LEGISLATIVE COUNCIL

Tuesday 21 October 1986

The PRESIDENT (Hon. Anne Levy) took the Chair at 2.15 p.m.

The Clerk (Mr C.H. Mertin) read prayers.

ASSENT TO BILLS

His Excellency the Governor, by message, intimated his assent to the following Bills:

Coober Pedy (Local Government Extension) Act Amendment,

Coroners Act Amendment,

Local Government Act Amendment (No. 3),

Local Government Finance Authority Act Amendment,

Road Traffic Act Amendment (No. 4),

State Supply Act Amendment.

PETITION: BOTANIC PARK

A petition signed by 129 residents of South Australia praying that the Council would request the immediate return of the area designated for a car park, located in the south east corner of the Botanic Gardens, and would urge the Government to introduce legislation to protect the parklands and ensure that no further alienation would occur before the enactment of this legislation was presented by the Hon. I. Gilfillan.

Petition received.

PETITION: PETROL PRICES

A petition signed by 192 residents of South Australia praying that the Council would urge the Government to make all possible efforts to remove the iniquitous position in relation to petrol pricing and asking it to strongly consider intervention to achieve realistic wholesale prices as a means of achieving equity for the country petrol consumer was presented by the Hon. M.J. Elliott.

Petition received.

REGISTER OF MEMBERS' INTERESTS

The PRESIDENT laid on the table the statement of the Register of Members' Interests of March and June 1986.

Ordered that report be printed.

PAPERS TABLED

The following papers were laid on the table:

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

Pursuant to Statute—

Regulations under the following Acts:

Australian Formula One Grand Prix Act 1984—Resale of Tickets etc.

Classification of Publications Act 1974—Exemptions from Classification (Amendment).

Industrial Safety, Health and Welfare Act 1972—Safe Working in a Confined Space.

Superannuation Act 1974—Part-time Employment.

Evidence Act 1929—Report of the Attorney-General relating to Suppression Orders, 1985-86.

Industrial Court and Commission of S.A.—Report, 1985-86.

Judges' Pensions Scheme/Governors' Pensions Scheme—Report, 1985-86.

Legal Services Commission—Report, 1986.

Parole Board of South Australia—Report, 1985-86.

Remuneration Tribunal—Reports relating to Determinations Nos. 7 and 8 of 1986.

State Government Insurance Commission—Report, 1985-86.

Technology Park Adelaide Corporation—Report, 1985-86.

By the Minister of Consumer Affairs (Hon. C.J. Sumner)—

Pursuant to Statute—

Regulations under the following Acts:

Commercial Tribunal Act 1982—Powers of Chairman and Registrar; Powers and Functions of Tribunal.

Consumer Credit Act 1972—Powers of Chairman and Registrar.

Land Agents, Brokers and Valuers Act 1973—General Regulations, 1986.

Liquor Licensing Act 1985—Grand Prix Party Restrictions

Second-hand Goods Act 1985—

Registered Premises

Record Maintenance.

By the Minister of Corporate Affairs (Hon. C.J. Sumner)—

Pursuant to Statute—

Trustee Act 1936—Regulations—Trustee Investment Status.

By the Minister of Tourism, for the Minister of Health (Hon. J.R. Cornwall)—

Pursuant to Statute—

Regulations under the following Acts—

Beverage Container Act 1975—Deposit Levels.

Fisheries Act 1982—

Undersized Rock Lobster.

Investigator Strait Experimental Prawn Fishery—Extension of Licence Tenure.

West Coast Experimental Prawn Fishery—Extension of License Tenure.

South Australian Health Commission Act 1976—Health Centre Audit.

Department of Lands—Report, 1985-86.

Department of Recreation and Sport—Report, 1985-86.

Environmental Protection Council—Report, 1984-85.

Racecorses Development Board—Report, 1985-86.

South Australian Housing Trust—Report, 1985-86.

By the Minister of Tourism (Hon. Barbara Wiese)—

Pursuant to Statute—

Mining Act 1971—Regulations—Fees.

Forestry Act 1950—Proclamations—

Hundred of Goolwa.

Hundred of Parilla.

Hundred of Kuitpo.

Children's Services Office—Report, 1986.

Pipelines Authority—Auditor-General's Report on Accounts.

State Theatre Company—Report, 1984-85.

Carrick Hill Trust—Report, 1985-86.

