LEGISLATIVE COUNCIL

Wednesday 28 October 1992

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

QUESTIONS

PUBLIC SECTOR EMPLOYEES

The Hon. K.T. GRIFFIN: I seek leave to make an explanation before asking the Attorney-General a question about guidelines for ethical conduct.

Leave granted.

The Hon. K.T. GRIFFIN: On Monday, the Attorney-General released guidelines for ethical conduct for public employees in South Australia. In his press release, the Attorney-General said:

> All employees under the Government Management and Employment Act, as well as other agencies, including ETSA, SGIC, the State Bank and WorkCover, will now operate under the code of ethics.

In his ministerial statement yesterday, the Attorney-General said:

> The principles contained in the guidelines are to be adopted with such changes as are appropriate by all statutory instrumentalities which are subject to ministerial direction.

ETSA and SGIC, although specifically excluded from the operation of the Government Management and Employment Act, are subject to ministerial direction. On the other hand, the State Bank is specifically excluded from the operation of the GME Act and it cannot be given ministerial direction, because there is no provision for that in its Act. WorkCover and the Legal Services Commission are two statutory instrumentalities which cannot be given ministerial directions, and the Legal Services Commission Act specifically prevents ministerial direction. So it is difficult to see how the Government will be able to require the guidelines and the code to be applied. In addition, the guidelines only apply to employees and not to those on boards of statutory instrumentalities. My questions to the Attorney-General are:

1. As the Government proposes to apply the guidelines and code of conduct to State Bank employees, how will that be achieved if the Government lacks the legal power to apply them?

2. Does the Government propose to apply the guidelines and the code of conduct to employees of statutory instrumentalities such as WorkCover and the Legal Services Commission which are not subject to ministerial direction and, if it does, how can it intends to achieve that objective?

3. Does the Government propose to apply the guidelines and code to the members of boards of statutory instrumentalities and, if it does, can the Attorney-General again indicate how the Government intends to achieve that objective?

The Hon. C.J. SUMNER: There were two ministerial statements around yesterday, only one of which was given, and I am trying to check whether I gave the right one or the wrong one.

Members interjecting:

The Hon. C.J. SUMNER: In any event, according to *Hansard* on this point, the ministerial statement read as follows:

> The code is to be distributed to all employees in the Public Service and, with any necessary modifications, to all employees in statutory instrumentalities which are subject to ministerial direction.

I take it that that is the one the honourable member received.

The Hon. K.T. Griffin: Yes.

The Hon. C.J. SUMNER: In fact, there was an amended statement, so I read the first one and not the second, which should have gone on and read, after the word 'direction':

> ... and drawn to the attention of instrumentalities which are not the subject of ministerial direction, for example, the State Bank

I had that slightly amended statement distributed to members by the messengers, but it does not appear in *Hansard* because I did not, in fact, read it out.

Members interjecting:

The Hon. C.J. SUMNER: The wrong one, yes. I read out the wrong one. The Cabinet decision was that the guidelines should be drawn to the attention of those instrumentalities which are not the subject of ministerial direction. Obviously, as the honourable member has pointed out, the Government cannot direct the State Bank, WorkCover or such bodies as the Legal Services Commission to adopt the guidelines, but it is the Government's intention that the guidelines should apply. They have been referred to the appropriate Minister for that Minister to send to the statutory instrumentality concerned.

That includes, where they are the subject of ministerial direction, that the ministerial direction should be given if it is necessary. It may not be, of course. The statutory authority may agree to adopt the guidelines. However, where the instrumentality is not subject to ministerial direction, the Minister will send it the guidelines and ask that it adopt them. So, all statutory authorities are covered but, obviously, as the honourable member quite rightly points out, the Government cannot direct certain statutory authorities and, in that case, the guidelines will be sent to them.

That is what the amended ministerial statement was supposed to say and, in fact, did say. If I can, I will amend it now, at least to answer this question, by adding to the words 'ministerial direction' where they appeared yesterday, the following:

> ... and drawn to the attention of instrumentalities which are not the subject of ministerial direction, for example, the State Bank

That clarifies that aspect.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: That is basically it. If the State Bank does not, it will not be acting in accordance with the Government's wishes. The honourable member is quite right in saying that, technically, we cannot direct them, but the Government's expectation is that the code of conduct would apply to those instrumentalities as well. That deals with the first question.

As far as the Government is concerned, they are supposed to be all embracing but, because of the nature of those instrumentalities, the fact that they are not public

servants in the strict sense of the word, some of them operating in the commercial arena, there may need to be appropriate amendments to those guidelines to take account of the situation in those statutory authorities. But that will be a matter for those statutory authorities to look at and, if they feel that there needs to be modification to fit their circumstances, of course, that is something they can do.

However, basic principles outlined are designed to apply across the board to public servants and those in statutory instrumentalities, both of those being subject to ministerial direction; and one would expect that those that are not would accept the guidelines in any event.

The Hon. R.I. Lucas: They could say 'No', couldn't they?

The Hon. C.J. SUMNER: They could say 'No'; yes. It would not be the first time. They could, but one would not expect in an area like this that the statutory authorities would give effect to those guidelines. I think that answers the first two questions.

The third question is about directors and boards. As the honourable member knows, considerable attention has been given to this issue. The Government has announced that it is preparing a model statutory corporations Bill, and these sorts of issues will be picked up in that. I would suggest that when Bills creating boards come before the Parliament this is an issue that will need to be given attention in the future. It has been in the past in some of the more recent boards that have been established, but the Public Corporations Bill, which is in the process of being drafted, will deal with this issue, and when that Bill is introduced the honourable member will be aware of what the Government is doing in that respect.

HINDMARSH ISLAND BRIDGE

The Hon. DIANA LAIDLAW: I have a series of questions:

1. Can the Minister of Transport Development confirm that negotiations with both the District Council of Port Elliott and Goolwa and the company Binalong (which is the proponent of the marina development) have been finalised in respect of the terms and conditions of their contribution to the cost of the proposed bridge between Goolwa and Hindmarsh Island?

2. Is it correct that Binalong has agreed to impose a levy of $5 000 on each block sold in the future?

3. Over what period of time does the Government require third parties to pay back their share of the cost of the bridge—a minimum of $3.4 million plus interest, I understand, that sum being the difference between the Government's contribution of $3 million and the estimated cost of the bridge of $6.4 million?

4. As the department's capital works budget for this financial year nominates November, which is in a few days' time, as the commencement date for construction work, have tenders yet been called, and if not when will they be called, and what are the revised dates for commencement and completion of the bridge?

The Hon. BARBARA WIESE: I am not in a position to confirm that the negotiations with the council and the company have been concluded. If that is so, it has not yet been drawn to my attention. However, I am aware that negotiations have been taking place about the matter of a bridge to Hindmarsh Island. I will seek an updated report from the department as to the status of negotiations, and I will ask that it include responses to the questions that have been asked by the honourable member.

LOTEMAPP

The Hon. R.I. LUCAS: I seek leave to make an explanation before asking the Minister representing the Minister of Education questions about the Language Other Than English Mapping and Planning Project.

Leave granted.

The Hon. R.I. LUCAS: Last month during the budget Estimates Committees the Liberal Party asked a series of questions regarding languages other than English in school, and in particular about the Language other than English Mapping and Planning Project, known by the acronym LOTEMAPP. Among those questions was one to the then Minister of Education asking if he would seek an independent review of LOTEMAPP, and if not why not.

The question was asked because of considerable criticism that had been levelled at LOTEMAPP from people involved in teaching languages and from the Centre for Language Teaching and Research which had previously held a conference to discuss that very issue. The criticisms, for example, included those of Mr John Deane from the Modem Languages Teaching Association of South Australia, who said that there appeared to be no reference made to languages in the secondary sector, and no consideration given to the link between primary and secondary in language education. Mr Deane said that second language learning would not gain anything from LOTEMAPP.

Ms Anne Martin of the University of South Australia also argued that, as LOTEMAPP was seen as an exceedingly contentious issue by people with expertise in the field, the Minister would be well advised to seek an independent opinion from external experts. In response, the Minister stated that there was already an external review into LOTEMAPP comprised of an advisory committee to the Minister of Education called the Multicultural Education Coordinating Committee (MECC). The Minister stated it was from MECC that he took advice.

However, I have been advised from Education Department sources that MECC has never been asked to conduct a formal external review of LOTEMAPP and that the Minister's statement to the Parliament was incorrect. I understand MECC's only input has been to comment on the draft LOTEMAPP together with dozens of other individuals and organisations. There is also the view that MECC is not the appropriate body to conduct an external review because it had a member on the steering committee which originally implemented LOTEMAPP. My questions are:

1. Will the Minister confirm with MECC whether or not it has been asked to conduct a formal external review of LOTEMAPP?

2. Does the Minister believe that given the controversy over LOTEMAPP there should now be a genuinely independent external review of it?

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

MURRAY, THE COD

The Hon. BARBARA WIESE: I seek leave to have incorporated in *Hansard* a ministerial statement that was made by my colleague the Minister of Primary Industries, who delivered this statement in another place concerning Murray cod.

Leave granted.

Yesterday in Question Time in the other House the member for Victoria raised the very sad ending of the Codfish known as 'Murray' and the Minister of Primary Industries undertook to obtain further information and report to the House on the circumstances surrounding Murray's death.

Murray was tagged by departmental officers in 1979. It is thought that Murray was the progeny of spawning during the 1974 flood. In September of this year for the purposes of a live native freshwater fish display at the Royal Adelaide Show, Murray was brought to the show from the River Murray.

Weighing 38kg and greater than one metre in length, Murray was displayed at the show where he served to promote public awareness of this species and the Department of Primary Industries program with respect to the enhancement of native freshwater fish. Subsequent to the Royal Show, Murray was transferred to a large aquarium at the department's premises in Pine Street for the treatment of an eye disease before being returned to the River Murray.

It was here while awaiting treatment that Murray's life support system failed. Murray died primarily as a result of the failure of the biological filter on the aquarium. The cause of death was due to misadventure and not any deliberate act. Otoliths (the equivalent of ear bones) taken from the deceased fish will confirm if in fact Murray was spawned during the 1974 flood. Murray has been forwarded to the South Australian Museum so that a plaster cast can be made for future public displays. An incident of this nature is sad and regretted but at the time of Murray's death Murray was a mature fish with plenty of offspring in the river. In raising the matter in the House I am sure that the memory of Murray will live longer than otherwise would have been the case.

INTERPRETERS

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister representing the Minister of Health a question about interpreter services.

Leave granted.

The Hon. M.J. ELLIOTT: In May this year a report was released by the North West Suburbs Health and Social Welfare Council entitled 'In Our Own Voices'. The report detailed the experiences of a number of Spanish speaking women in relation to interpreter services in the health area. The report highlighted the inadequacy of interpreter services in the health arena and observed that many people are putting their health at risk because they are unable to trust and rely on interpreters.

Many concerns about the interpreter services were identified. These included the problem of accuracy of the interpretation, especially with respect to medical and health related terminology. Many translators have not received adequate training. To cite just one example, an interpreter used by a Chilean woman, when seeing a psychologist, was learning English from television and radio. She was obviously unqualified to deal with the complex terminology involved. Dr Hopgood, the then Minister of Health, recognised this problem in his speech launching the report. He noted that interpreter educators are willing to provide specialist training in areas such as mental health, but that the service providers from whom the Health Commission buys interpreting services have resisted attempts to create pools of specialist interpreters.

Other problems identified in the report and acknowledged by Dr Hopgood were the reliability of interpreters, the lack of confidentiality maintained by interpreters, and the lack of knowledge of clients' rights. Dr Hopgood expressed his concern that standards of professionalism among interpreters were lapsing. He declared that remedial action through in-service training for interpreters must be undertaken. My questions to the Minister are:

1. What official training do interpreters receive before they are able to be used by non-English speaking clients in the health arena?

2. What action is the Minister intending to undertake to ensure that interpreters receive training about confidentiality, punctuality and professionalism in addition to the language training that they receive?

3. Will the Minister give an undertaking that the Health Commission will exert pressure on the service providers from which it obtains its interpreters to create pools of specialist interpreters?

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

ARTLAB

The Hon. CAROLYN PICKLES: I seek leave to make a brief statement before directing a question to the Minister for the Arts and Cultural Heritage on the question of Artlab.

Leave granted.

The Hon. CAROLYN PICKLES: I understand that recently Artlab ran a competition in the Messenger Press which I understand required people to write in to Artlab about a family treasure that they would like to have preserved. I have been informed that this has been quite popular and that some very interesting items were written about. Would the Minister advise what the response has been to this advertisement?

The Hon. ANNE LEVY: I am delighted to be able to give information on this extremely important and worthwhile initiative which Artlab has undertaken. As the honourable member said, Artlab did run a competition, with assistance from Messenger Press, inviting people to write in about a personal treasure which they would like conserved. The prize was $1 500 worth of conservation work to be undertaken by Artlab on the treasures. It had an enormous response, with letters coming from all over the metropolitan area and some from near country areas. The number of responses was close to 300, and I am told there was the greatest difficulty in selecting the winners of the prize. Three of the eventual winners had the conservation work done on their items and were

extremely pleased with the results of that conservation work.

I had the privilege of presenting the items back to their owners yesterday, and the stories associated with many of these personal treasures are really very heart-warming. In particular, a delightful little nineteenth century frock for a two-year-old has been worn so far by five generations of the one family. There are photos of all five generations wearing this garment at age two years. It had become damaged by the current two-year-old—not surprising given the age of the garment—but has now been completely mended and restored by Artlab and provided with proper conservation storage facilities. So I am sure it will now be passed on and used for a similar purpose for the next five generations of that family. That is just one example of the very heart-warming stories and family treasures that came to light as a result of the competition from Artlab. The unsuccessful applicants will all receive a free clinic examination of their treasures by Artlab and, if they wish to have conservation work undertaken, will receive a discount on the normal price charged by Artlab.

The value of a competition such as this is immeasurable not only in bringing to light wonderful family treasures in this way but in getting people to understand that our heritage does not consist solely of objects which are stored in our art galleries and museums—important though they may be. The heritage is what is important to us as people, and the vast bulk of our heritage is in the hands of the citizens of this State. It is valued by them and contributes to the culture of our community. The Artlab competition serves to highlight the importance of heritage items, which are held right throughout the community, which have great meaning to the individuals who own them and which are of such value to the community as a whole representing our cultural heritage.

Furthermore, by means of the competition Artlab is much more aware of many of the conservation needs throughout our community and of the type of material that people value and would like to see conserved and will be assisted in constructing its programs as a result of such competition. It was interesting that, of those who took part in the competition, over 70 per cent of letters were from women. I refrain from drawing any conclusion as to the value placed on cultural heritage by the sexes as a result of this. Certainly the competition, for which I give great thanks to the Messenger Press as well as to Artlab, highlighted the cultural heritage that exists right throughout our community and the wonderful work that Artlab can do in preserving this heritage for future generations.

KENSINGTON COLLEGE OF TAFE

In reply to **Hon. J.F. STEFANI** (20 August).

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

Leave granted.

The former Minister of Employment and Further Education has provided the following response:

1. The SACON Asbestos Management Unit's records show that sprayed asbestos was removed from the steelwork and underside of the roof at second floor level in late 1986 and early 1987. The unit is unaware of any other friable sprayed asbestos products in the main building or the two storey library wing. However, fixed stable asbestos cement sheeting is present throughout the building as ceiling linings.

2. At the time that the identified loose asbestos material was removed, that activity constituted all of the requirements of the then current regulations. Subsequently, no additional survey has been undertaken.

3. An asbestos register and management plan was not prepared for the Kensington Park College as all requirements of the then current regulations had been met and the site was listed for closure in 1991.

4. SACON advises that friable sprayed asbestos and unstable sheeting materials that may have contained asbestos was removed. Asbestos cement sheeting found to be stable remains in place in the building and does not pose any known risk if left undisturbed.

ELECTRICITY TRUST

In reply to **Hon. J.F. STEFANI** (8 September).

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

Leave granted.

The former Minister of Mines and Energy has provided the following response:

1. Yes.

2. ETSA has a high level of expertise within its staff including the Manager, Occupational Health and Safety, who is an industrial chemist. ETSA has satisfied itself that the requirements of all relevant legislation will be met in the fit-out and subsequent occupation of the building.

CAR RESTORATION

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 Government competition with the private sector.

Leave granted.

