a number of checks and balances. First, the target rate of return and quantum of dividends will be agreed in advance at the beginning of the year in a performance agreement between the board and the Government. This will not be done in a vacuum but will take into account both the corporation's needs for retained earnings, having regard to its strategic plans and the legitimate need of the Government that commercial operations earn a commercially realistic return on assets. Secondly, under the proposed arrangements the board must recommend a dividend payment to Government having regard to the actual profits earned during the year. Whilst the Treasurer may override this recommendation he would be unlikely to do so lightly. Finally, it is intended that

the proposed standards of financial reporting which are being preferred by Treasury will require a board's recommendations as to dividends and the actual dividends paid to be disclosed. The Government and the board will thus be accountable in the House for its decisions in this regard.

12. Disclosure of remuneration of directors and executives:

The Government agrees that disclosure of remuneration is necessary. However, it must be accepted that, if these organisations are to operate effectively in the commercial arena, then rewards and sanctions must be similar to those in the private sector. The ability to attract and retain highly skilled people is not guaranteed by paying high levels of remuneration. That is fairly obvious from the State Bank. But neither should these corporations be unduly handicapped in getting people adequate to the task.

13. Board's responsibility for overseeing operations and protecting the interests of the Crown:

The honourable member queries this provision. Once again this provision is a general statement of principle rather than a detailed formulation. Governing boards in general fulfil two broad roles. They fulfil a strategic management role, and they fulfil a stewardship role on behalf of the owners. This is what this provision alludes to. Clearly, the detailed requirements touching what represents continued improvement in performance will be articulated in the performance agreement. As to the interests of the Crown, the relevant interests are, of course, the interest of the Crown in the corporation. A board can hardly be held accountable for pursuing the wider interests of the Crown, this being the role of the Government. It is for this reason, for example, that this Bill retains the power of the Treasurer to determine dividend payments.

14. Powers of Auditor-General:

The question of resource requirements of the Auditor-General is being addressed. The point of nominating the Auditor-General as statutory auditor is, of course, that he has a requirement to report to Parliament. Private sector auditors do not have this power. This requirement is therefore in accord with the Government's desire to tighten accountability arrangements. However, this is not to say that this will necessarily impact significantly upon resources. The Auditor-General will charge fees in the same way as a private auditor and these fees may be used to fund additional resources within his office. Furthermore, he has power to subcontract audits and where necessary to do so because special expertise or industry-specific knowledge is required. I expect that he will use this option.

15. Advice from the Institute of Company Directors:

The Institute of Company Directors has written to me raising a number of issues in relation to this Bill. I presume that this is the same advice to which the honourable member alludes in his speech. I do not propose to deal with this issue in detail at this time other than to say that the institute's submission is being given close consideration. Needless to say, the issue of duties of directors requires careful thought. For example, whilst there is a *prima facie* case for duties to be the same for public and private sector boards, in my view a closer analysis of the situation suggests that this may not be desirable in all cases.

The duties of company directors are primarily designed to protect the interests of the majority and minority shareholders and creditors. However, the relationship between the board of a public corporation and the Government is different from that of a private sector board and its shareholders. Moreover, there is the added overlay of accountability which comes from ongoing parliamentary and public scrutiny.

On the whole, in formulating its proposals for duties the Government has adopted a working hypothesis that it is reasonable to require directors to exercise a similar level of skill, care and diligence as is required in the

private sector, but that the standard of probity must be substantially higher. Certain practices which are accepted in the commercial arena are clearly not acceptable when translated into the public sector.

I have already referred to the need for a more objective test of skill, care and diligence and the desire of the Government to ensure that the legislation provides clear guidance on these issues in future.

The only other matter that I wish to mention is that the report on term of reference 2 of the State Bank Royal Commission will be tabled next Tuesday. That deals with the issue of any recommendations for changes to legislation. It may be that there will be something in that report which impacts on this Bill which is before us. We have not pressed on with debate on the Bill over the last three weeks at any great rate, because the Government always wanted the benefit of the Royal Commissioner's recommendations before concluding debate on the Bill. However, I anticipate that following the tabling of the Royal Commission report on Tuesday we should be able to deal with this Bill reasonably expeditiously.

Bill read a second time.

## DOG CONTROL (DANGEROUS BREEDS) AMENDMENT BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendment.

## FIREARMS (MISCELLANEOUS) AMENDMENT BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendment.

## PUBLIC FINANCE AND AUDIT (MISCELLANEOUS) AMENDMENT BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendments Nos 1, 2, 4 and 5, and had disagreed to amendment No. 3.