By the Minister of Local Government (Hon. Barbara Wiese)—

Pursuant to Statute—

Local Government Act 1934—Regulations—Prescribed Body.

District Council By-laws—

Elliston—No. 26—Camping.

Stirling—Nos 1 and 9—Metrification.

QUESTIONS

RANDOM BREATH TESTING

The Hon. M.B. CAMERON: I seek leave to make a statement prior to directing a question to the Attorney-General on the subject of random breath testing.

Leave granted.

The Hon. M.B. CAMERON: As members would be fully aware, Christmas is fast approaching and it is, unfortunately, a time of great danger on South Australian roads. It also is a time when every possible deterrent to potential motoring offenders should be in place. Already this year 214 people have died on the roads in this State—an increase of 18 on last year's statistics at this time. Of course, this is also reflected in the injury rate, which is very much higher than last year.

At the risk of sounding repetitious, I point out that the road toll is deplorable and it is getting worse. It is, therefore, with some concern that I note that 12 of the 32 recommendations from the 1983 select committee report on random breath testing in South Australia have not been implemented. These represent some of the most important and worthwhile recommendations, for example, recommendation No. 7 states:

That vehicles used by police be equipped with appropriate traffic control equipment and signs to enable them to be readily converted for use as random breath testing stations.

Recommendation No. 9 reads in part, and this is probably the most important recommendation:

That the number of South Australian drivers tested annually should be at least doubled.

Recommendation No. 8 states:

That the South Australian Police Department be provided with adequate resources to ensure proper implementation of random breath testing in both city and country areas. To ensure it is an effective and recognisable deterrent against drink-driving [and the previous recommendation is repeated here] the number of South Australian drivers tested annually should be at least doubled.

Senior police have said publicly that random breath testing units do not seem to have the deterrent effect on motorists that is the case in the Eastern States; that is not surprising, considering South Australia is lagging in the number of people tested this year, compared with the Eastern States. Everything possible must be done as soon as possible to ensure that this Christmas does not bring tragedy to South Australian families. I am quite certain that the Minister, as I have said before in this place, and the other members who were on a bipartisan committee which came forward with the recommendations from both sides of the Council, would have supported any moves to ensure that those recommendations were implemented. My questions are:

1. Why have these recommendations not been implemented?

2. When will they be implemented, particularly those that I have mentioned?

The Hon. C.J. SUMNER: The Government has taken a number of initiatives with respect to road safety. I am sure that the honourable member is aware of them. Indeed, in the current budget there has been an increase in the allocation to the police, despite the fact that we are in an extremely difficult budgetary situation, as the honourable member would know. Nevertheless, despite that, the Government has prepared a budget which has provided increased resources to the police. Indeed, there have also been initiatives related to road safety.

The honourable member knows that, in fact, over an extended period now, the road toll has been decreasing, not just in this State but also in the other States of Australia; the trend has been down, on the whole. At this stage in this particular year, the number of road deaths is somewhat higher than it was last year. Nevertheless, the overall trend over quite a long period of time has shown a decrease, thankfully, in the number of people who have been killed on South Australian roads and, indeed, on Australian roads. I think that the initiatives taken by Governments in the past have assisted in that, including initiatives against drink driving. Those initiatives have contributed, I believe, to that reduction in the road toll. I will, however, refer the honourable member's specific questions to the responsible Minister and bring back a reply.

PORT ADELAIDE WATERFRONT

The Hon. K.T. GRIFFIN: I seek leave to make an explanation prior to asking the Attorney-General a question about waterfront extortion.

Leave granted.

The Hon. K.T. GRIFFIN: Today the Attorney-General is reported as saying that he is writing to the Liberal Leader (John Olsen) and to both Stephen Baker and Alexander Downer inviting them to provide information about claims made about extortion by members of the Ships Painters and Dockers Union at Port Adelaide. The Opposition has evidence that practices involving extortion identified and criticised by the Costigan royal commission in 1984 have continued.

The worst cases of money demanded by the Ship Painters and Dockers Union for work on ships at Port Adelaide since the Costigan report include: 1½ hours work for $6 000, five hours work for $19 000, eight hours work for $10 000, 2½ hours work for $6 000, three quarters of an hour's work for $5 500, and two hours work for $5 800. In each of these six cases I am informed that the cost of private cleaners would have been no more than $1 000. In another case, a ship was delayed at Port Adelaide for some days because the union demanded $10 000 to clean holds, even though the ship was not taking on perishables here but was proceeding to Malaysia to take on sugar. The company finally capitulated and paid $8 100 to gain the release of the ship. All of those instances compound the problems identified by Costigan in 1984, when he found evidence of workers compensation frauds, social security and taxation frauds, extortion rackets holding shipowners to ranson and fraudulent use of false names, addresses and dates of birth.