The Hon. L.H. DAVIS: I have been contacted by persons in the motor trade who are concerned that TAPE colleges in Adelaide in recent months are painting and repairing classic motor vehicles, each worth tens of thousands of dollars, in competition with the private sector, and in so doing are creating unemployment in automotive firms. The Croydon Park College of TAFE has apparently since the beginning of 1991 painted a Jaguar E Type and an Aston Martin—the Aston Martin in the past few weeks. It is alleged the cost of these jobs to the owners of the cars is only $250. However, private sector firms involved in restoration and painting of classic motor vehicles believe that to respray classic cars such as the Jaguar E Type and Aston Martin would cost in the trade between $6 000 and $10 000.

Kingston College of TAFE is currently restoring an Elfin Mono racing car during a training course. This car is in bad condition and it is suggested that the car's value following work done at the college will increase from $15 000 to $20 000 to as much as $80 000. It is. alleged that chrome plating work for the Elfin has been done outside the college and it is suggested that the cost of this work has been charged back to the college.

The people who contacted me do not begrudge students gaining valuable hands-on experience; on the contrary they welcome it because they may ultimately employ them. But they point out that, ironically, the colleges by

painting and restoring classic cars are competing directly with private sector firms and reducing the employment prospects of the very students who are doing the work at the college. In fact one person I spoke to today, who enjoys a national reputation restoring and painting classic cars and racing cars, told me that he has just retrenched an apprentice body builder and a painter. In the past apparently students have been able to gain the necessary experience working on body shells made available by motor vehicle manufacturers, or old cars obtained from motor wreckers. My questions to the Attorney-General are:

1. Does the Government accept the practice presently undertaken by the Croydon Park College of TAFE and the Kingston College of TAFE?

2. How do the colleges of TAFE come to select the vehicles which are painted or restored by students of the colleges?

3. How many classic cars or racing cars have been restored, painted or worked on by TAFE colleges in South Australia since the beginning of 1991?

4. What have been the costs to the owners of these cars in each case and what has been the basis of the calculation of these costs?

5. What have been the costs to the college of restoring, painting or working on each of these cars?

6. Where a vehicle's value has been enhanced by tens of thousands of dollars, as appears to be the case with the Elfin Mono racing car, does the college receive any benefit from the eventual sale of the vehicle?

The Hon. C.J. SUMNER: I assume that the college is carrying out its task as a trainer of young people and others and that what they are doing is part of the courses that it offers. However, obviously I cannot answer the questions so I will have to take them on notice and bring back a reply.

VICTORIA SQUARE

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

Leave granted.

The Hon. I. GILFILLAN: Honourable members will be aware that the Adelaide City Council is set to target a small group of Aborigines in Victoria Square and to try to declare the area a dry zone in time for the Grand Prix. This has been described to me by Aboriginal representatives as blatant racism. The Royal Commission into Black Deaths in Custody recommended, as honourable members would remember, the introduction of detoxification centres in all areas with a significant Aboriginal population. There is no detoxification facility in the city and the council has abrogated its responsibility towards the health of that group by failing to establish the much needed centre. Such a facility would go a long way towards dealing with problems of alcoholism, as opposed to the sanctimonious attempts by council to sweep the problem under the community's rug. There is a glaring double standard in relation to the council's head in the sand actions in relation to the Grand Prix.

A resident in the East End of Adelaide got in touch with me this morning and said that that end of town becomes a battlefield of drunken yobs, to use his terms, drinking until they vomit, urinating and defecating in streets and surrounding homes, indulging in beer-soaked, wet T-shirt competitions and insulting anyone within earshot. It is quite plain that this is all accepted under the imprimatur of the event's major sponsor which happens to be a beer manufacturer.

We are told that this is somehow good for the economy, while authorities attempt to keep a so-called Aboriginal problem out of sight and out of mind. According to Aboriginal artist Mr Don Smith, quoted in a story in today's *Advertiser,* the council regularly attempts to get rid of Aborigines from Victoria Square '...before major events in the city but did nothing to address the issue of Aboriginal alcoholism at any other time. Until this problem is broken down it will be recreated somewhere else.' In addition, Mr Damien Mead, representing the Whitmore Square Residents' Association, said that the council's move was 'an attack on Aboriginal people' and 'a cynical bandaid measure'. It certainly seems that, in the eyes of the Adelaide City Council, there is one set of rules for the Aboriginal community and another for the non-Aboriginal community. It could easily be described as a form of apartheid. My questions to the Attorney are: does he agree that the actions of the Adelaide City Council towards the Aboriginal people in Victoria Square amount to racial discrimination and, if so, what action can the State Government take to ensure that the Aboriginal people are accorded the same rights as white people in that respect? Will the Government take action?

The Hon. C.J. SUMNER: I am not going to get into the debate as to whether it is racial discrimination or not. There are mechanisms to deal with that issue in our State. They have existed for some considerable time, as the honourable member would know, and if people allege that the actions that a city council or any other institution or person in the community takes amounts to racial discrimination, they have rights to take that to the Commissioner for Equal Opportunity, or indeed to the Federal Human Rights Commission. If the honourable member wishes to pursue the matter, or if the people who raised this issue with him wish to pursue it, there are mechanisms clearly established in our law for complaints of racial discrimination to be dealt with.

The honourable member is aware of the Government's policy on dry areas, which I think is an enlightened policy, and it was outlined briefly yesterday by my colleague the Minister of Consumer Affairs. We certainly accept that, just creating dry areas, is no solution to the problem of public drunkenness, whether it is drunkenness by people of one ethnic group or drunkenness by young people, which occurs in some areas of the city of Adelaide.

The Hon. I. Gilfillan: At Grand Prix time.

The Hon. C.J. SUMNER: At Grand Prix time as well, and there have been allegations of drunkenness at Glenelg, which is not Aboriginal people usually but young people on the beachfront. That has been dealt with by a dry area policy. But I just make the point that the simple removal of people by the declaration of a dry area is not a solution to the problem of public drunkenness and the anti-social effects that flow from it, which is why the Government has developed what I think is an

enlightened policy in this area, and that is, that if a council, be it the city council or anyone else, wants to declare a dry area, then it has to be done in conjunction with the development of a crime prevention plan under the Government's crime prevention program, that is, a program which looks at the underlying problems of public drunkenness and which attempts to deal with the causes of the problem and not just the symptoms of the problem, and that is what has happened generally with the declaration of dry areas.

As I said, I think it is a very enlightened approach. It recognises that in some cases it is appropriate to declare a dry area but that if it is declared then it has to be done in conjunction with a plan involving the local community, Government departments and local government in trying to deal with the underlying problems that are leading to the public drunkenness and the consequent breaches of the law which sometimes follow.

As far as the Adelaide City Council is concerned, there is a dry area in the Hindley Street/Rundle Street area. That has been declared. In fact, there has been a crime prevention plan of sorts operating in the Hindley Street area, which has seen, I believe, a levelling off of anti-social behaviour in that area over the past couple of years. In respect of dry areas elsewhere, the topic has been raised in the past with respect to Victoria Square and Whitmore Square, and I think at one stage a proposal came from the council to declare all squares dry. However, after discussions with the present Lord Mayor some years ago it was decided by the city council that it would not pursue the question of dry areas in Whitmore Square or indeed in Victoria Square but that we would look at means of dealing with the problem in a broader way.

I think personally that that is the correct policy. I know that some people find it offensive to see people sitting drinking in Victoria Square. Frankly, although I use Victoria Square reasonably often I have never had any problems with the people who have been there, and my office was abutted to Victoria Square for many years. I do not think it is legitimate to say that people should be removed at Grand Prix time, because it is a bit unsightly. If there are criminal offences that are occurring and a major disturbance to passers-by, then obviously that is a different matter.

It is just a matter of people drinking there, I think that South Australia should be mature enough a community to cope with that, even at Grand Prix time. The notion that you clean up the city at Grand Prix time because it might give a wrong impression to visitors is misguided, because that is the reality of Australian life, and one of the real problems that we have, which we have not grappled with, is the problem of public drunkenness, particularly by people of Aboriginal descent. To suggest that at Grand Prix time we should just move people on because it does not look nice does not have much going for it.

However, if the argument is that criminal offences are being committed and major harassment and annoyance are being caused to people, that is a different issue. All I can say is that, if there is an application from the city council for a dry area, it will be considered by the Government in the normal way. That policy is on the books and has been for some time. It is publicly known and is set out in pamphlets distributed to local councils that want to consider dry areas. If the city council wishes to make the application, no doubt, it will be considered, but it will be considered within the context of that broad publicly stated policy.

The Hon. I. GILFILLAN: As a supplementary question, the Attorney-General made it pretty clear, but I want to ask him to encapsulate it. As I understand it, the Government would not support the declaration of Victoria Square as a dry area unless it were accompanied by a long-term, substantial program to eliminate the perceived problems that may or may not exist there.

The Hon. C.J. SUMNER: That is the general policy and, whilst I cannot go beyond stating that general policy, in relation to any particular area the matter has to be looked at. I understand that the Hon. Ms Levy answered a question on this matter yesterday, and I have merely reiterated what she said. I am not going to pre-empt any decision. There is a policy: if the city council wants to consider a dry area, it comes to Government, we consider the application, but declarations of dry areas occur in the context of the broad policy that is designed to deal with the causes of the problem and not just its symptoms.

HOSPITAL STAFFING

The Hon. BERNICE PFITZNER: I seek leave to make a brief explanation before asking the Minister representing the Minister of Health, Family and Community Services a question about staffing at the Queen Elizabeth Hospital.

Leave granted.

The Hon. BERNICE PFITZNER: With the tight budget constraints in our public hospitals, the closure of beds, the reduction of services and the long waiting list for operations, we ought to look at our staffing in public hospitals. Having worked in the western suburbs, I have always had an interest in the Queen Elizabeth Hospital. Looking at the work force statistics at June 1992, of interest are the following: nursing, 1 050.2 full-time equivalents (FTEs), which amounted to 41.8 per cent of the total staff; administration and clerical staffing, 351.9, which amounted to 14 per cent; allied health professionals, 125.6, which amounted to 5 per cent of the total staff; salaried medical officers, 242.9, which is 9.7 per cent of the staff; and visiting medical officers, 31.4, which was 1.3 per cent.

All other groups of the hospital staff had a percentage of the total staff of under 10 per cent. Further, over the one month period from June to July there was an increase in administrative and clerical staff by 6 FTEs, a decrease in allied health professionals by 3.1 FTEs and an insignificant increase in medical officers of .3 FTEs. It is also noted that the mix of salaried medical officers and visiting medical officers has changed. My understanding of a hospital is that its main function is medical and health service.

That being so, and with the new Health Minister's constant complaint that the problem in hospitals is management, my questions are:

1. Why is there such a preponderance of administrative staff over allied health and medical staff?

2. Why has there been a decrease in allied health staff, that is, staff in physiotherapy, occupational therapy and speech therapy?

3. Why has the mix of salaried medical officers and visiting medical officers changed in favour of salaried medical officers?

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

FISHING, NET

The Hon. PETER DUNN: I seek leave to make a brief explanation before asking the Minister representing the Minister of Primary Industries a question about net fishing.

Leave granted.

The Hon. PETER DUNN: Last night at Port Lincoln about 250 people attended a public meeting to discuss net fishing in the area as well as power hauling, a method used by professional fishermen to catch whiting, in particular. The area they were concerned with was Port Lincoln and its surrounding areas, including Coffin Bay. At that meeting, more than 200 people voted for a netting ban and 19 voted to retain netting. Port Lincoln and Coffin Bay rely on tourism for their very existence. Coffin Bay, in particular, has a history of good fishing and, as such, is a great attraction to amateur fishermen.

I have been informed that when the netting season opens fishing takes place in a great frenzy by the net fishermen. This, I am told, makes line fishing less productive and very much less attractive. There are new guidelines and quotas for amateur fishermen, which have been introduced by the Fisheries Department and which must be observed by the amateur fishermen. Last night's meeting at Port Lincoln, large by any standard, overwhelmingly sought a reduction in the net fishing pressures.

I have received similar opinions from local government at Streaky Bay, Port Augusta and Franklin Harbor. My questions to the Minister are:

1. Will the Minister assist these local government areas to restrict net fishing from their areas and, if not, why not?

2. What is the weight and what are the types of fish caught by net fishing in the above areas?

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

TONSLEY INTERCHANGE

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

Leave granted.

The Hon. DIANA LAIDLAW: During the Estimates Committee on 22 September last, the former Minister of Transport (Hon. Frank Blevins) said that '...a Cabinet submission on the Tonsley Interchange is being prepared even as we speak' and that the submission would be considered by Cabinet 'over the next few weeks'. The Hon. Mr Blevins also noted that the interchange was a fairly marginal decision, because the Tonsley site was so close to the city and commuters would not save much time. This assessment reflects the Planning Review's opinion that a bus-rail interchange at Tonsley was a marginal project that was unlikely to proceed.

The construction of the Tonsley interchange was promised by the Bannon Government prior to the 1989 election. As at March 1992, a scaled down version of the original interchange proposal was estimated to cost $17.1 million. My questions to the Minister are:

1. Has the Minister taken to Cabinet the Tonsley interchange submission referred to by the former Minister, and when will we finally know whether or not the Government intends to invest in this project?

2. What assessment has been made of alternative sites, for example, linking the interchange into the Westfield Shopping Centre at Marion, acknowledging that this site would probably generate private sector investment in the project and, thus, reduce the cost to taxpayers? Certainly, that has been the case at the interchange proposal at Tea Tree Plaza, which is also owned by Westfield.

The Hon. BARBARA WIESE: I have not yet taken this matter to Cabinet. It certainly was in the process of being taken to Cabinet at the time of the change in ministerial positions and to some extent has been held up by those changes. It is one of the issues that I have yet to turn my mind to fully, but I hope that shortly I will be able to take a submission to Cabinet and that a decision can be made by the Government about this proposal, which I acknowledge has been on the drawing boards now for quite some time. I am also aware of the local community interest in the proposal and that a lot of people are awaiting the outcome of the Government's deliberations on the matter. So, it is something that I want to get to Cabinet in the very near future so that some public announcements can be made. I am not quite sure of what assessments have been made of alternative sites, but I will certainly seek information from my department about that matter and bring back some information on that topic.

PRISONER, DRUGS

The Hon. I. GILFILLAN: I seek leave to make an explanation before asking the Attorney-General a question about methadone treatment of prisoners.

Leave granted.

The Hon. I. GILFILLAN: It is widely known that there is extensive drug use in South Australia's prisons, a high proportion of which involves heroin. We also know that a high proportion of inmates serving time in our prisons are there for drug-related offences. It is therefore easy to assume, and I believe irrefutable, that a high proportion of inmates in South Australia's prisons have a continuing drug addiction or drug problem, and a high proportion of them would be heroin users. I ask the Attorney-General representing the Minister of Correctional Services:

1. How many inmates of South Australia's prison system have been treated by transfer to a methadone treatment to deal with drug addiction?

2. How many have been given any other form of treatment for drug addiction?

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

COURT SERVICES DEPARTMENT

The Hon. K.T. GRIFFIN: I seek leave to make an explanation before asking the Attorney-General a question about the Courts Services Department work injuries.

Leave granted.

The Hon. K.T. GRIFFIN: In the 1992 annual report of the Court Services Department, under a section entitled 'Workers Compensation', there is a reference to an increase in various injuries suffered at work by employees of the department. The report says that an analysis of the year's claims reveals that the incidence of repetitive strain injury remains the most common cause of work-related injury. The number of trips and falls has more than doubled, and there has been a significant increase in the number of stress claims. Then the report identifies the various injuries that have occurred. Repetitive strain injury comprises 27 per cent; trips and falls 23 per cent; stress 12 per cent; motor vehicle accidents 4 per cent; and miscellaneous 34 per cent.

In a table relating to occupational health, safety and welfare statistics, in the 1991-92 year the department had an average of 677 employees, but in that year the total number of work injuries reported increased by 31 per cent from 74 in the previous year to 97 in 1991-92. The total number of workers compensation claims increased by 27 per cent from 105 up to 134. The total number of new claims increased by 43 per cent from 56 up to 80, and the total cost of claims carried by the department increased by 127 per cent from $63 416 to $143 231, although there had been a reduction in the total cost of claims against insurance funds. In 1991-92 there was an increase from 20 to 26 in the number of health and safety representatives, and for the first time training and occupational health and safety had been given for a total of 1 087 hours compared with nil in the previous year. The Attorney-General may need to obtain some information, but my questions are:

1. Can the Minister indicate what are the reasons for the significant increases in the various levels and categories of work injury and what steps are being taken to minimise those injuries?

2. Will he indicate what effect the occupational health and safety training program is having, considering that, as I said, 1 087 hours were expended on that sort of training in 1991-92 but the number of accidents increased significantly?

The Hon. C.J. SUMNER: I will take those questions on notice and obtain a report for the honourable member.

STAMP DUTIES

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 stamp duties.

Leave granted.