## PUBLIC AND ENVIRONMENTAL HEALTH (REVIEW) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 17 February. Page 1298.)

**The Hon. BERNICE PFITZNER:** After five years the review of the Public and Environmental Health Act is very timely as there are both large and fine adjustments to be made and areas of responsibility to clarify. I recall, as a local government councillor, being on a local health board when the change to replace the Health Act 1935 with the Public and Environmental Health Act 1987 took place. There was great consternation as to whether the State Government, through the Health Commission, would get the legislation correct to reflect the role that local councils were already doing and what they were supposed or delegated to do. Now, after five years of the Act being in force, there needs to be an adjustment of some of the sections in the legislation that are hard to implement in a practical sense.

As the Minister stated in his second reading speech in the other place, the main aims of this review Bill are to clarify the responsibilities of the Health Commission and local councils in the area of notifiable diseases and vermin control; incorporate provisions relating to waste disposal systems which address the concerns raised by local government during the consultation on the draft regulations; clarify the circumstances under which personal or confidential information may be obtained under the Act to ensure public health surveillance whilst protecting privacy; and update the schedule of notifiable and controlled notifiable diseases.

In clause 12a, referring to section 13 of the principal Act, the clarification of the responsibilities of the State Health Commission and the local council is important, especially with regard to the area of infection or notifiable disease and infestations. In the principal Act the duty of a local council was vague with regard to these areas. Such wording as 'to promote proper standards' and 'to take adequate measures' did not acknowledge local council's current role, responsibility and duty. The new wording used now not only takes in the previous two aims but adds, 'to take reasonable steps to prevent the occurrence and spread of notifiable diseases' and 'to prevent any infestation or spread of vermin'.

The last two aims, at last, recognise the immunisation programs that local councils or controlling authorities have taken up so well, and the scalp infestations in schools that have also been done by some local councils, controlling authorities or CAFHS. This last area needs to be monitored more closely because if the State-funded CAFHS does not continue its significant part in the prevention of hair infestation, local councils and controlling authorities may have difficulty in coping with the large numbers of infected school children. However, it is hoped that the Public and Environmental Health Council will be suitably in touch with community needs to be able to make the decision, if necessary, of withdrawing provisions from a local council which has failed to discharge its duty and to transfer these powers to the State Health Commission.

Clause 15, relating to section 47 of the principal Act, addresses the waste control systems that have been allocated to local councils, and this is of concern. There are numerous regulations to be taken into account, and on top of this there are the ubiquitous codes or standards to be adopted.

Whilst these codes and standards are excellent in theory what manpower or personpower will be available to monitor the adequate implementation of these codes and standards? Again it is a concern that we should be increasing local council duties in this area, particularly in relation to the country councils with their numerous septic tanks. It will be an added financial burden on their ratepayers.

The further adjustment that this review Bill makes is in the area of inspection and this is in clause 10, with reference to section 38 of the principal Act. I recall, when the principal Act was introduced in 1987, that the officers working under the controlling

authority—practitioners as compared to theorists—were most concerned about inspection of premises when, and I quote, 'reasonable notice must be given to the occupants of premises before entering and inspection is to be allowed'. Of course, members can imagine what happened in reality. Interpretation of 'reasonable notice' could vary from one day to one week, perhaps depending on the amount of work needed to get the place ready for the inspection. I am therefore happy to note that this difficulty flagged by the practitioners at its inception has now been overcome by the amendment in clause 10, which now stipulates 'any reasonable time to enter and inspect the premises', rather than 'reasonable notice'.

Further, I note the amendment in clause 11, with reference to section 41 of the principal Act. I have for sometime now been concerned as to the requirement to provide information relating to public and environmental health risk. In particular, a medical practitioner is not infrequently put in the invidious position of whether to report the unsafe behaviour of an infected person and be open to legal challenge or to keep his counsel and know that an infected person will be a health risk to the general community. Now with the added protection of a court a person who furnishes information under this section cannot by virtue of doing so be held to have breached any law or any principle of professional ethics. With this protection it will provide vital information and this information can be obtained without fear of litigation.

Mr President, I would like to signal at this stage that I consider that the terms 'notifiable disease' and 'controlled notifiable disease' would be improved by adding the descriptive word 'communicable'. I have had amendments drawn up to effect this. Although I am still concerned about whether the local councils can handle all these increased responsibilities without complementary funding, I support the second reading and welcome the move to review and adjust some of the obstacles that prevent the smooth implementation of the provisions of the Public and Environmental Health Act 1987.

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

## ADJOURNMENT

At 10.20 p.m. the Council adjourned until Thursday 4 March at 2.15 p.m.