In 1985 the Attorney-General indicated that no action had been taken by the State to further investigate or commence prosecutions in respect of the Costigan findings. This and the problem of union intimidation has meant that shipping companies have been reluctant to make their problems with the union public or report them to police. I understand that, if there is a properly constituted investigation and there is a guarantee that the allegations will be fully investigated and that there will be the necessary protection of the companies from intimidation, the shipping companies are prepared to make information available. But, understandably, if they are not going to be protected from extortion, intimidation and bans, they will be reluctant to co-operate. My questions to the Attorney-General are, in the light of the reported statement by him this morning:

1. What form of investigation will the Attorney-General establish?

2. Can he give guarantees that protection will be given to shipping companies and their staff from extortion and intimidation resulting from disclosure of information to any investigating authority?

The Hon. C.J. SUMNER: The problem with the Opposition in respect of this matter is that, of course, it was more concerned with getting headlines in the *Advertiser* and the press than having matters properly examined. Mr Baker and Mr Downer raised the matter in the media yesterday because they thought that they would get a nice front page story in the *Advertiser*. They were not interested in any serious resolution of the matter. That was clear because,

had they been interested in a serious resolution of the matter, they would have made their reports to the appropriate authorities—which, as I have indicated before, ought to be done. The fact is, as the honourable member would know, allegations of criminal activities ought to be taken to the appropriate authorities, and the appropriate authority in this State for the investigation of criminal activities is the South Australian Police. Honourable members opposite know that as well as I do. They know that I am not responsible for carrying out investigations of criminal activity. As Attorney-General I have a role in the prosecution process, but the investigation of complaints of criminal activity is the responsibility of the South Australian Police.

The Costigan royal commission material was referred to both the Commissioner of Police and the Crown Prosecutor of the time, Mr Brian Martin QC. Mr Martin concluded, on referral of the Costigan findings to him, that the Crown would fail to establish a *prima facie* case that an intent to steal existed, and the opinion of the Commissioner of Police at the time was that, with respect to the laying of charges in this State, there was no evidence available to support such an action.

The material obtained by Commissioner Costigan was sent to those authorities who considered the material and reported in that way to the Government. That information was provided also to Parliament, including a letter written on 27 June 1985 to the Hon. Mr Griffin, the shadow Attorney-General. At that stage I made the same suggestion to the honourable member, that if there were allegations of illegality, they ought to be drawn to the attention of the authorities, namely, the police. In 1985 the Commissioner of Police advised me as follows:

> The activities of those persons and organisations nominated by Commissioner Costigan will be monitored for their association and/or the conducting of criminal activities in South Australia and further action will be taken should the need be identified.

It is not the style of members of the Opposition to make allegations to the Commissioner of Police but, rather, to the *Advertiser*, which is their way of getting publicity without having to do anything. I suppose that since the last election those are the sorts of tactics on a whole range of issues that one has come to expect from members opposite. They very rarely substantiate the sorts of things which they raise in Parliament. One could name a large number of accusations that have been made by members opposite in relation to members in this Parliament, and which have proved to be completely unfounded. It is in that sort of vein that they make these allegations not to the police but, rather, to the newspapers, because they know that it will get them good publicity, no matter what effect it may have on the community in South Australia.

Following the allegations, I contacted the Commissioner of Police who advised as follows:

> The police have not determined the need to investigate activities of persons or organisations with respect to activities nominated by Mr Costigan, QC in 1984. Certain individuals have come under notice of police, but not for the activities nominated by Mr Costigan.

So, since the Costigan inquiry the Commissioner of Police has not received any reports of allegations of extortion. If members have allegations of a criminal offence involving extortion, then they ought to take them to the Commissioner of Police. If it is an allegation involving a work practice, then there are a number of things that members opposite can do. Presumably, if employers are dissatisfied with work practices contained in the awards, then they can be the subject of negotiations with the unions and, if necessary, referral to the conciliation and arbitration process. Members opposite know that the Prime Minister convened a meeting in Canberra involving the ACTU, representatives of industry in this country and members of the Government in order to deal with the issue of work practices. A number of negotiations and discussions are proceeding on the question of work practices in South Australia.