The Hon. M.J. ELLIOTT: I understand that in recent days the *Government Gazette* has been sent to all schools instructing them that, in relation to hire facilities, a $10 stamp duty should be imposed on each transaction. My understanding is that that decision has already been rescinded by the Government. When one school inquired of the person who sent out that instruction he said, 'Yes, that instruction still stands.' Am I correct in understanding that that $10 stamp duty charge should not be allowed and, if so, will an instruction go out to all schools immediately in relation to that matter?

The Hon. ANNE LEVY: I will refer those questions to my colleagues in another place and bring back a reply. I think the question should be referred not only to the Minister of Education but also to the Treasurer, who is obviously the person involved in stamp duty legislation.

STATE TRANSPORT AUTHORITY TIMETABLES

The Hon. DIANA LAIDLAW: I understand that the Minister of Transport Development has an answer to a question about transport problems that I asked on 8 September and, if she wishes to incorporate that in *Hansard,* I am agreeable to that course.

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

Leave granted.

1. All known faults in the signalling system and problems with the railcars have been addressed by the responsible contractors.

2. and 3. The signalling faults were associated with the computer software and the contractors, Westinghouse, have worked to identify and rectify the faults. The great majority of the faults have been rectified and every effort is being made by the STA and Westinghouse to address the few remaining irregularities. All costs for the rectification work will be borne by the contractors.

4. The new 3000 series railcars have not been subject to mechanical failures. There was, however, an electrical fault with the power supply to the computer unit. Modification to the power supply was completed in September on all of the new 3000 series railcars. Costs for these repairs were borne by the contractor.

INFLUENZA

The Hon. BERNICE PFITZNER: I move:

That this Council requests that the State Government urges the Federal Government to implement a haemophilus influenza type B (llib) immunisation program for all 0-5 year old children in South Australia as soon as the licensed vaccine is out for tender, and that, if the Federal Government is unable to fund a program immediately, it should explore ways and means to make this vaccine available and accessible.

Haemophilus influenza type B is a germ in the form of bacteria, not a virus. The disease occurs usually in children under the age of five, and approximately 90 per cent to 95 per cent of cases occur in children under that age. The onset of Hib infection is sudden, with resulting fever and vomiting. In many countries it is the most common cause of meningitis. Epiglottitis, or severe

swelling of the throat, can also occur. This can result in suffocation. Other lesser infections caused by the bacteria are arthritis, pneumonia, skin infections and bone infections.

Treatment with antibiotics is frequently ineffective, and there are signs of antibiotic resistant bacteria emerging. The rate of infection with this bacteria is approximately one in 350 for children in a Victorian study. For Aboriginal children in Central and Northern Australia the infection rate is approximately one in 100. Therefore, Aboriginal children are three or four times more likely to contract the disease.

In another study the rate of infection in Central Australian Aboriginals was one in 20. It has been reported that if all children were immunised against this Hib disease with the vaccine one could save 20 to 40 deaths per year and perhaps 500 to 700 cases of severe disabilities.

Looking at statistical tables on the attack rates for invasive Hib infection, one sees that Oxford in the United Kingdom had the lowest attack rate at 33.4 per 100 000; Victoria in Australia is in the central area of the infection rate at 58.5 per 100 000; while Central Australian Aborigines have the highest attack rate at 867 in 100 000. Therefore, the documented case attack rate in central Australia is the highest in the world. I seek leave to incorporate in *Hansard* a statistical table which shows the comparison of reported case attack rates for invasive Hib infection cases per 100 000 children under the age of five years.

Leave granted.

Table 3: Comparison of reported case attack rates for invasive Hib infections, cases per 100 000 children under five years, per year

	Cases per 100 000 children under 5 years, per year
Oxford, UK[7]	33.4
Santiago (Area Norte) [8]	42.5
Southern Israel[9]	51
Finland [10]	52
Victoria, Australia[3]	58.5
Monro County, NY[11]	64
Minnesota[17]	68
Fresno County, Col[13]	90
USA[14]	100
Non-native, Alaska[15]	214
Navajo[16]	214
Native Alaska[11]	601
Central Australia[7] (Aboriginal)[5]	867

Note: *(a)* Corrected for Hib isolation rate.

The Hon. BERNICE PFITZNER: It is important to know the pattern of infection by Hib, in particular infection such as meningitis and epiglottitis (swelling of the throat). Overall, meningitis accounts for 40 per cent to 60 per cent of all invasive Hib infections. Epiglottitis accounts for approximately 30 per cent of all invasive Hib infection for children under five years in the Victorian study.

The median age at which meningitis occurs was 16 months and the median age for Hib epiglottitis was 35 months. The Australian College of Paediatrics notes that two-thirds of cases of invasive Hib disease in Victoria occur after the age of 18 months in Australia but that in the United States a higher proportion of the disease occurs under the age of 18 months.

The point is that the patterns in countries are different and that we should not extrapolate patterns of this disease from one developed country to the other which we have been doing. With the Australian pattern there is a slightly different one than from the United States, and with this in mind one can determine the immunisation program strategy. At present the current vaccine is for use on children over the age of 18 months. The Australian College of Paediatrics recommends the use of this current vaccine, even though it does not cover the whole of the childhood population. The vaccine will reach more of the target group as two-thirds of cases of invasive Hib disease occur after the age of 18 months in Australia.

However, an immunisation program as recommended by the Australian College of Paediatrics has not been implemented. This is due to the lack of State and Federal funds. Therefore, this current vaccine, for those over 18 months old, costing approximately $20, will not be available for children because it is too expensive. This vaccine has been available for two to three years.

We now have a new vaccine that covers children from 0-5 years. It has recently been licensed and will be available on the market in a few weeks. We have approximately 100 000 0-5 year olds in South Australia. If the vaccines cost $10 each, we will need only $1 million to cover all these children and prevent death and severe disabilities. With approximately 20 000 children being born each year, we would need a yearly commitment of $200 000 to cover each cohort of new boms. This amount of funds is insignificant compared to the million dollars cost for putting up and taking down the Grand Prix grandstand in Victoria Park, for example.

For a far-sighted Federal Government and for a Government of vision, a national immunisation program should be implemented. This program should incorporate not only vaccinations but also uptake of vaccinations and notification of Hib infection. An education program should also be instituted whereby general practitioners should be aware of the frequency of severe disabilities resulting from this Hib infection, and parents should be aware of availability of the vaccine.

This new vaccine must be implemented immediately. It must be available in terms of location, and it must be available in terms of cost accessibility. This vaccine should and must be incorporated into the routine immunisation program now being given to all South Australian children under the age of five years. I therefore urge my colleagues to support this motion.

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

WAITE INSTITUTE

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

That this Council expresses concern at the action of the current Premier who, in his capacity as Minister of Agriculture, determined that the construction of the Administrative Centre at the Waite Institute should proceed contrary to the recommendations of the Environment, Resources and Development Committee.

(Continued from 14 October. Page 436.)

The Hon. T.G. ROBERTS: I oppose the motion on the basis that time has caught up with it and has made it completely superfluous to needs and requirements. Since the motion was moved, the Hon. Lynn Arnold, who was then the Minister who made the decision not to heed the recommendations of the Economic, Resources and Development Committee, has now achieved higher office as Premier and is restructuring all the departments. Consequently, the Department of Primary Industries is being looked at in the light of the needs and requirements of the new restructured department. I think members across the way—

The Hon. R.I. Lucas: What does that mean?

The Hon. T.G. ROBERTS: It means that there is a restructuring of the department, and the administrative requirements and the research facilities may be separated.

The Hon. R.I. Lucas: They might stay in the central business district.

The Hon. T.G. ROBERTS: No, I am saying that they will be separated. There may be a section of the administration in the central business district, and the research facilities left may be left on the Waite campus. I think the words of the committee were heeded. The statement that was made by the new Minister on 22 October indicates that a review will be done and, after all, that was the suggestion of the committee.

I should have thought that the Hon. Mr Lucas would be happy, that the new Minister has reviewed the situation in the light of the bold decisions being made by both the Premier and the new Minister, in restructuring the departments, to have as a focus the revitalisation of industry in South Australia, consequently giving a focus to the primary industries in particular. I should have thought that the honourable member would be happy to see that the Economic, Resources and Development Committee's recommendations are being heeded and that a review is under way.

The current Minister has indicated that a review will be carried out and that at the end of this month a decision should be made whether the research and administration facilities are separated. It has been indicated that the department will be looking at the long-term future of the Waite Institute and the department's needs and requirements. We took evidence from a number of concerned citizens of South Australia about the way in which the department was to be restructured. A body of evidence suggested that it would make good sense to keep the administrative and the research arms together; it would keep all the arms of the primary industry portfolio together in one campus, as well as the Adelaide University research requirements and the CSIRO. But it was recommended by the committee—probably out of financial necessity more than any indication that a compact research administration program would be preferable—that some of the surplus office space in the central business district should be used to house the administrative centre away from the research facilities.

The opinion was also expressed that they be kept together so that the administrative and the research arms could liaise together, that personal contacts could be built up, that the needs and requirements of primary producers and agribusiness could make their contacts all on one campus. As I said, time has overtaken the motion.

The Hon. R.I. Lucas: You have to wait for the decision yet.

The Hon. T.G. ROBERTS: I think the decision by the committee was for the Minister to review the situation, and I am sure that the Minister is reviewing it in the timeframes that he has indicated; I think they are quite acceptable. If he comes down on the side of centralising the administrative arm with the research arm, I am sure it will be done sensitively, in line with the expression of concerns that were shown by the committee. If it is decided to separate the administrative arm from the research arm, those personal contacts, which I said earlier would make good sense to maintain, will be maintained, perhaps using the advanced technologies which are now available to administrative service centres and which do not require people to be in the same building to communicate adequately together.

It is for those reasons—and I know the honourable member will probably think it is fairly eloquent dollar each way—that I, like members opposite, will wait for the review process and the outcomes. My concerns certainly will be put at rest, because I know that the review timeframes indicated by the Minister will be adequate for all the concerns of the committee to be explored. A very wise decision will be made by the Minister, the Hon. Terry Groom. All aspects of research, administration and servicing the needs and requirements of the agricultural/horticultural industry and its interests will be met by a wise decision of the Government acting in the best interests of the State.

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

STATE LOTTERIES (SOCCER POOLS AND OTHER) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 15 October. Page 465.)

The Hon. BERNICE PFITZNER: This Bill sets out to repeal the Soccer Football Pools Act and to readjust its functions into the State Lotteries Commission. Secondly, this Bill also amends the State Lotteries Act so as to allow the distribution of unclaimed lottery prizes to areas other than to the prize pools. The Soccer Football Pools Act was introduced approximately 10 years ago, as there was concern that an estimated $1.5 million per annum was going out of the State to the Eastern States and to the UK.

This sort of logic has been applied to the recently passed Gaming Machines Act, and it would be interesting to check further down the track whether monetary gains will be at the expense of social deprivation. However, the funds obtained from the soccer pools were to support the recreation and sport fund. The soccer pools were conducted by a company known as Australian Soccer Pools Pty Ltd. By 1989 the company was in financial trouble with the recreation and sport fund in deficit by over $2 million. The Lotteries Commission took over the competition as a 'sports lottery' under the commission's own legislation. As a result of this change, provision is

made in the Bill for the recreation and sport fund to exist under the State Lotteries Act.

At present the commission's use of the term 'sports lotteries' relates to competitions that need not be related to the outcome of a sporting event. The Bill seeks to define 'sports lottery' as one in which the result depends on the outcome of a sporting event. The proceeds of these 'sport lotteries' will be paid into the recreation and sport fund. Provision also exists for 'special lotteries' to be run for the benefit of the recreation and sport fund, should the need arise. This provision will be at the discretion of the Treasurer. The Bill also provides that the full cost of running the 'sports lotteries' be deducted from the proceeds of the 'sports lotteries' before the amount is transferred to the recreation and sport fund. It also provides that a lower percentage, other than the statutory 60 per cent, be offered for these 'sports lotteries' and 'special lotteries'. It is interesting to note that the rationale behind the 'sports lotteries' for having less than the statutory 60 per cent allocated to prizes is due to the lower volume of patronage of this form of gambling compared with the other forms of gambling run by the commission. That being so, one has to ask why the 'special lotteries', as defined in the Bill, have to have this special provision for the prize money being less than the statutory 60 per cent of gross proceeds.

It is noted that the Bill changes certain accounting methods such that the commission's account is now outside Treasury and its accounting practices are in line with standard commercial accounting practices.

Other controls introduced serve to improve and clarify some difficulties. Such problems addressed are: first, the ability to appoint as well as to employ agents, and this gives the right to the agents as the need requires; secondly, the issue of its being an offence if one participates in a commission game without paying. This relates in particular to Club Keno; and, thirdly, advertising is another area that has been addressed. These set of amendments appear to be for the betterment of the game.

However, the other area of debate in relation to unclaimed prizes is not quite so enlightened. In fact, in reading the debate in the other place on this issue, it is quite astonishing. The fast changes in allocation of these unclaimed prizes is not only astonishing but also serves to signal that the Government has not carefully considered the issue or else that the complete change is due to 'political expediency'—the term which crops up all the time and which in my estimation has negative connotations.

Regarding the unclaimed prizes, we note the budget speech given by the former Premier on 27 August 1992 stated:

> The final change in relation to revenue concerns unclaimed lottery prizes. Given the importance of the Adelaide Festival of Arts, not only to the local economy but to the increasingly important cultural tourism industry, the Government has decided to amend the State Lotteries Act to provide for 50 per cent of the annual level of unclaimed prizes to be transferred to a special deposit account to be used to provide approved funding levels for the Adelaide Festival of Arts. Of the outstanding balance of unclaimed prizes as at 30 June 1992, it is also proposed to transfer 50 per cent to the Hospitals Fund.
>
> These arrangements are estimated to provide funds to support hospital expenditure in 1992-93 of $4.5 million and to provide funds equivalent to $1.6 million annually as a source of funding for the Adelaide Festival of Arts.

As we note from the budget speech, and until as late as the second reading of this Bill in the other place, 50 per cent of the annual level of the unclaimed prize projected amount was $1.6 million, to be given to the Adelaide Festival of Arts. We note that during the Committee stage on the Bill in another place, the Treasurer became magnanimous, and, according to *Hansard,* following the question from the Opposition 'What are you doing?', the Treasurer replied, 'I am doing exactly what you want and I am circulating amendments that ensure that the unclaimed moneys go to the Hospitals Fund.' Well, what can one say about that amazing change of heart? It does not give one much confidence in a Treasurer of that calibre.

So, now the Hospitals Fund has $1.6 million from the projected annual unclaimed prizes. Also, we have 50 per cent of the accumulated outstanding balance of unclaimed prizes as at 30 June 1992. At this point there are some questions to be asked. First, does that mean that the Hospitals Fund now receives $4.5 million and $1.6 million making a total of $6.1 million? If we have $6.1 million in the Hospitals Fund according to the *Advertiser* article of 21 October 1992, this increase in funds will not increase the budgets of the hospitals. I quote the Treasurer from that article:

> The bottom line budget of all these organisations will not alter one iota by the switch of money from the Festival of Arts to hospitals.

Where is the money going to then, if not to the hospitals? The definition of 'Hospitals Fund' from the Racing Act 1976 states that it 'means the fund established at the Treasury and entitled the Hospitals Fund'. Therefore, we have the situation that although the funds are in the Hospitals Fund, it is not necessary that these funds go to the hospitals—as entitled. I would appreciate some clarification on this point.

The other clarification that is required is where does the other half of the outstanding balance of unclaimed prizes go, that is, the other $4.5 million? Does it remain to supplement the State lottery prizes, or does it go to consolidated revenue? I understand that the other half of the projected annual level of unclaimed moneys, that is, $1.6 million will go to supplement the lottery prizes.

Where does the Festival of Arts stand now as far as funding is concerned? There is a promise of $2.5 million as stated in the budget speech and in the Committee stage of the Bill in the other place. But after all these changes, how much can one trust these promises? The credibility level is indeed low. With these questions to be answered and with these surprising changes, I support the Bill.

The Hon. DIANA LAIDLAW: I speak briefly to this Bill, to register my amazement and that of my Party at the almost quicksand attitude that this Government has in respect of the budget, and particularly in respect of the Festival of Arts. It was of interest to me that the only pre-budget leak, and therefore one must assume an organised leak, was in relation to the Festival of Arts, and we found on page one of the *Advertiser* of 26 August a major announcement that it was anticipated that the Festival of Arts would be gaining this wonderful, exciting new source of funding, a source of funding similar to that which operates in Western Australia with respect to the Festival of Perth. That source of funding is through unclaimed prize moneys from the lotteries. I understand

that, when this first was suggested to the Minister by the General Manager and others involved with the Adelaide Festival Centre, as well as other people involved with the Festival of Arts, this new source of funding was seen as a means of providing reserve funds for the festival. As I said, it was announced in the pre-budget context, and again was announced by the Premier in his budget speech, and I quote:

> Given the importance of the Adelaide Festival of Arts, not only to the local economy but to the increasingly important cultural tourism industry, the Government has decided to amend the State Lotteries Act to provide for 50 per cent of the annual level of unclaimed prizes to be transferred to a special deposit account to be used to provide approved funding levels for the Adelaide Festival of Arts. Of the outstanding balance of unclaimed prizes as at 30 June 1992, it is also proposed to transfer 50 per cent to the Hospitals Fund.
>
> These arrangements are estimated to provide funds to support hospital expenditure in 1992-93 of $4.5 million and to provide funds equivalent to $1.6 million annually as a source of funding for the Adelaide Festival of Arts.

It was only a week and a half ago, however, when honourable members in the other place were debating this Bill, and it had been through the second reading stage and the Committee stage, that the Treasurer announced, out of the blue, that he was moving an amendment to the Bill, his own Bill, to remove this provision in respect of the Adelaide Festival of Arts. Not surprisingly, there was stunned silence and that was followed by loud jeers in the Parliament. It is clear that this Government does not know what it is doing from one day to the next. I resent very much, on behalf of the arts in this State, as well as all those who support the arts financially, in kind and through voluntary efforts, that this Government should mess around and play around with the Festival of Arts in this manner. It deserves to be treated with much greater respect, and it is about time this Government did so.

I acknowledge the fact that there is to be increase in funding for the next festival of some $300 000 and the next festival will gain $2.5 million from the Government, or from the taxpayers, but I think we should get this in context. We claim to be the Festival State and to host the best festival in this country. However, when the Western Australian Government changed its arrangements, from funding the festival from consolidated revenue to unclaimed prize funds, the increase in Government support went from $400 000 to $2.5 million per annum. That is about half what this Government will be giving the festival over two years. I stress that point because not only do we have a situation where the Government is messing around with the financial base of the festival but it is providing just half the sum that the festival in Perth is to gain from the Government and public sources. I think that this should set alarm bells ringing for all those who support the festival in this State and who recognise what it does for our economy and for cultural tourism in general, because we are at grave risk of losing the pre-eminent position that our festival has enjoyed for many years.

I also note that, with the exchange rate falling, there is greater and greater difficulty in gaining some of the overseas attractions that we have become accustomed to enjoying at the festival. So, notwithstanding the increase in funds of $300 000 over a two year period, I suspect that that we will hardly see joy from that in the way of many more attractions, that it will simply be eaten up in making adjustments for foreign exchange rate factors. So I speak with considerable anger and frustration at the flippant attitude with which this Government is treating the festival, and I speak on behalf of those who do support the festival in this State.

The Hon. M.J. ELLIOTT secured the adjournment of the debate.

FRUIT AND PLANT PROTECTION BILL

Adjourned debate on second reading.

(Continued from 27 October. Page 577.)

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—'Commencement.'

The Hon. BARBARA WIESE: I am aware that some questions are outstanding, and I would be grateful if those questions that were listed during the second reading debate could be listed now under the appropriate clauses in Committee, and I will endeavour to respond to them as we go along.

The Hon. M.J. ELLIOTT: I asked only two questions during the second reading stage, and they can probably be dealt with under this clause, if the Minister is happy with that. The first question related to accreditation of people within an industry to issue area freedom certificates so that no technical inspection is needed, merely the certification that produce comes from a particular area.

The Hon. BARBARA WIESE: As I understand it, this question is not actually specifically related to the Bill or to the matters with which it deals. However, it would normally be the practice that such accreditation interstate would be provided by departmental inspectors in those States and, if it is requested by some people here that the situation should be as suggested by the Hon. Mr Elliott, I am advised that the officers of the department would be very happy to discuss the issues being raised with a view to making the appropriate arrangements if the current arrangements are not satisfactory.

The Hon. M.J. ELLIOTT: The second question relates to inspections. I understand that a great deal of inspection work is done after standard office hours. As a consequence, the inspectors are on overtime, having spent much of the morning twiddling their thumbs. The fact that they are being charged at overtime rates makes inspection costs much higher than they otherwise need to be, and I should like to know whether there is any reassessment of working hours, etc., to ensure that unnecessary overtime penalties are not applied.

The Hon. BARBARA WIESE: As I understand it, very little can be done about the working of overtime in this area *per se,* and it may well be that the allocation of costs which are built into the fee and which reflect the overtime worked is something that could be looked at more closely with a view to spreading the costs more evenly across the work that is done, so that the effect of the overtime costs in the composition of the fee would not be as high as it is currently. I am advised that the department is willing to investigate this idea further.

The Hon. M.J. ELLIOTT: As I understand it from talking to fruit growers in the Riverland, in particular, they have the impression that overtime is not being worked in the real sense of the word, in that not much work is being done during the early working hours. The inspectors are simply on duty with little to do, and they then work after hours when the real work is being done, for which they are paid overtime. The argument is that, perhaps, there ought to be a renegotiation of the award to recognise that their working hours are not a standard nine to five but that the real working time starts much later than the time they arrive, often being done after standard office hours.

The Hon. BARBARA WIESE: It is correct that this is a reflection of the current award provisions that relate to workers in this area of activity, and the way they are remunerated, which includes the requirement to pay overtime during those periods, which also tend to be the periods when most of the work is undertaken, is a feature of the current award structure. To change that would require a renegotiation of the award that applies in this area and I understand that, at least at this stage, there is no intention to initiate such a negotiation.

However, this is a matter that I am prepared to refer to the Minister of Primary Industries with a request that he might want to consider this area of activity for future assessment.

The Hon. M.J. ELLIOTT: I should like to put on record that I am not against people getting fair pay for fair work, and I honestly do not know their hourly rate and whether it is reasonable. The point I am making is that it appears that they do spend a number of hours at work when they do not actually have much work to do. On that basis alone, it would be reasonable that the Government would initiate further negotiations in relation to the award. It may mean an increase in the hourly rate but a decrease in hours. Both the workers and the fruit growers could benefit from a better negotiated award if the situation is as I understand it.

The Hon. BARBARA WIESE: I do not want to prolong this discussion because I have made the only suggestion I can make at this stage as to how the matter might be progressed. I simply want to indicate that this situation has been quite common in other areas of work and, as part of the process of industrial reform that has taken place in other parts of the public and private sectors, there has been quite a shift in areas of work and ways of remunerating workers where penalty rates have applied in other industries and where this has led to a rather inefficient use of the services of the work force. Such changes have occurred on the waterfront, for example, and similar changes are under discussion in the hospitality industry where the hours of work are unusual.

This is not a new problem, and it is not a problem that is unique to this particular industry. I suppose these matters are being addressed industry by industry, workplace by workplace as it becomes time to do so or as the need to do so becomes clearer. As I indicated, I will refer the matter to the Minister of Primary Industries, who may wish to put this on his agenda for reform for the future.

Clauses 2 to 17 passed.

Clause 18—'Accredited production areas.'

The Hon. PETER DUNN: The Minister's response to the Hon. Mike Elliott's question regarding the authorisation given by the Minister for an area to be free of disease implied that our Minister was authorising areas outside the State for the introduction of new plants, fruit, or whatever, free of disease. Am I correct in understanding that that is the answer? I should have thought that the Minister would only have jurisdiction within the State?

The Hon. BARBARA WIESE: I am sorry if I implied that. The honourable member is correct in suggesting that the Minister has jurisdiction only in South Australia.

The Hon. PETER DUNN: Further to that, I notice that in clause 17, where an order is given, there is a division 4 fine, yet in clause 18 (3), under which people may actually bring in material, there is only a division 7 fine, which is much less. It appears to me that there is a more severe fine for disobeying a Minister's order than there is for actually bringing in material which may cause a huge financial loss right around the State. Can the Minister explain why that fine is lower?

The Hon. BARBARA WIESE: Clause 18 does not actually relate to the bringing in of produce. Rather, it relates to the accreditation relating to outgoing produce from an area, so that the penalty which is provided for under that clause relates to the misuse or the distorting of the nature of the accreditation that is being provided. It is a less serious matter than the issue that was referred to by the honourable member in clause 17, and hence the lesser penalty.

The Hon. PETER DUNN: I am not totally satisfied with that because, even though that is correct, the accreditation is giving permission for a person to take material from that area to another area, therefore cross-infecting perhaps a clean area. If one continues on to clauses 19 and 20 you will notice that they deal with the sale of fruit and plant, involving only division 7 fines. If the Minister had read my contribution yesterday she would have noticed that I did say that the division 7 fine was relatively low for an offence which could be quite significant to the State, yet we have a division 4 fine—a very severe penalty—for someone who disobeys an order. They may not have brought in material, but they may have wanted to do so and, in the process been caught, and could incur a division 4 fine. On the other hand, if one brings in infected material, one incurs a much lesser division 7 fine.

The Hon. BARBARA WIESE: The short answer is that these things are a matter of judgment, but I am advised that this clause provides a penalty for making false claims; that is the nature of the crime, if you like.

In relation to the practical issue of taking produce from one area to another, if we are talking about taking produce from here to some other State, those interstate authorities will probably still want to see certificates and other documentation which will be provided here for produce that is being transported. What rules apply for introducing produce is one issue, and this matter—the accredited production areas—relates to false claims that might be made by an individual rather than the penalty applying for wrongly transporting produce.

The Hon. M.J. ELLIOTT: Would the accreditation we are talking about here relate to fruit fly free status in

that an area of the Riverland might be declared to be fruit fly free?

The Hon. BARBARA WIESE: Yes, it does.

The Hon. M.J. ELLIOTT: Some people thought that the recent fruit fly outbreak in the Riverland was due to fruit being brought in from interstate to be repackaged and sent elsewhere. The fruit fly free status of the Riverland is absolutely essential for our exports of quite a few products into a number of very important markets. If somebody is wrongly using accreditation and bringing in produce from outside the accredited area, that would be a very serious offence and something involving well beyond a division 7 fine. It has the potential to threaten our overseas exports and to introduce fruit fly or other serious disease or disease vectors into what were formerly clear areas.

I would have thought that that was a very serious offence. I suggest that threatening a multi-million dollar industry with a possible fine of $2 000, with the sorts of rewards some people can make, would not be considered a significant deterrent. To me, a division 4 fine would not be unreasonable. If I have understood this clause clearly, I would suggest that a division 4 fine would be the absolute minimum that we could reasonably set as a maximum fine.

I take my concerns a little further. At the moment we have looked at clause 18, and I have talked about the real danger of what sometimes comes under the name 'lid-swapping'—and it does occur. If you have quarantine status or whatever for an area, people can bring in produce from outside and repackage it, and the potential for introducing pests and severely damaging export markets, as well as the damage the pests themselves do, is very extreme, and a division 7 fine simply is not up to it.

I go further and look back at clause 11 (which we have already passed), in relation to which there is a similar problem: a division 6 fine applying to a person who might have found fruit fly on their property and not reported it because they wanted to get their fruit off to market or whatever. Some people will operate like that. Even a division 6 fine is only $4 000 maximum, and unfortunately courts very rarely impose the maximum. They realise that the loss in value otherwise would be quite extreme, so where is the incentive? So, I think clause 11 needs to be examined.

The Hon. Peter Dunn has referred to clause 20. While the Bill as a whole has support, the one area where I think it has fallen down, at least in my eyes, is in the area of penalty. The penalty must fit the crime, and the size of the economic damage done to our industry could be quite horrendous. We need to look at those three clauses at least.

The Hon. BARBARA WIESE: The Government certainly shares the sentiments that have been expressed by members with respect to the seriousness of these matters, that there ought to be a suitable penalties that fit the crime, as it were, with respect to some of these offences. It has not been possible for me to point to the appropriate offences to cover the hypothetical situations that have been raised by members this afternoon. Therefore, rather than taking the time of the Committee in attempting to do that, I suggest that the Committee report progress so that some of these matters can be examined again, with a view to determining whether or not the penalties that exist in the Bill currently are appropriate for the offences that are being described here. Then I suggest we come back later and continue the debate on the Bill.

Progress reported: Committee to sit again.

PRIVACY BILL

Adjourned debate on second reading.

(Continued from 27 October. Page 567.)

The Hon. C.J. SUMNER (Attorney-General): Yesterday, I sought leave to enable a contingent notice of motion to be given that, if this Bill is read a second time, I would move that it be referred to the Legislative Review Committee. I have given that notice and I have canvassed the reasons for giving it and have nothing to add.

Bill read a second time.

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

That the Privacy Bill be referred to the Legislative Review Committee.

I have already indicated my reasons for moving this motion in my second reading reply.

The Hon. K.T. GRIFFIN: What the Attorney-General is proposing is really the only course that is now available to him in light of the dilemma which the Government faces with the two Independent Labor members who are now members of the Cabinet in coalition. They made quite clear that they were not prepared to support this Bill in this form and had some rather derogatory remarks to make about it. So, the Government decided not to face the situation in the House of Assembly where, if this Bill came to be debated, the Government would have the two Independent Labor members voting in ways which were different from that which the Government desired, which would be something of a debacle. I can appreciate from the Attorney-General's and the Government's point of view that this is the only way to get it off the present agenda and, in a sense, put it on the back burner.

During the second reading of the Bill, I indicated that we were not prepared to support that part of the Bill which gave a jurisdiction to the proposed privacy committee which allowed the privacy committee to investigate complaints about alleged breaches of personal privacy; we would be seeking to amend that out of the Bill. We were not fussed one way or the other about the privacy committee, because it was merely a statutory recognition of what was in place within government through administrative determination. But we did have concern about its wider powers to investigate matters beyond the information privacy principles. We also wanted to address issues in relation to information privacy principles.

I have a concern about referring it to the committee; it might be convenient to do that, but the Liberal Party's preference is to have the issue debated and resolved in both Houses. In this House we would have an opportunity to put up our amendments in the Committee stage and they may or may not be passed, depending on

what the Hon. Mr Elliott and his colleague determine to do in relation to it, and then let the Government face the music in the Lower House.

The Hon. CJ. Sumner interjecting:

The Hon. K.T. GRIFFIN: You may not face it: you may, just by majority there, refer it to the parliamentary committee. Of course, in that instance the coalition Government would be united because it would not be in the interests of the two Independent Labor members to have the issue thrashed out on the floor of the House of Assembly. So, I indicate that we will not support the motion for reference to the parliamentary committee.

The Hon. J.C. BURDETT: I oppose the motion. My first and main ground of opposition is that I do not think that the reference is appropriate.

The Hon. C.J. Sumner: You never sit; that's the trouble.

The Hon. J.C. BURDETT: Well, I am coming to that, but we do sit.

The Hon. C.J. Sumner: Not very much, from what I hear.

The Hon. J.C. BURDETT: Well, okay!

The Hon. C.J. Sumner: You get paid extra money for it, too.

The Hon. J.C. BURDETT: We always have been—

The ACTING PRESIDENT (Hon. Carolyn Pickles): Order!

The Hon. J.C. BURDETT: —paid the salary that is appropriate to the committee, and that was when it did consider only subordinate legislation. Now considerable other matters have been referred to it. I intend to refer to that in a moment and refer to the way in which the committee does function and the matters that have been referred to it. However, the principal reason why I oppose this motion is that I do not think it is appropriate. Section 12 of the Parliamentary Committees Act sets out the functions of the Legislative Review Committee as being:

> To inquire into, consider and report on such of the following matters as are referred to it under this Act:
>
> *(a)* any matter concerned with legal, constitutional or parliamentary reform or with the administration of justice...

That is the relevant part. The Privacy Bill has been around for some time. Broadly speaking, three positions can be taken: first, to support the principle of the Government's original Bill based on creating a general right of privacy with remedies for breach as for a tort; secondly, to support a privacy commission as the Hon. Mr Elliott has supported strongly for some time; and, thirdly, to oppose the Bill. I do not see that it is within the spirit of the functions of the Legislative Review Committee to decide on these issues as they are matters of principle and policy that are properly in the arena of the Parliament itself.

The Hon. C.J. Sumner: You referred the Prostitution Bill to the Social Development Committee and you voted for that.

The Hon. J.C. BURDETT: I am not sure whether or not I did.

The Hon. C.J. Sumner: Why are you changing your mind?

The Hon. J.C. BURDETT: I am not changing my mind: I am saying that I do not think it is appropriate within the terms of reference of this committee, which is different from the Social Development Committee.

The Hon. C.J. Sumner: Legal reform.