If members opposite are concerned about work practices either within or without the award structure, then they can pursue that avenue, but that is not the action that members opposite or their colleagues want to take. They do not want to go to the police with any reports of criminal activity and they do not want to take the responsible step of identifying the sorts of work practices about which they may feel some concern and encourage employers to discuss those through the forums that have been established already to enable those matters to be discussed.

They want to put down the port of Adelaide. They want to paint a picture of the port of Adelaide as being in a worse situation with respect to work practices than other ports in Australia. They really ought to be a little more responsible about this, but the sorts of headlines that they are promoting for their own narrow political interests in this State can easily have the effect of creating the impression in Australia and overseas that somehow or other there are problems in the port of Adelaide which do not exist anywhere else in Australia.

The Hon. L.H. Davis: What did the Costigan report say?

The Hon. C.J. SUMNER: It did not say that the port of Adelaide was in any worse position than any other port of Australia. That is quite clear. In fact, I am sure that, if honourable members bothered to consider the matter sensibly, they would know that the situation in the port of Adelaide is no worse than anywhere else in Australia. In any event, if the Opposition has specific examples of these allegations, they should be taken up with the appropriate authorities. Honourable members opposite run the risk of jeopardising the Government's attempt to promote South Australia as a place for investment and for development projects and, in particular, the important issue at the moment for the port of Adelaide and South Australia is the investment development associated with the submarine project in this State. There is no question that this sort of irresponsible allegation raised in this way through the media—not through the appropriate authorities—can have a detrimental effect on South Australia's bid for that important project. However, that does not worry the Opposition. The Opposition—

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: The honourable member can talk. I challenge him to go down and talk to members of the Submarine Task Force and get it from them as to what they say about this sort of allegation.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: They have been in touch with the Premier.

The Hon. K.T. Griffin: You haven't been down there.

The Hon. C.J. SUMNER: The honourable member should get down there and talk to them about this sort of allegation—unsubstantiated so far. It is a campaign conducted through the media, which is what members opposite want to do: they want to get as much publicity as possible and they do not care about the detriment for South Australia and the South Australian people. Members opposite do not care what projects they place in jeopardy: they are out to get as much political mileage as they can gain. Members opposite should get down there and talk to the Submarine Task Force and they will find—

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: Get down there and talk to the submarine task force and see what sort of reaction is

forthcoming about the effect that this sort of allegation can have on South Australia's reputation and the reputation of the port of Adelaide.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order! I call the Hon. Mr Davis to order. If he interjects again, I will name him.

The Hon. C.J. SUMNER: It is quite clear that honourable members opposite now have a feeling of regret and guilt about their actions. They clearly know that this sort of allegation that they and their colleagues elsewhere have made can only be detrimental to the sorts of initiatives that the Government and the community in South Australia are trying to develop. If there is substance in the honourable member's allegations, the Government has no wish to run away from the issues. When the issues were raised in the Costigan report they were referred to the appropriate authorities; they were examined by the appropriate authorities and I have reported on the findings. If the honourable member has specific allegations, senior police officers can be made available for the allegations to be put in so far as they relate to allegations of criminality, and they can be investigated. I am sure—

The Hon. M.B. Cameron: About time, too.

The Hon. C.J. SUMNER: They were examined and investigated previously: but no, this is the first time honourable members opposite have been to anyone about it. In any event, they did not go to anyone—they went to the *Advertiser*. Members opposite did not go to the police—they went to the *Advertiser*. If there are allegations of criminality—

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: The Hon. Mr Griffin is now criticising the South Australian Police Force.

The Hon. K.T. Griffin: No, I am not.

The Hon. C.J. SUMNER: Yes he is—he is criticising the South Australian Police Force. The police are responsible for the investigation of accusations and complaints of criminality, as the honourable member knows. The matters in the Costigan report were referred to the Commissioner of Police, and I reported on the findings in a referral in 1985. It is interesting to note that last night on television when asked whether he had any allegations Mr Stephen Baker, who has apparently promoted this issue for the Opposition, said that he had no specific allegations to make to the police. That was his response last night on television. Obviously the Opposition is a little embarrassed by that today so it got hold of its legal eagle, Mr Griffin, to drum up a couple of examples to bring into the Council to give its claim a little bit of credibility at least.

I am sure the honourable member can take those issues to the police, if there are accusations of criminality. If they relate to work practices, the honourable member knows that the question of work practices can be dealt with in the appropriate forum. I am sure that the Minister of Labour would be prepared to examine those issues. In summary, the Government does not wish to run away from any allegations of this kind. If they are made and if there is substance in them, they can be investigated by the police and the police can produce a report or take whatever action is deemed fit in the light of any investigations. As the honourable member would know, if confidentiality is requested by people who lodge complaints with the police, the police will respect that request. Again, the honourable member would know that.

The fact is that I have requested that these allegations be made more specific, and they can then be referred to the police, if there is an allegation of criminality. I expect the Opposition now to do that. However, I can only repeat that I think honourable members opposite should be a little more careful when making these allegations and trying to paint Adelaide and the port of Adelaide in this way. Members opposite were trying to promote Adelaide and the port of Adelaide as worse than anywhere else in Australia.

The Hon. K.T. Griffin: Nonsense!

The Hon. C.J. SUMNER: The honourable member should read the press, or he should get in touch with the Submarine Task Force and see what it says about the effect of these allegations on the efforts that it is putting in to bring an important project to South Australia.

The Hon. K.T. GRIFFIN: I desire to ask a supplementary question. In the light of the Attorney-General's statement some minutes ago that the Police Commissioner had advised that certain activities other than those referred to in the Costigan report were being investigated, is the Attorney-General able to indicate what those activities are?

The Hon. C.J. SUMNER: The honourable member does not listen—that is the problem.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: No, he does not. It is in the letter sent to Mr Baker.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: I have already read sections of the letter sent to Mr Baker, but I can read all of it if that is what the honourable member wants. The letter states:

In the light of the allegations, I have contacted the Commissioner of Police once again. He advises that the police have not determined a need to investigate activities of persons or organisations with respect to activities nominated by Mr Costigan in 1984. Certain individuals have come under notice of police but not for activities nominated by Mr Costigan.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: They have come under the notice of police. I suppose the honourable member wants me to come out and indicate publicly who they are.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: I will see whether the honourable member can be provided with information by the Commissioner of Police. I am sure there will be no objection to that, if the Commissioner determines that it is appropriate and not likely to affect police operational activities. The honourable member nods his head and says that that is all right. I have no problem with that. I assume that, if the Commissioner feels that it cannot be made public, he may be able to make it available to the honourable member on a confidential basis.

MINISTERIAL STATEMENT: ARMTECH LIMITED

The Hon. BARBARA WIESE: I seek leave to make a statement.

Leave granted.

The Hon. BARBARA WIESE: Further to the statement of the Minister of State Development and Technology in the House on 25 September 1986 regarding Armtech Limited and subsequent press reports implying his statement contained certain inaccuracies, he has received a report on the matter from the Director of the Department of State Development. The report in part reads:

Officers of the Department of State Development have been attempting (since early August, 1986) to clarify the position of Armtech's purported arms contract with the view to identifying the possibility of investment and or manufacturing opportunities for South Australia should the said contract exist. Telephone calls

were received from both John Travers (Armtech Director) and Mark Kerr of International Public Relations (acting for Armtech) on Tuesday, 26 August 1986.

Both stated that the purported contract with Greenhorn Pty Ltd of Hong Kong was *bona fide* and that a prototype of the company's automatic rifle (the ART 30) has been successfully test fired and that an additional 11 prototypes were being constructed. Officers of the Department of State Development recently viewed a videotape of a test firing demonstration of the ART 30. The test firing showed that a prototype does function as claimed.

Further, several opportunities have been provided to the company to confirm its contract with Greenhorn. However, Armtech has not chosen to take this up and consequently the Department of State Development is not able to confirm or refute the *bona fides* of Armtech Limited.

STATE PROMOTION

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Minister of Tourism a question about State promotion.

Leave granted.

The Hon. L.H. DAVIS: On 5 August, in a question to the Minister of Tourism, I pointed out that there was virtually no publicity for Adelaide and South Australia in the Australian pavilion at the Vancouver World Expo. Notwithstanding the fact that she is the Minister of Tourism, she claims she was not even aware of the Australian pavilion at the Expo. In her answer she also said:

We are not all as privileged as the Hon. Mr Davis, who seems to have a lot of time away every year travelling around the world, visiting expos and having a good time.