The Hon. J.C. BURDETT: I will come to that in a moment. These are matters of principle and policy which are properly in the arena of the Parliament itself. I do not suggest that consideration of this Bill is technically outside the functions of the committee, but for the reasons I have given I do not think it is appropriate for the committee to consider the Bill. Recently the Hon. Mr Griffin moved to refer the Courts Administration Bill to the Legislative Review Committee. The Attorney said that this was politicising the committee system and he went right up the wall about the motion and got quite excited about it. The reference of that Bill was appropriate because it does—

The Hon. C.J. Sumner: That one was and this one isn't.

The Hon. J.C. BURDETT: That is right.

The Hon. C.J. Sumner: How ridiculous!

The Hon. J.C. BURDETT: It is not ridiculous: of course one may be appropriate and one may not be. I am saying that that one was and this one is not. That one clearly fell within section 12 as it was concerned with constitutional parliamentary reform or the administration of justice, particularly with the administration of justice. Now the Attorney wants, on far more flimsy grounds, to refer the present Bill—a matter of principle, a matter of policy that has been debated for some time—to the committee. These are matters to which the Attorney-General referred previously. The committee has a large workload which impinges on the time of members. Assembly members particularly and understandably object to sitting on Mondays and Fridays because of the demands of their constituents. Because of the urgency imposed on the committee by the Attorney with regard to the Courts Administration Bill—

The Hon. C.J. Sumner: Not by the Attorney—by the Council.

The Hon. J.C. BURDETT: The urgency was imposed by a motion moved by the Attorney.

The Hon. C.J. Sumner: And supported by the Council, including you.

The Hon. J.C. BURDETT: All right—it was accepted by the Council but it was at the suggestion of the Attorney and I am saying accurately that, because of that urgency, the committee has had to consider seeking leave of Parliament to sit during sitting times.

The Hon. CJ. Sumner interjecting:

The Hon. J.C. BURDETT: All right, we have, but its requests for the services of *Hansard* during this time have been refused and that is understandable. I am not arguing against that. We have been hamstrung in what we are doing. The committee has no full-time research officer, although I acknowledge that the Attorney has—

The Hon. C.J. Sumner: You don't need one—you refuse to sit.

The Hon. J.C. BURDETT: We have never refused to sit: that is absolutely ridiculous and I totally reject it. The committee has no full-time research officer, although I acknowledge that the Attorney has made an officer of his department available for the Courts Administration Bill, which offer has been gratefully accepted. This is not

totally satisfactory either, because it is an officer of the Department of the Minister whose Bill is being examined.

The committee has what I believe to be its fundamental core role of scrutiny of regulations, in other words of being a watchdog against the Executive. I resent the fact that, because of the references made to it, it has been difficult to exercise that basic function.

My main reason for opposing the motion is that the matters relevant to this present Bill are matters of policy and principle which have been debated in Parliament for some time and which are appropriate for the Parliament itself. I do not believe that the committee could assist the Parliament usefully in this matter.

The Hon. M.J. ELLIOTT: The Attorney-General in closing the debate yesterday made a couple of comments with which I agree. He stated:

> There is no doubt that the issues of privacy are going to have to be given legislative attention at some time in the future. This is obvious from the current debate about the sale of private information as exposed by the New South Wales independent commission against corruption and general concerns about information held by both public and private sector computer data banks.

In fact, another article in this morning's *Advertiser* on page 4 refers to Federal departments and how rife is the sale of information out of those departments. It is an absolute scandal. Legislation exists at the Federal level, but unfortunately it is still deficient, and that was part of the point of the article.

In South Australia we have no legislation whatsoever in this area. It is scandalous that we have gone so far without such legislation. Every western nation almost, with the exception of Australia, has confronted the issue head on. As I have said, we have some Federal legislation, although deficient. New South Wales is currently moving along the lines of State legislation. It has a privacy committee but now is expanding the role of its privacy committee into the area of data information. No advanced western nation can hope to preserve democracy and many of the freedoms that we take for granted in this computer age without that sort of legislation.

We in this Parliament, due to narrow-mindedness in some cases and petulance in others, are in a position where we cannot resolve the issue and get the sort of legislation that we need. It is all too easy to take a position of opposing legislation totally. I was deeply concerned about the first Privacy Bill that we saw in this place, but I did not take a position of outright opposition as was taken by other members in this place. That did nothing to further the debate and explore some potentially useful things that had to be done in the privacy area. It was total opposition—an opposition that was totally inconsistent with positions some people had taken on the Australia card and other almost identical issues. It smacks of the constitutional referenda that we had a couple of years ago where the Opposition saw points to be won in opposing what should otherwise have got up and it felt justified in winning those defeats.

The Hon. J.C. Irwin interjecting:

The Hon. M.J. ELLIOTT: Yes, the people spoke and local government did not get the recognition it should have. As a former local government person I would have thought that you would have been deeply concerned about that.

The Hon. C.J. Sumner: They supported it on the select committee.

The Hon. M.J. ELLIOTT: That is right: they supported privacy on the select committee and then took a position of absolute and total opposition. They did not at least explore the potential for good and bad within it. It is an easy political position to take, but I would argue an irresponsible position to take in Parliament. I am deeply concerned that at least one of the Independent members appears to have behaved in a manner that is petulant at best because he did not get his own way and therefore would not accept anything at all. The combination of at least one of the Independents and the inconsistent narrowness of the Opposition has killed off something which, as the Attorney-General said, is absolutely inevitable. It is a question of how many more years we will go without getting proper legislation.

There can be some argument about what is proper legislation. I thought that we could have sorted it out in this place and to that extent I might almost have agreed with the Opposition's comments. In reality that would not happen because people have taken positions which in many cases are inflexibly narrow. Having watched the way other committees of the Parliament have worked, it seems that it is possible, when we get away from this Chamber, for members of all Parties to sit down and look at things and work things out.

The Hon. Carolyn Pickles: Some of them do.

The Hon. M.J. ELLIOTT: Yes, some of the committees I have sat on certainly do that. It is my hope, and my only remaining hope at this stage in this area, that indeed the Legislative Review Committee, given that opportunity, will do precisely that, that it will explore the Bill, that it will find value in some components of it, and that this State will get what it needs and what it deserves. On that basis, I support the motion to send the Bill to a Standing Committee of the Parliament. I reiterate my concern that the Parliament was not capable of doing this itself, without having to refer it to one of its committees.

The Hon. C.J. SUMNER (Attorney-General): First, to respond to the Hon. Mr Burdett: the brief of the Legislative Review Committee clearly encompasses considering a Privacy Bill or principles relating to privacy. Legal reform is one of its terms of reference, and I would have thought that the introduction of privacy legislation was clearly a matter of legal reform. So it is perfectly within the power of the Legislative Review Committee to consider this matter. Furthermore, it is appropriate that it consider the matter. The Hon. Mr Burdett has suggested that this is a matter that should be fought out in Parliament, and not referred to the committee because it involves issues of principle.

I remind the Hon. Mr Burdett that only a few months ago we dealt with the Prostitution Bill, which is another hard issue which has been before this Parliament now for over 10 years and which has not been resolved, and which raises issues of principle—and yet the honourable member voted to refer that Bill off to—

The Hon. J.C. Burdett interjecting:

The Hon. C.J. SUMNER: Of course you did.

The Hon. J.C. Burdett interjecting:

The Hon. C.J. SUMNER: You say you didn't vote at all?

The Hon. J.C. Burdett interjecting:

The Hon. C.J. SUMNER: What are you saying then, that you didn't vote on it?

The Hon. J.C. Burdett: No.

The Hon. C.J. SUMNER: But you acquiesced in its going off to the Social Development Committee; you didn't oppose it, you did not get up and speak against the motion, you didn't vote against the motion, you didn't call against the motion and you didn't vote against the motion. So, that to my way of thinking amounts to a constructive vote in favour of referring if off to the Social Development Committee. The honourable member cannot have it both ways. It seems to me that, at least on the point that he is putting, the Privacy Bill is in the same category as the Prostitution Bill. It involves issues of principle, and in both cases I think it is reasonable that they should be referred off to parliamentary committees for further work to be done.

The honourable member then referred to the Courts Administration Bill and suggested that he didn't have time to do it. He then suggested that somehow or other I had been unreasonable in giving that committee a time limit. Well, I should say that in the debate in this Council on that Bill members who suggested that it be referred to the Legislative Review Committee—the Hons Mr Griffin and Mr Gilfillan—both said that they had no objections to a time limit being put on the committee's consideration of the Bill. So, in accordance with that expression of support a time limit was put in. It was not put in by me. I do not have any power to direct the committee. The Council has asked the committee to prepare its report on the Courts Administration Bill within a certain period of time.

The committees are the creatures of the Parliament. They are subject to the Houses of the Parliament. They are part of the Parliament but in some areas they get directions from the Houses, and therefore I think that, if a committee has a request from a House to report within a certain period of time, it should do that. If that means that members of the committees need to put themselves out just a little bit and perhaps work on Mondays or Fridays, or on Thursday morning, I do not see that that is something that they ought to resist doing. To suggest that these committees are only going to function for two hours on a Wednesday morning, when Parliament is sitting, is to my way of thinking completely unreasonable and, in the long run, will bring the committee system into disrepute. You either want a constructive committee system or you do not, and if you want one then the members who are on the committees have to be prepared to do the work that is given to them. If that means coming in more often than two hours on Wednesday morning, so be it, they should do that.

I have just received a letter from the Hon. Mr Feleppa, the Chairman of the committee, telling me that the committee is not prepared to meet on Fridays and on Mondays and that in session it is only prepared to meet on Wednesday mornings, at which time it deals with subordinate legislation. Effectively, that is saying that the committee is not going to do it, unless it can have *Hansard* available so that the committee can sit during the sittings of Parliament—which, of course, would add a cost to the conduct of the committee. If the committee sat on Mondays or Fridays, *Hansard* could do it, and the committee would not have any difficulties.

I find this letter and the attitude of the committee unacceptable. A House of the Parliament, the Legislative Council, has requested consideration of a Bill within a certain time, and you write back and say we are not going to put ourselves out, we are only going to sit on Wednesday mornings to consider subordinate legislation matters and for the rest you can wait. I really think that is insulting to the Council, Mr President, and particularly in the context that this Bill was referred to this committee on the basis that it would be dealt with expeditiously. All I can say is that if all the committees behaved like that we would not get anything done and in the long run it would undermine the committee system.

The Hon. Mr Burdett also mentioned in this context—I do not quite know why he raised it, but he has so I will reply to it—the fact that they do not have a researcher. It seems to me that you do not need a researcher. You are not prepared to sit on Mondays or Fridays, apparently, so what is the good of a researcher, if you are not going to be there doing the work that will feed a researcher? You would just be wasting more money? In any event, on this particular matter I have made the offer that a researcher be available, so I do not see that you have problem.

The Hon. J.C. Burdett interjecting:

The Hon. C.J. SUMNER: On the privacy matter, no-one is suggesting that you bring the report back tomorrow or within two or three weeks, or three months. In fact, I suspect that people will be pleased if the matter does not come back before the next election. Whether that happens is a matter for the committee. No reporting time has been put in, so no deadlines are being put on it. If the thing does come back before then with something on which members are all agreed and which they can then get through the House—because we do not want to have the same fiasco we had on the last occasion, when the Liberal members in the Lower House participated on a select committee, supported its recommendations, made, as I recollect it in one case, quite strong expressions of support in favour of the legislation and then, when it reached the House, went to water.

They could not stand up and be counted on the matter, and the Liberal Party as a whole, under pressure from the media, just tossed the whole thing in. If that is going to be the course of action in the committee, I do not think that it will achieve very much. However, I say genuinely that, if the members of the committee are able to reach an accord on the matter that can be supported by the Parliament before the next election, fine; otherwise I see this, as I think the Hon. Mr Elliott sees this, as a matter of keeping the issue alive. It may be that another Government in the future will see the need to take it up again, and the political composition of the Houses may be different at that time.

The Hon. M.J. Elliott: Even the New South Wales Liberal Government is doing it.

The Hon. C.J. SUMNER: As the Hon. Mr Elliott interjects, even the New South Wales Liberal Government is doing something. After the next election, the composition of the Houses may be different in some respects, and it would then be appropriate to revisit the issue. Given the controversial nature of this and the sort

of pressure that the media has applied—quite unreasonably, I might add—this might be the sort of thing that needs to be dealt with early in the term of a Government.

To come finally to the Hon. Mr Elliott's remarks, I agree with what he has said. Obviously, I personally have no joy in taking this course of action, having spent the best part of the past 18 months debating the issue of privacy in one way or another and having had to put up with virtually daily editorials in the *Advertiser* condemning me about various things. It almost seemed that, if there were an editorial about the famine in Ethiopia, it would rope in a reference to the South Australian Privacy Committee. Anything, it seemed to me, that was vaguely related to the issue it would then relate to the Privacy Committee and condemn it.

The reality is that the media reaction to this whole thing has been quite hysterical and quite unbalanced, and this was particularly so after the Government made the concession that no issue of privacy would arise provided that the media were complying with the codes of ethics that had been laid down for them. They were not prepared even to accept that. Furthermore, as I pointed out in my second reading reply, they have attacked even the Bill before us, despite the fact that it applies, basically, to the public sector and, as far as the private sector is concerned, there are no coercive powers.

Despite that, the media have attacked this Bill. As I say, there is no rational basis for that. I do not believe that it was reasonable to attack the tort of privacy, particularly once we had made the concession about the code of ethics, and there is even less reason to attack this Bill. However, there is no doubt that media pressure did affect the debate about this matter. I have no doubt that, to a significant extent, it informed the Opposition's attitude to it. Obviously, to some extent, it affected the Australian Democrats' approach, because they argued that the media should be excluded from the tort of privacy. One would need to admit that the Government does not particularly enjoy picking up the *Advertiser* every day of the week and finding that it is having its head kicked in because of what I think are unreasonable views about the Privacy Bill.

I support what the Hon. Mr Elliott has said. I have no joy in taking this course of action, having spent an amount of time dealing with this issue, but I think that at this stage the Parliament is just not mature enough to grasp the issue. I repeat what I said: there is no doubt that at some time this issue will be dealt with, and some Government in the future will need to take up the issue and legislate on the issue of privacy in this State.

The Council divided on the motion:

Ayes (10)—The Hons T. Crothers, M.J. Elliott, M.S. Feleppa, I. Gilfillan, Anne Levy, Carolyn Pickles, T.G. Roberts, C.J. Sumner (teller), G. Weatherill, Barbara Wiese.

Noes (9)—The Hons J.C. Burdett, Peter Dunn, K.T. Griffin (teller), J.C. Irwin, Diana Laidlaw, R.I. Lucas, Bernice Pfitzner, R.J. Ritson, J.F. Stefani,

Majority of 1 for the Ayes.

Motion thus carried.

BOTANIC GARDENS (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 22 October. Page 538.)

The Hon. J.C. IRWIN: I support the second reading of this Bill, which seeks to make minor changes to the Botanic Gardens Act 1978 as a result of the regulations review process of Government and addresses a number of miscellaneous issues. The Act was to have expired in January 1992 but was granted an exemption pending passage of this amending Bill.

It is proposed to alter the short and long titles of the Act to include references to the State Herbarium. Functions of the board are adjusted to give prominence and recognition to the establishment and management of the herbarium Other alterations to the board functions include references to zoological functions, which are removed since the board does not exercise such functions. When the legislation was introduced in 1978 there must have been some thought that the board would take over some of the zoological functions. The Bill also deals with the specific functions relating to natural conservation and to the accumulation of and care for specimens, objects and things of interest in the fields of botany, horticulture, biology, conservation of the natural environment and history. It also involves a participation of the board in commercial activities, including consultancy services as well as the propagation and sale of hybrids or cultivated varieties of plants, including by way of joint venture or partnership with a nursery business, and the sale of knowledge.

The Bill clarifies the manner in which the board may charge fees for entrance to various parts of the gardens or to waive or reduce fees where applicable. I have been assured by the Director of the Botanical Gardens Board that the board has no intention of charging entrance fees to any of the Botanic Gardens. The recovery of charges for admission to places under the control of the board—

The Hon. Anne Levy interjecting:

The Hon. J.C. IRWIN: I am coming to that. I am just making clear that we have been assured that there will not be any recovery of charges for entrance fees to the gardens, but there will be places under the control of the board which relate to *(a)* entrance to the Bicentennial Conservatory; *(b)* provisions of consultancy fees on a prearranged basis; and *(c)* rental received from staff residences and the Botanic Gardens restaurant and kiosk. I am making it clear that I understand, on advice, that that is the position.

The reporting obligations of the board are brought into line under the Government Management and Employment Act 1985. New regulation-making powers make clear that powers to enforce the regulations may be given to Botanic Gardens employees and that fees may be imposed for permits for activities that are usually prohibited. A code of parking is to be included in the regulations similar to that to the local government parking scheme, and some form of machine may replace coin operated parking meters. This will enable new regulations to be made for enforcement of parking control on property under the board's control.

Further to that I think some interesting statistics from a briefing that we have had should be put on the record again. Approximately 1.1 million persons use the Botanic Gardens each year in conjunction with visits to the park, garden, conservatory and the zoo. A total of approximately 1.6 million persons visit these facilities each year. Many more persons, possibly another 500 000 a year, use the Botanic Park as a car park when commuting to the university, the Royal Adelaide Hospital and the central business district. I think that is a significant point.

Currently, 423 cars can be accommodated off the loop road within Botanic Park, which is the road variously known as Plane Tree Drive and Botanic Drive. This compares with 557 at the time of the Foley report in late 1982. The current proposal calls for 453 spaces off the two drives, and this includes an increase in numbers adjacent to the zoo and decreases elsewhere. The net increase will be approximately 30 above the current capacity and 100 fewer than in 1982. Of the 453 spaces, the majority are placed in existing car park areas, although their density is reduced in order to avoid the continued damage to the large existing trees, and 150 spaces are proposed in areas currently grassed on both sides of the roadway opposite the zoo. These 150 spaces will occupy approximately 2 000 square metres of area currently that is grassed, some of which, particularly south of the zoo fence, is denigrated. On the other hand, a comparable area, approximately 2 500 square metres, which is currently used for car parking will be grassed and/or landscaped.

Finally, the scheme involves the relocation of 11 plane trees, not 15 or 16 as has been mentioned elsewhere, in the Salvation Army Centennial Avenue, and this proposal has been agreed to by the Salvation Army.

I am happy to acknowledge that the Bill comes to us with some amendments already agreed to by another place. There are many times when legislation comes to us here when we can make a contribution based on our own experience. The Botanic Gardens takes me back to my earliest memories. As I am being helped by my honourable friend behind me, it is opposite the school we both attended, and on many occasions during these 13 years I rode to and from there. I was a regular visitor to the gardens with my family, and this was a place for young boys to explore. I get very nostalgic every time I go back through there because an awful lot of the layout is exactly the same as I recall it in my earliest memory.

The open area surrounded by the curved roadway, the subject of the parking debate, was a pretty scruffy place, as I remember it in the late 1940s, 1950s and 1960s, and I cannot recall when the new development and the magnificent grassing that is there now took place. However, it has certainly been developed from a very scruffy beginning, as I remember it, and I do not recall a lot of people actually visiting that open area of what we call the Botanical Gardens.

I recall, when my father was President of the Royal Australian Institute of Architects in the 1950s, that a huge exhibition was mounted there for people from interstate and overseas to look at what South Australia could offer in relation to what one would get from an exhibition associated with an architectural convention. That was roughly opposite the south entrance of the zoo; and it was very much a basic parklands in those days, but it was a very good venue for it. I am not saying that one should use that again, but I recall that in my youth this area was certainly used for that sort of thing.

What we call the 'switchbacks' was a legendary area, which would have been quite a bit north of the Royal Adelaide Hospital and which was intended for those who used to ride bicycles, and it was a place to test anyone out. I do not know if anyone here remembers what we used to call the 'switchbacks' or 'swishbacks', which were the undulating banks of a creek-type environment with a lot of tracks where one rode a bike at great speed downhill and up the other side. Probably we did some environmental damage; I have no doubt about that.

The Hon. Anne Levy interjecting:

The Hon. J.C. IRWIN: I am sure they would have been. I am sure we would have made some good advertisements coming home with bleeding knees and mud from head to toe, and no doubt we were probably chasing someone from the other sex as well. So, there were a lot of tales to tell.

The Hon. Anne Levy: Sexual harassment.

The Hon. J.C. IRWIN: No, it would not have been; it would have been quite passive. We all remember Speaker's Comer, which was not far from the zoo, where I remember one R.G. Menzies taking the stand. Having read the debate in the other place I notice that other members remembered Don Dunstan and others taking that stand.

The most ardent heckler of Robert Gordon Menzies in those days was my friend—we were both 12 years old at the time—Francis Villeneuve-Smith, the son of the quite famous and legendary QC, Frank Villeneuve-Smith.

The Hon. L.H. Davis: I thought it might have been Lance Milne.

The Hon. J.C. IRWIN: No, although he may have been there listening. Young Francis Villeneuve-Smith was the godson of Menzies, and it was rather stunning for me to see him attacking his godfather.

The Hon. M.J. Elliott: They were probably Dorothy Dixers.

The Hon. J.C. IRWIN: No, they weren't Dorothy Dixers.

The Hon. L.H. Davis: He might have prearranged the interjections.

The Hon. J.C. IRWIN: I don't think so. I am sorry I am wandering down memory lane, but it allows me to set the pattern for what I think is a magnificent part of Adelaide. For many years I had my birthdays on the banks of the Torrens just west of the Hackney Bridge, and we used to hire and row three boats from Jolley's Boat House up to the area and eat, as I remember, frozen ice cream cake. In the late 1940s it was not a bad effort to have an ice cream cake, let alone keep it frozen. That is a treat I have always remembered. Although I suppose I could say we were drunk on ice cream, we then used to race back to Jolley's Boat House with some fairly hefty fathers and uncles aboard. Excuse me for digressing, Mr President, but I want to indicate my love of and long association with this place which is the subject of the Bill.

My colleague in another place, the shadow Minister, John Oswald, raised a matter that was brought to our attention by the redoubtable Mr Howie, who is

wellknown in here—and that is the angle parking area adjacent to Hackney Road, which is alleged to be half in the St Peters council area and half in the Adelaide City Council area, although I understand that the area is administered by the Botanic Gardens. The Minister in the other place did not address this matter and perhaps it is not of great importance to this debate.

The Hon. R.J. Ritson: They might get two stickers, one on each end.

The Hon. J.C. IRWIN: Yes. I again raise the matter and ask the Minister in this Chamber to provide me with an answer. If the facts are correct, what steps will be taken to overcome this anomaly? If there is a legal problem, maybe the Electoral Commission (or the panel system) may have to look at some rearrangement of council boundaries.

I turn now to some excellent research work which was carried out by the member for Adelaide and which really goes to the heart of the Botanic Gardens and parkland debate. Dr Armitage quoted from a 1878 edition of the paper known as *The Comet,* and I quote three of 25 reasons why the parklands should be used by the public: because they are reserved for the public health and recreation of the citizens generally; having been paid for from the general revenue the public have a right to use them; and because the parks are intended for the use of the people and should be preserved for such use as free and as uninterruptedly as possible.

I have no intention of opening up the whole parkland debate, although others may wish to do that, as is their right because this Bill is about parklands. The enclosed Botanic Gardens are on parklands; and the area to the north, which I shall call unenclosed, is parklands. My paternal grandmother, who had the lovely name of Annabella Margaret Campbell-Mann, had a great great grandfather who was known as General Gotha-Mann and who lived from 1748 to 1830. He produced a design for the city of Toronto, Canada, based on a grid pattern surrounded by parklands which, of course, pre-dates Colonel Light's design for Adelaide which was based on the same pattern of grids and parklands.

My friend and the present President of the Royal Australian Institute of Architects, Robert Cheeseman, is at this time working on a paper which will link Colonel Light's design to that of Gotha-Mann. Again, this is a digression but it fits into this debate.

The important thing to recognise about the value of the parklands is that they are the lungs of the city. I do not believe they were to be pristine scrubland forever. There are roads through them giving access from the city to the suburbs to the north, south, east and west of the city centre.

The Hon. Anne Levy: One would hope so.

The Hon. J.C. IRWIN: It is a simple point to make, I guess. Many sporting activities take place on them. There are horses grazing in front of where I live. There are gardens on them. There are certainly some blots, which are—

The Hon. Anne Levy: There used to be cows.

The Hon. J.C. IRWIN: Yes, with a number around their neck probably, and with a bell, if I recall. But there are some blots which are slowly being removed. Through the use of water those parklands are being developed into some magnificent areas for all manner of recreation. By and large they remain the lungs of the city as envisioned by Light.

With respect to the quote unearthed by Dr Armitage, I do not think what we are asked to address in this Bill detracts from the admirable reasons why the parklands should be used by the public. Of course, there is now some question raised about parking, and the proposition is for that parking not to be free—although one can use all sorts of variations of the word 'free'.

In the context of this Bill, charging for parking does not make for free access in the dollar sense, and that is part of the dilemma facing those of us who are giving serious and balanced consideration to the Bill's provisions. My thinking then turns to the word 'access', and whether or not it will be free. Nowadays, if access is not easy, people will not make use of the magnificent open parklands and the Botanic Gardens. One has to think about that. Unfortunately, as we have more and more ease of transport—and I guess some of my thinking went back to the horse and cart days, not that I had anything to do with those—

The Hon. Peter Dunn: I drove a horse and cart to school.

The Hon. J.C. IRWIN: I never had anything to do with a horse and cart, but one thinks about access to the parklands and access to and egress from Adelaide in the days of horse and cart. These days, with motor cars and public transport people are used to ease of access and transport, and if they have to park their car one or two miles away they will not do it and walk with an esky or whatever to have a picnic in the parklands.

If one thinks of the surrounding area—Frome Road, North Terrace, Hackney Road and the other side of the zoo—one realises that there is very little parking in easy walking distance of this part of the parklands about which I am now talking.

I put to members that off-the-street parking—and in the St Peters council area it is pretty well non-existent—would be out of the question. The only possibility I can think of would be a high rise parking facility, and that would not be free and would have to be so far away that it would make its benefits negligible, as well as being an eyesore in relation to existing buildings on the eastern side of Hackney Road. I suggest that if there is no easy access to the parklands and Botanic Gardens, including the Tropical Conservatory, those facilities would not be used by the people.

The Hon. Anne Levy interjecting:

The Hon. J.C. IRWIN: I do not think there is enough room there—although there is tram barn A, unless they lift it up a bit; that is the trouble. I can understand the outcry from certain quarters about the parking and the fact that there may be a charge. I have had approaches from quite a number of people and an organisation on this matter, as most members have. I certainly have some sympathy for it. I know that two wrongs do not make a right, but I am not offended by the proposal that is before us. The parking will turn over, if it is properly administered. I have already mentioned the number of people (about 500 000) who use it just for access to the city, and not for use of the Botanic Gardens, parks and the zoo, so we will have to find some way of keeping that turnover in parking.

I hope the net revenue will help with the expense of administering the Botanic Gardens, and people will still have reasonable and good access. Nothing will persuade me, for instance, to support a ripping up of the road and banning parking from parts of its verges. I acknowledge the fact that there will be no charge for parking on Sundays or public holidays. I also must acknowledge that this arrangement is in itself somewhat of an anomaly.

The Hon. Anne Levy interjecting:

The Hon. J.C. IRWIN: No, that's right. As the South Australian working week now embraces all sorts of combinations of work days and days off, some people's day off is likely to be on any day of the week. One can ask, 'Why should I pay to park and visit the Botanic Gardens on my day off if it is a Wednesday, when another person's day off happens to be on Sunday and it is free.' Therefore, I am comfortable with the notion of parking on the parklands but am less comfortable with the charge for it. Some way must be found to restrict parking to Botanic Gardens users only and to ensure that parking space is turned over, as I mentioned before, to give everyone a chance to use the space that is there for enjoyment.

The Hon. Anne Levy: Why not users of the Botanic Park?

The Hon. J.C. IRWIN: Well, you could do that, but I guess you would then need to build some huge fence around it so that you did not let anyone out. Is that what you mean? Why not use it as a botanic park?

The Hon. Anne Levy: You said that people should be able to park there only if they are going to the Botanic Gardens and parks.

The Hon. J.C. IRWIN: I certainly mean the whole area; I would almost include the zoo in that thinking. I am trying to extract out of it the people who I am advised use it for three or four hour or all-day parking for work or the central business district. I will just digress again, because it gives me the opportunity to say something that I have wanted to say for a while. This comment is about the bicentennial conservatory. I make no reflection on the acclaimed design or the construction of that conservatory.

The Hon. Anne Levy: You had better not.

The Hon. J.C. IRWIN: No, I do not want anything to be taken out of context. I will not comment at all and have not before commented on the actual design or the construction of that structure. I do take this opportunity to comment on its very obvious incompatibility with its surrounds. While the debate about street scapes and new buildings being compatible with old ones rages in Adelaide and while country people have had to put up with bureaucrats telling them their homes and even their outhouses had to be built compatible to the countryside, I am amazed that both the shape and the colour of the conservatory are so out of kilter with everything around it. The shape and colour does not match or blend into the trees and certainly does not blend into the red brick Goodman building or the tram barn.

That is only part of the red brick structure there, which was the subject of much public debate some time ago. I am well aware of the old saying that one person's treasure is another person's rubbish. That is probably where the Minister and I disagree, not on the words 'rubbish' or 'treasure' but on the fact that we have diverse opinions about what is compatible with the countryside. I cannot see how a pasty-shape fits in with trees that are certainly not that shape or with the Goodman building, which is red brick and which is absolutely perfectly symmetrical.

There is nothing aesthetically compatible there at all. I understand that people have a different view of that, and I do not rubbish that view, except to say that I do not like thrust down my neck other people's views of how I must build my house, garage, outhouse or shed on the farm or buildings in the street.

The Hon. ANNE LEVY: I rise on a point of order, Mr President. How this is relevant to the Botanic Gardens Act is a bit hard see.

The PRESIDENT: Order! The honourable member is tying it in somewhere along the line.

The Hon. J.C. IRWIN: The tropical conservatory is in the Botanic Gardens.

The Hon. Anne Levy: Yes, but your outhouse isn't.

The PRESIDENT: Order!

The Hon. J.C. IRWIN: If the whole exercise of siting and building the tropical conservatory is an example of model planning, then God help us if the major streets of the City of Adelaide follow the same pattern. The City of Adelaide, of which I am sure everyone is so proud, as they say so often, has slowly evolved architecturally since 1836 without major planning control. The *Advertiser* building (and, incidentally, I am sorry about the this family expose), which was built by my father, was the first 12 storey building to be built in South Australia. It was built in the mid-1950s. I guess it was not until the late 1960s—

The Hon. Anne Levy: It was a graceful old building.

The Hon. J.C. IRWIN: I don't even like it much, but it is a very solid old building. I am using that timeframe only because it was just after that in the 1960s that the City of Adelaide started going down the path of employing a plethora of planners and started to receive State Government interference in its development. One has only to look at the Riverside building just down the road to see another example of the arrogance of Governments. I will go on criticising it so long as I have the breath.

The Hon. ANNE LEVY: On a point of order, Mr President, I maintain that the aesthetic appearance of the *Advertiser* and the Riverside buildings, and the City of Adelaide plan is not relevant to the Bill on the Botanic Gardens.

The PRESIDENT: Order! There is no point of order; the honourable member is equating it back to the building down at the gardens and the general concept of the Adelaide plan.

The Hon. J.C. IRWIN: I am concluding now: the touchy areas have gone. I have argued that we will support the continuation of parking in a re-arranged form on Plane Tree and Botanic Drives. We will support the arrangement for parking fees to be charged. We support that this is the only way to ensure a turnover of parking which must be to the advantage of the genuine user of all the facilities of the Botanic Gardens and the zoological park as well. It is not a pure solution, but on balance the best available at this time. I support the other measures in the Bill which, when brought into effect, will better enable the Botanic Gardens Board to administer its

responsibilities and increase those responsibilities under the Act.

The Hon. I. GILFILLAN: I rise to speak only to a very specific matter in the Bill, that is, the question of parking. I regard it as critical, particularly the aspect of charging for parking. It strikes at the very foundation of the principle of use of the parklands. The Hon. Jamie Irwin referred in earlier parts of his comments to the free unfettered use of citizens which was envisaged by Light and others who have followed Colonel Light in protecting the virginal use of the parklands. It is clearly documented and very easily seen how readily parklands can be gobbled up for other purposes, unless a very strenuous effort is made to maintain their open-space character.

I will restrict my remarks almost specifically to the car parking. Once opening up the subject of the uses and protection of the parklands, it does evolve into quite a wide-ranging debate. However, this really is a monumental departure from previous practice in having a regulated ongoing charge for car parking on the parklands. Leaving aside the debate as to how much car parking should be tolerated on the parklands where other abuses occur, notably at the Adelaide Show—

The Hon. Anne Levy: And Victoria park.

The Hon. I. GILFILLAN: Victoria Park doesn't charge.

The Hon. Anne Levy: And the football.

The Hon. I. GILFILLAN: The potential is there for car parking charges to be emulating what is proposed in the Botanic Park, the same as the aquatic centre. Anyone who has looked at car parking in the parklands will see that virtually every core where car parking began has spread.

The Hon. Anne Levy interjecting:

The Hon. I. GILFILLAN: Charging for a specific function is one thing, but to have the regular organised charging similar to metropolitan Adelaide's car parking routine exercised on the parklands to me is anathema. I am so strongly opposed to the principle that, if it remains in the Bill, I will vote against the Bill because, whatever other benefits the Bill may have, it is a desecration of the use of the parklands if we allow them to become a fund-raising venue for any entity, not specifically the Botanic Gardens, with which I have a lot of sympathy. Unless the principle is laid down that we will not tolerate organised, regulated revenue raising from the use of the parklands and if we do not oppose it, the whole principle of free use of the parklands is put at risk. I have amendments on file and will move them in Committee to remove from the Bill clause 12 *(c) (ga)* which provides:

> provide for the payment and recovery of fees determined by the board in respect of the driving, parking or standing of vehicles on land invested in, or under the control of, the board—

That is the nub of my amendments (I have a couple of consequential amendments) and it is the essence of the remarks I want to make.

I would rather have enjoyed reminiscing, having been triggered off by the Hon. Jamie Irwin, but I will deny myself that luxury because, sadly, we are making a monumental error in allowing the toehold of regulated revenue raising through charging for car parking on the parklands. One cannot help but ask the rhetorical question, 'Are the parklands there for car parking?' Why should the parklands suffer because in some other area people come and are unable to park their vehicles near other facilities, such as organised car parking facilities near to the places that they want to go? Why should the parklands be the victim of this pressure?

It is a sad day if we pass this measure in this Bill as it will certainly be a forerunner of other pressures—I can see them cropping up now. The Aquatic Centre is a sitting duck. Mark my words, we will see before long a Bill introduced benignly so that people do not abuse car parking at the Aquatic Centre or down at Memorial Drive: the same argument comes in. The revenue will be raised and become an integral part of the funding of those activities and no-one will see it removed. With the pressure for the expansion of car parking, the loss of more areas of the parklands goes on. I will move amendments and support the second reading stage so that we can go into Committee. If I am not successful with my amendments, I will oppose the third reading.

The Hon. ANNE LEVY (Minister for the Arts and Cultural Heritage): I thank members for their contribution to this debate, which seems to have ranged fairly widely and not a great deal of which has had to do with the Botanic Gardens. Restricting my remarks to what is relevant to the Botanic Gardens, I commend the Bill and support that it indicates for the State herbarium and the research functions carried by the Botanic Gardens. Many people are not aware that the herbarium and research facilities at the Botanic Gardens are analogous in the botanic world to the research facilities and work carried out in the museum with regard to zoological material. Both institutions are extremely important research centres in South Australia and have contributed a great deal to biological knowledge not only in South Australia but also have provided work recognised as being of extremely high standard throughout Australia and indeed internationally. This recognition of the herbarium is a very welcome recognition of its important research function, and I am glad, for the sake of all people involved in biological research, that this long overdue recognition is now being given legislative status.

I disagree with the comments made by the Hon. Mr Irwin regarding the conservatory, which is certainly a world-class building. I expressed my surprise at a luncheon with the Lord Mayor of the City of Adelaide only today that a wonderful modem building like the conservatory has not been listed as a heritage item. For some people heritage means old instead of meaning whatever is important to our culture and to our understanding of ourselves. Whilst heritage items are often historical or ancient, that is not a necessary part of the definition of the word 'heritage', nor do I believe that everything that is old is of heritage value. On the other hand, many modem items are nevertheless of enormous cultural value to our community and should have heritage status.

I instance the conservatory at the Botanic Gardens as an example of what I am discussing. Whether or not the Lord Mayor and the City Council agree with me on this matter, I cannot say, but the conservatory is certainly one of the jewels in the crown of Adelaide. I have had interstate and international visitors here who have asked to see something of architecture in Adelaide and I take

them straight to the conservatory. I have done this on several occasions and they have been enormously impressed. It has considerably changed their views on what Australian architecture is about. I could likewise reminisce on the Botanic Gardens and the Botanic Park by recalling many childhood memories of the use of the gardens and the park for birthday parties or catching falling autumn leaves and like precious childhood memories.

One personal reminiscence relates strongly to what I was discussing a moment ago, namely, the research function of the Botanic Gardens. The material in the Botanic Gardens has considerable scientific value and is used in research. I can recall in my days at the university, with the permission of the Botanic Gardens, making an annual pilgrimage to the gardens to collect plant material for the use by students in demonstrations, particularly with regard to botanical breeding systems and their genetic control.

Of course, while the general public is certainly not able to pick any material in the Botanic Gardens, armed with my permission to do so I would each year bring back a good bunch of material for the use of students, and I very much enjoyed that particular practical—it was one of the best ones of the year. There has been considerable discussion on the question of charging for parking in the parklands, and I take on board what various speakers have said on this point. However, I would take issue with the Hon. Mr Gilfillan when he speaks of us being on a slippery slope to damnation if we contemplate organised, regulated revenue raising from the parklands. I think I am quoting him accurately. *Hansard* tomorrow will indicate whether or not I am, but that is what I wrote down as he was speaking.

Mr President, it is not a slippery slope to damnation. We already have organised, regulated revenue raising from the parklands in the matter of parking. At the time of the Royal Show there is parking on the parklands, including on Sundays, and I presume on public holidays if any occurred at the time of the Royal Show, for which charges are made. There is parking behind the Adelaide Oval for football and cricket occasions, for which charges are made. There is parking on the parklands associated with the Victoria Park Racecourse. Parking on the parklands is not something new, nor is charging for it. Parking in Botanic Park is not new. It has been going on, I presume, ever since there were cars which could be parked there. So there is no question about this being anything novel in terms of permitting parking in Botanic Park. It has occurred for many, many years.

With the passage of this Bill, the parking will be better controlled. There will be less of it than there has been in the past and it will be controlled through financial means, to prevent the abuse of that parking in the parklands, which has been occurring by people using it as a convenient park when they are going to the Royal Adelaide Hospital, the universities or the eastern end of the central business district. I cannot agree with the Hon. Mr Gilfillan that this is in any way something completely different, anomalous or in any way the beginning of the end of the parklands. It is not a doom and gloom situation at all.

I thank honourable members for their interest in the Botanic Gardens. It is certainly one of the jewels in the crown of North Terrace. As Minister for the Arts and Cultural Heritage I can say that it is somewhat to my regret that it is the only cultural institutional jewel on North Terrace which does not come under my ministry. All the others do, but the Botanic Gardens somehow has escaped that net. I am not suggesting that it is not appropriately sited in its current ministerial portfolio but just that I regret that it is not part of the other wonderful cultural institutions along North Terrace which are my responsibility. I certainly endorse the remarks made on the value of the Botanic Gardens to South Australia.

Bill read a second time.

In Committee.

Clauses 1 to 11 passed.

Clause 12—'Regulations.'

The Hon. I. GILFILLAN: I move:

Page 4, lines 24 to 26—Leave out paragraph *(ga)*.

Paragraph (ga) provides:

> …provide for the payment and recovery of fees determined by the board in respect of the driving, parking or standing of vehicles on land vested in, or under the control of, the board;.

I do not intend to speak at length on this occasion. I mentioned in my second reading speech the reasons for this amendment. I re-emphasise, though, that I believe that this is the most significant attempt to devastate the parklands that has occurred during the time I have been in Parliament. Once this is instituted, the plague of charging for car parking will spread all over the parklands. The other amendments that I have on file are consequential. I gather from the indicated opinions from honourable members that I am unlikely to be successful on the amendment currently before the Committee, however I signal that I intend to divide and therefore to put on the record how serious the Democrats believe are the circumstances surrounding this amendment. Briefly, before concluding my remarks on this amendment: the position as put by the Minister that there is charging for car parking on the parklands under other circumstances does not to my mind in any way justify this far more regulated and permanent arrangement for car parking. The others are arrangements for specific purposes. I am not here to defend those, and I am certainly not prepared to accept them as in any way a justification for this measure.

The Hon. ANNE LEVY: I oppose the amendment. As I have already indicated, fees are charged for parking on the parklands in other circumstances. It is certainly not something new to have cars parking in Botanic Park. They have done so for years and years. What is being proposed here is to give the board power to control parking by the imposition of fees. No other way seems to work. Given the susceptibilities of many people in our community, the only way they can be induced to behave responsibly is to impose financial penalties if they do not. Consequently, I oppose the amendment.

The Hon. J.C. IRWIN: Briefly, I indicate that I oppose the amendment. I have sympathy for the Hon. Mr Gilfillan's position and I admire him for his consistency, but I do not think he has made any moves to take away the parking, *per se,* from that drive through the parklands, and the amendments before us are purely about charging fees for the parking. I am very much against going down the path of justifying doing something because there is a precedent. I have always been very careful to keep away

from that argument. I agree that what the Minister has raised is relevant but, as I say, I have tried to keep away from using those arguments and have kept this to the area of trying to get the parking that is there better organised, to minimise any possible damage to tree roots and other things within Botanic Park. There will in fact be less parking there, and we support the move to ensure that the genuine users of the park will have access to it, which I believe is denied now, through the actions of people misusing the parking there.

We often say that two wrongs do not make a right. I take the issue on its merits, and would stand with the Hon. Mr Gilfillan later if that is to be the toe hold into something that would be grossly out of place in the Botanic Gardens. For those reasons and with some explanation, I indicate again that we oppose the amendment. Will the Minister come back to me with the Howie parking matter? I do not expect an answer today.

The Hon. Anne Levy: Yes, I will.

The Hon. I. GILFILLAN: I have deliberately avoided going into the wider debate about general car parking on the parklands, but the control of car parking in that area could easily be exercised under regulations with fines and penalties for abuse of that situation, so I feel that it is a totally spurious argument to say that the sale of tickets is there purely as a facilitator for people to use the Botanic Gardens. It is unashamedly a revenue raiser of some hundreds of thousands of dollars. It is on that basis that it is the bait and the bribe to move into this totally unacceptable procedure.

The Council divided on the amendment:

Ayes (2)—The Hons M.J. Elliott, I. Gilfillan (teller).

Noes (18)—The Hons J.C. Burdett, T. Crothers, L.H. Davis, Peter Dunn, M.S. Feleppa, K.T. Griffin, J.C. Irwin, Anne Levy (teller), R.I. Lucas, Bernice Pfitzner, Carolyn Pickles, R.J. Ritson, R.R. Roberts, T.G. Roberts, J.F. Stefani, C.J. Sumner, G. Weatherill, Barbara Wiese.

Majority of 16 for the Noes.

Amendment thus negatived; clause passed.

Clause 13, schedule and title passed.

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

That this Bill be read a third time.

In doing so, I indicate that, whilst I am not able to give a response to one of the questions asked by the Hon. Mr Irwin during the second reading debate today, I will request the Minister responsible to provide him with that information at the earliest possible opportunity.

The Hon. I. GILFILLAN: I indicated earlier that, if I were unsuccessful in my amendment on car parking, I would feel so strongly about it that, although other measures in the Bill are acceptable, I intend to vote against it. I repeat simply that I believe that the introduction of the organised charging for car parking on parklands, as is included in this Bill, is a potentially devastating forerunner of what can happen as far as car parking and the charging for it in large areas of the parklands is concerned. On that basis, I intend to vote against the third reading.

Bill read a third time and passed.

WORKERS REHABILITATION AND COMPENSATION (MISCELLANEOUS) AMENDMENT BILL

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

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

This Bill seeks to continue the process of tightening up the general operation of the WorkCover scheme.

As a result of significant improvements in the general administration of the scheme, WorkCover's unfunded liability has been progressively reduced over the last two years.

For the year ending 30 June 1992 WorkCover's unfunded liability is $97.2 million. This is a continuation of the downward trend from $150 million in 1990, to $134.5 million in 1991, to $97.2 million in 1992.

Importantly the average levy rate for the scheme has also been reduced from 3.8 per cent in 1990-91 to 3.5 per cent in 1991-92. This Bill seeks to provide for a range of measures, which taken together will further reduce the unfunded liability by approximately $98 million and allow an average levy rate to be set which is competitive with the schemes operating interstate.

There are ten significant issues covered by this Bill.

- Limiting eligibility of stress claims.
- Tightening payment of benefits to claimants pending review.
- Employers making direct payments of income maintenance to claimants.
- A new system of capital loss payments for workers who have been on benefits for more than 2 years.
- The exclusion of superannuation—for the purpose of calculating benefits.
- The exclusion of damage to a motor vehicle from compensation for property damage.
- Costs before review authorities.
- Bringing the mining and quarrying occupational health and safety committee under the control and direction of the Minister of Labour, Relations and Occupational Health and Safety.
- Review of lump sum non-economic loss payments.
- Abolition of common law rights.

The amendments are generally aimed at improving the financial viability of the WorkCover scheme.

The first four changes involve significant variations to the scheme, and are considered necessary in the light of the experience of over five years of the scheme's operation.

Two of the remaining amendments are necessary to remove liabilities in the scheme which have resulted from judicial interpretations of certain sections of the Act, which have been contrary to the original intention of the Act.

Stress Claims

The issue of stress claims has received much public and media attention. The decision of the Supreme Court in the Rubbert case highlighted the problems that can arise in this area, and provides strong grounds for a change to the legislation. In that particular case, the full bench found, unanimously, in favour of the worker, but the three judges commented in their decisions that the acceptance of the claim was 'curious', 'regrettable' and 'absurd' but 'inescapable' under the law as it stands.

That case involved a worker who was disciplined for a poor work performance. Although the worker's compensation appeal tribunal and the Supreme Court considered the discipline reasonable in the circumstances, the claim was accepted because it arose from employment.

In relative terms, stress claims are not a major component of the scheme's costs but the proportion is increasing, the number

of stress-related claims for the financial year ending June 1992 represents approximately 1.3 per cent of total claims. This represents a significant increase (almost a third) the percentage of total claims for the previous 12 month period. The cost of these claims is currently 4 per cent of the scheme's total costs but, if present trends continue, are forecast to be 5 per cent.

There is concern that because of the subjective nature of stress claims the scheme is vulnerable in this area and, accordingly, there is a concern that the cost of stress claims could escalate in the future.

Therefore, the amendments seek to exclude claims that arise from reasonable disciplinary or administrative action.

The proposed changes require that the alleged work stressors or stressful work situation have significantly contributed to the disability. Furthermore, it is proposed that stress related illness caused by specified incidents such as discipline, retrenchment, failure to grant a promotion, etc. which are normal incidents of employment, should not be compensable if the employer's actions were reasonable.

Benefits Pending Review

The Act currently states that, where a worker seeks a review of a decision to reduce or discontinue weekly payments, that decision has no effect until the review officer's decision is finalised. In other words, weekly payments generally continue during the review process.

Although the corporation has the right to recover any amounts overpaid, if the review officer subsequently confirms the decision of the corporation, in practice this is extremely difficult, given that the worker, in most cases, would have spent the money on normal living expenses. Furthermore, in the event of recovery by the corporation, it is understood that the worker has no retrospective entitlement to social security benefits for the period subject to recovery.

The result of this is that it may actually encourage applications for review, for the purpose of continuing weekly payments. With the current delays in review largely attributable to the number of applications pending, continuing payments with little real prospect of recovery is a further drain on the fund. However, the rights of the worker must also be considered to prevent undue hardship that may occur if payments were to cease following notice of the decision.

The proposed amendment would provide for the continuation of payments only where the worker applied for a review within one month after receiving notice of the decision. A further limitation in the amendment is that the payments would continue only up to the first hearing by a review officer.

From this point, payments would only continue if the matter is not finalised because of an adjournment, and then only on the basis of an order by the review officer. This should limit adjournments and ensure that the worker makes every effort to resolve the matter at the first hearing, whilst also discouraging the corporation and employers from seeking adjournments, or being unprepared, leading to delays in resolution.

Payment of Income Maintenance by Employers

The Act currently provides that the corporation (or exempt employer) is liable to make all payments of compensation to which a person becomes entitled. The amendment maintains this liability but introduces a compulsion on employers to make direct payments of income maintenance to incapacitated workers unless they are specifically exempted from this requirement.

An employer who seeks an exemption from this requirement, but is denied, may apply to the Board of the corporation for a review of the matter.

An employer who does make a direct payment will be entitled to be reimbursed by the corporation. The amendment provides that regulations may set out circumstances in which an employer may also be entitled to interest on the reimbursement.

The advantages sought by this amendment are in terms of reducing the corporation's administrative costs and in assisting the scheme's return-to-work focus by reinforcing the direct link between the worker and the employer.

Long Term Payments

This Bill proposes an alternative form of compensation for those workers who have been on benefits for more than two years, whereby the corporation would have the discretion to either continue weekly payments as income replacement, or to pay an amount, or amounts, representing the worker's assessed permanent loss of earning capacity.

The proposal under the new division IVA (4A) is that the corporation make an assessment of the permanent loss of future earning capacity as a capital loss, to be calculated by reference to the present value of the projected loss of earnings arising from the worker's assessed loss of earning capacity over the worker's remaining notional working life. The corporation could then decide, at its discretion, to pay the lump sum compensation in one payment, or by a series of lump sum instalments. A provision is also proposed that would allow the corporation to make interim assessments of the permanent loss of earnings capacity. For example, the loss could be assessed over a lesser period than the worker's remaining notional working life and paid in a lump sum, or instalments, over that period, with a reassessment of the permanent loss of earning capacity at the expiration of the interim assessment period.

Under this proposed new division, the lump sum compensation payable is for the proportionate loss of a capital asset being the worker's earning capacity. As such, it is understood that the lump sum payments would not be taxable in the hands of the worker. Accordingly, allowance for this has been made in the formula for assessing the loss of earning capacity and in determining the lump sum amounts that are payable to workers.

The Bill also contains consequential provisions in regard to the death of a worker, adjustments that would be made to the benefit payments for any surviving spouse and/or dependants, and to allow a fair and reasonable reduction in the weekly payments to which a worker would be entitled if they suffer a subsequent injury.

Exclusion of Superannuation

The proposed amendment is to ensure that contributions to superannuation schemes paid or payable by employers are excluded from the calculation of a worker's average weekly earnings. This amendment has become necessary following a decision of the worker's compensation appeal tribunal, where it was determined that superannuation contributions made by the employer formed part of the earnings of the worker.

A regulation was made in November 1990 to make such superannuation contributions a prescribed allowance and were, as a result, excluded from average weekly earnings calculations.

However, there is concern regarding the potential for employers or workers to seek payment or reimbursement of any contributions made to superannuation funds in connection with claims prior to November 1990. The proposed amendment puts beyond doubt that such payments are excluded from the calculation of average weekly earnings retrospectively to the commencement of the scheme. Where such payments have been included in the benefits paid to workers it is proposed that they cease from the date of proclamation but that there be no recovery of payments already made.

Exclusion of Damage to a Motor Vehicle

The Act currently provides for a worker to be compensated for damage to personal effects and tools of trade up to limits prescribed by regulation. The proposed amendment is to ensure that compensation for property damage does not extend to damage of a worker's motor vehicle as a personal effect or tool of trade. It was never the intention of the legislation that a worker would be entitled to such compensation under this provision as it was considered that separate motor vehicle insurance should be purchased, rather than relying on the workers' compensation scheme for such cover.

Costs Before Review Authorities

It was always intended that review authorities would have the power to award costs incurred by parties to proceedings. A recent decision has found that the Act does not contain an express power to award costs, even though it implies such a power by listing the principles to be taken into account in awarding costs. The proposed amendment puts the issue beyond doubt.

Mining and Quarrying Occupational Health and Safety Committee

This amendment simply ensures that the annual report of the committee is presented to parliament and coincides with the presentation of the annual report of the WorkCover corporation. In addition, it brings the committee under ministerial control and direction.

Review of Lump Sum Non-Economic Loss Payments

This proposal would—

(a) amend the third schedule to include those disabilities added by regulation in June 1992.

(b) add to the third schedule a provision that any disability not specifically identified on the schedule be compensated on the basis of an assessment of the permanent loss of total bodily function, expressed as a percentage, to be applied to the prescribed sum.

(c) abolish section 43 (3) (which currently relates to compensation for disabilities not on the schedule) because all permanent disabilities will be compensated via the third schedule.

(d) increase the prescribed sum by $2 000 in 1986 (indexed to approximately $3 000 in 1992) to provide some additional compensation to offset the above changes.

(e) provide a supplementary lump sum payment for non-economic loss workers with serious disabilities (where the worker is eligible for a payment of greater than 55 per cent of the prescribed sum) to be calculated as 1.5 times the percentage of the prescribed sum that is in excess of 55 per cent. This would mean that a person with a 100 per cent assessment on the third schedule such as paraplegia, quadriplegia, loss of both legs or total blindness would receive 167.5 per cent of the revised prescribed sum. On 1992 figures that would mean a lump sum payment of approximately $155 000 instead of the current $89 300.

It is proposed that the above changes apply to all future determination in relation to non-economic loss made by the corporation from the date of proclamation of these amendments, but that determinations already made not be affected.

Common Law Claims

As part of a package of amendments which includes changes to the lump sum payments for non-economic loss, it is proposed that the limited right of a worker to sue the employer at common law be removed for all future claims (all existing rights remain unaffected).

The proposed increase in lump sum non-economic loss payments will ensure that the seriously disabled workers will receive more as a statutory benefit than they could currently receive given the current cap of 1.4 times the prescribed sum.

Summary

The various amendments contained in this Bill address a range of major issues that are of importance to the long term financial viability of the WorkCover scheme.

The provisions of the Bill are as follows:

Clause 1 is formal.

Clause 2 provides for the commencement of the measure.

Clause 3 provides that any contribution paid or payable by an employer to a superannuation scheme for the benefit of a worker will be disregarded when determining the average weekly earnings of the worker for the purposes of the Act.

Clause 4 relates to the compensability of stress related conditions.

Clause 5 amends section 34 of the Act to ensure that compensation payable under that provision for property damage does not extend to compensation for damage to a motor vehicle.

Clause 6 amends section 35 of the Act and is related to the proposed new Division that will allow the Corporation to make lump sum payments of compensation in respect of loss of future earning capacity. In particular, a worker's entitlement to weekly payments under section 35 in respect of a disability that has been compensated under the new Division will need to be reduced to such extent as is reasonable in view of the payment under that Division.

Clause 7 relates to the continuation of weekly payments pending a review of a decision of the Corporation to discontinue or suspend weekly payments under section 36 of the Act. The Act presently provides for the maintenance of weekly payments until the review is completed. The amendment provides that weekly payments will be made until the matter is first brought before a Review Officer. The Review Officer will then be able to order that weekly payments be continued on any adjournment of the proceedings where appropriate. Furthermore, the provision will allow payments made under this section to a worker whose application for review is unsuccessful to be set off against liabilities to pay compensation under the Act.

Clause 8 makes an amendment to section 37 of the Act to provide that a notice to a worker under that section must contain such information as the regulations may prescribe. This will avoid any confusion as to the form or extent of information that must be included in the notice.

Clause 9 makes an amendment to section 39 which is consequential on the enactment of new Division IVA of Part IV.

Clause 10 provides for the enactment of a new Division that will enable the Corporation to award compensation for loss of future earning capacity in cases where the worker has been incapacitated for work for a period exceeding two years.

The provision sets out the basis upon which the compensation is to be calculated. The Corporation will be empowered to make interim assessments of loss, and to pay entitlements in instalments. An award of compensation under this Division will terminate a worker's entitlement to income-maintenance compensation.

Clause 11 provides for various amendments relating to lump sum compensation for non-economic loss. The amendments will require that all claims be assessed under the Third Schedule. A supplementary benefit will be payable if the worker is entitled to 55 per cent, or more, of the prescribed sum. The prescribed sum itself is to be increased by $2 000 (indexed from 1986).

Clause 12 makes various consequential amendments to section 44 of the Act, including to ensure that the compensation payable to the dependants of a worker who dies as the result of a compensable disability does not 'coincide' with a payment of compensation to the worker under new Division IVA of Part IV.

Clause 13 makes an amendment to section 45 of the Act that is similar to the amendment in clause 8.

Clause 14 amends section 46 of the Act to establish a scheme whereby the Corporation can require an employer to make appropriate payments of compensation on its behalf. The employer will be entitled to reimbursement and, if the regulations so provide in prescribed circumstances, interest. An employer who considers that he or she should not be required to participate in the scheme can apply to the Board for a review of the matter.

Clause 15 makes an amendment to section 53 of the Act that is similar to the amendment in clause 8.

Clause 16 removes the provisions that a worker to sue at common law in respect of a work-related injury (other than an injury arising out of the use of a motor vehicle).

Clause 17 delegates the powers of the Corporation under new Division IVA to exempt employers. However, the Corporation will be entitled to direct an exempt employer in relation to the exercise of the employer's discretion as to the payment of compensation under new Division IVA of Part IV.

Clause 18 is intended to provide expressly that a review authority is empowered to award costs. A decision of the Workers Compensation Appeal Tribunal has raised some doubt in this regard. Furthermore, the Act presently provides that only an unrepresented party is entitled to reimbursement of expenses. The amendment will allow any party to claim reimbursement of the costs of the proceedings, subject to limits fixed by the regulations.

Clause 19 relates to the provision of certain information about employers.

Clause 20 provides for a new Third Schedule.

Clause 21 relates to the Mining and Quarrying Occupational Health and Safety Committee. The committee's annual report is to be laid before each House of Parliament. Provision is also to be made to ensure that the committee is subject to the control and direction of the Minister.

Clause 22 sets out various transitional provisions and expressly provides that the amendments relating to the compensability of stress-related disabilities have no retrospective effect.

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

CONSTRUCTION INDUSTRY LONG SERVICE LEAVE (MISCELLANEOUS) AMENDMENT BILL

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

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

This Bill, which amends the Construction Industry Long Service Act 1987 seeks to make the Act more flexible for both employers and workers, strengthen the existing enforcement provisions, subject the board to ministerial control and consolidate and simplify various provisions.

The portable long service leave scheme, established by the Long Service Leave (Building Industry) Act, commenced on I April 1977. The Act was retitled the Construction Industry Long Service Leave Act on 1 July 1990. The scheme enables construction industry workers to become eligible for long service leave benefits based on service to the industry rather than service to a single employer.

Workers will benefit through the new provisions which will enable their 13 week long service leave entitlement to be taken in up to three separate periods of not less than two weeks over a period of three years.

This increased flexibility will benefit both workers and employers particularly during a downturn in construction activity. The amendment also aligns the Act more closely with the provisions of the State Long Service Leave Act.

Under the current Act, workers who were promoted to positions of foremen, ceased to qualify for long service leave. This Bill will allow for the ongoing coverage of those foremen whose employment involves supervising other workers who work predominantly on construction sites.

As there is invariably no prescribed award coverage for foremen, it is also necessary to amend the Act to enable the board to determine the ordinary weekly pay on which the levy is to be based. Workers and employers will also be able to make representations to the board regarding the rate of ordinary weekly pay used.

Interstate employers employing interstate workers in this State will no longer be required to be registered in South Australia provided both the employer and worker is registered under their own State scheme. This will result in savings for employers and ensure uniformity of scheme application between the States.

The Construction Industry Long Service Board prosecutes employers as a last resort. At present, a prosecution for an offence under the Act must be commenced within three years of the date on which the offence is alleged to have been committed. This Bill will extend this period to six years subject to the authorisation of the Attorney-General.

The prosecution of employers normally results from circumstances where levies remain outstanding over a protracted period or access to records has been denied. A weakness of the current legislation is that although a conviction may be recorded and a fine imposed by the courts, the board is not necessarily any closer to obtaining the outstanding levies or records. This Bill will empower the courts to make orders against employers.

Where an employer ceases to employ they may elect to cancel their registration or have it remain active. In the event of the latter it is necessary for employers to submit 'nil' returns. Without the return the board is unable to determine an employer's status or liability. Under the current legislation the board cannot enforce the lodgement of 'nil' returns. This amendment seeks to correct this. The Bill will also enable the board to impose a penalty fine on employers who fail to lodge a 'nil' return by the due date.

The board is currently required to arrange for an actuarial investigation of the funds to be carried out every three years. It is the Government's view that the board, as trustee of the funds, must have the state and sufficiency of the funds assessed on an annual basis by an actuary appointed by the board. This Bill provides the legal basis for this to occur and also requires the board to submit an actuary's report to the Minister along with a recommendation regarding the levy rate.

To assist in achieving a more accurate actuarial assessment of the funds, it is also proposed that a timeframe of six months be set for former workers to advise the board they have become a self-employed contractor.

I am pleased to be able to report the loan from the construction industry fund to extend the scheme to include electrical contracting and metal trades workers from 1 July 1990, has now been repaid. Accordingly, the existing provisions relating to the conditions of the loan are no longer required.

In keeping with this government's commitment to the increased accountability of public authorities, a provision has been included in the Bill whereby the board will become subject to the control and direction of the Minister. Other provisions are to be consolidated and simplified.

The Bill has been the subject of consultation with the relevant bodies including the Construction Industry Long Service Leave Board, the relevant industry unions and employer organisations. In general they have indicated their support for the proposals contained in the Bill.

I seek leave to incorporate the parliamentary counsel's explanation of clauses without my reading it.

The provisions of the Bill are as follows:

Clause 1 is formal.

Clause 2 provides for the commencement of the measure.

Clause 3 relates to the definitions that are relevant to the operation of the Act. In particular, the definitions of 'agreement' and 'award' are to be made consistent with the new Industrial Relations Act of the Commonwealth, and provision is made for the inclusion of 'foremen' under the Act (it being noted that the remuneration of foremen, and their ordinary hours, are not set by award or industrial agreement).

Clause 4 provides for a new provision that will allow the board to make its own determination as to the amount that should constitute a construction worker's ordinary weekly pay under the Act. The board will only be permitted to make such a determination if it appears to the board that the worker's ordinary weekly pay would, if calculated in accordance with the other provisions of the Act, be excessive or insufficient. The board will be required to inform the worker, and his or her employer (if any), of the proposed determination, and to allow the worker and employer a reasonable opportunity to make written submissions in relation to the matter.

Clause 5 amends section 5 of the Act by virtue of the inclusion of foremen under the legislation.

Clause 6 will amend section 6 of the Act to declare that the board is subject to control and direction by the Minister.

Clause 7 makes a technical amendment to clarify that the relevant service for the purposes of the provision is service as a construction worker within the meaning of the Act, or as a building worker under the repealed Act, and to include reference to the Metal Industry (Long Service Leave) Award 1984 (which is relevant to workers who came under the Act in 1990).

Clause 8 will allow workers to take long service leave in separate periods (as in the case under the Long Service Leave Act 1987), subject to various qualifications. Furthermore, the period during which ordinary weekly pay is calculated at current rates is to be increased from 12 months to three years. As is the case with the existing legislation, the board will be able to extend this period in an appropriate case.

Clause 9 makes various technical amendments to section 17, in a manner consistent to the amendments to section 14 of the Act.

Clause 10 relates to section 18 of the Act, which provides for the preservation of entitlements where a worker (in certain circumstances) ceases to be employed as a construction worker and sets himself or herself up as an independent contractor in the industry. The amendment will require a person who is claiming the benefit of the provision to send the relevant notice to the board within six months after the person commences work as a self-employed contractor, or within such longer period as the board may allow.

Clause 11 removes various provisions that are no longer required.

Clause 12 will replace the requirement to carry out an investigation into the Fund on a three-yearly basis with a requirement that the investigation be carried out annually.

Clause 13 will ensure that amounts paid by employers to workers over and above amounts used for the purpose of determining ordinary weekly pay under the Act may be disregarded for the purpose of calculating levy.

Clause 14 will make it an offence to fail to pay a levy at the same time as the relevant return is provided to the board. New subsection (6) clarifies that a registered employer will be regarded as an employer in the construction industry for a return period even if the employer has not in fact employed any construction workers during that period.

Clause 15 will allow the board to impose a fine on an employer who fails to furnish a return in accordance with the Act.

Clause 16 will allow certain interstate employers to apply for exemptions under the Act. New section 38b will allow the Minister to appoint inspectors under this Act. The Act presently provides that an inspector under the Industrial Relations Act (S.A.) 1972 is an inspector under this Act. It is more efficient administratively to allow inspectors to be appointed specifically for the purposes of this Act.

Clause 17 relates to offences under the Act. It is proposed that the Attorney-General be authorised to commence proceedings up to six years after an offence is alleged to have been committed. A new provision will allow a court to order that a defendant take action to remedy any default under the Act and, in particular, to provide appropriate information or records to the Board.

Clause 18 will require that expiation fees paid under the Act are paid into one of the funds established by the Act.

Clause 19 reflects a change to the name of an award referred to in the first schedule.

The Hon. J.F. STEFANI secured the adjournment of the debate.

ADJOURNMENT

At 6.5 p.m. the Council adjourned until Thursday 29 October at 2.15 p.m.