The Hon. Ms Wiese has been overseas twice in the past six weeks—and I do not begrudge her that, because her portfolio requires a certain amount of travel to promote South Australia. I refer to the recent promotion which the Minister attended in Texas and, in particular, to the displays in the Neiman Marcus department store. I understand that part of this display included opals, and that the display was underwritten by the South Australian Government. Members would, of course, be well aware that 90 per cent of the world's opals are mined in South Australia at Coober Pedy, Andamooka and Mintabie. First, were the opals displayed at the expense of the South Australian Government South Australian opals, or did they come from another State? Secondly, if they were not opals from South Australia, what steps did the Government take to ensure that the display underwritten by the South Australian Government featured goods produced in this State?

The Hon. BARBARA WIESE: The Department of State Development has had considerable contact and negotiation with the Neiman Marcus department store over some 18 months with respect to the promotion which has recently taken place in that store in Dallas. It was the role of the Department of State Development to put the department store in touch with South Australian companies that might be interested in having their products purchased by Neiman Marcus or displayed in the Neiman Marcus store on consignment.

It should be borne in mind that the role of the Department of State Development was to present companies, ideas and products to the Neiman Marcus buyers, and from there the exercise became a commercial transaction between the store and the individual company in whose products the store may have been interested. In total, some 30 companies were presented to the department store and 23 of those received orders for their goods or supplied goods to the store on consignment. The value of those goods totalled approximately $A200 000.

It is true that the Department of State Development provided some $US25 000 to the promotion in the department store and further amounts have been promised, based on the success of the promotion which will take place in the store. The range of goods which came from South Australian companies was quite extensive, as I understand it, although I do not have with me a complete list of the companies and the products they were able to supply to Neiman Marcus so, at this stage, I am unable to say whether or not the opal displayed in the Neiman Marcus store was purchased from South Australian companies or companies from other States. I will have that matter checked, if the honourable member is interested in it, and bring back the information.

From the time that I spent in Dallas, and from the reports I have received subsequently, I can say that the promotion was an overwhelming success. Some 1 500 people were present at the gala opening in the department store, and the sort of people the department store normally invites to these gala openings are those customers who spend a minimum of $100 000 per year—so they are people who are reasonably well off and interested in purchasing new and interesting products.

They certainly had a wide range of new and interesting products to peruse in the Neiman Marcus promotion. They bought the goods of a number of very new and innovative clothing designers, for example, and other companies who are producing very fine Australian products. There was no doubt that the range of material available was of enormous interest to Texans, and I understand that by mid-week some of the suppliers were having to send out to restock their shelves because the products had been snapped up very quickly.

I understand also that, prior to the display occurring within the department store, the company had already made a decision in principle to hold similar promotions and to purchase other goods from Australian companies and display them in some of its other stores around the United States should this promotion be successful. From all reports so far, I think that it will be making the assessment that it has been an overwhelming success, and that we can expect to see similar promotions in some of its other stores around the United States.

This will be of great benefit to Australia, not only in terms of creating added awareness of the country and inducing more people to visit Australia, but it will also be of benefit to Australian companies that have products to sell to the American market which are new and interesting. So, overall it has been an overwhelming success and we can expect to see further commercial and trading opportunities flowing from it. I shall seek a report on the origin of the opal and bring back a reply.

The Hon. L.H. DAVIS: As a supplementary question, has the Minister heard of this allegation that the opal on display was not in fact South Australian opal and, if so, has she already acted to ascertain the truth of the allegation?

The Hon. BARBARA WIESE: I have not heard the allegation the honourable member is making so, obviously, I have not acted to verify it.

BOTANIC PARK

The Hon. I. GILFILLAN: I seek leave to make a brief explanation before asking a question of the Minister representing the Minister of Health, representing the Minister of Environment and Planning, relating to the car park in Botanic Park.

Leave granted.

The Hon. I. GILFILLAN: I am not sure to which Minister I should address this question, but I notice that the Attorney-General now identifies himself as the Minister responsible. In relation to the car park in the south-east corner of Botanic Park, which presents itself as an excrescence on the face of that park, I have some questions which are in the minds of many people in South Australia, as this matter has been the source of considerable discussion and debate by members of the public. I realise that these questions will require an answer from the other place, but I urge the Attorney to impress on the Minister the urgency of these questions if the Government is to have any credibility in the minds of many South Australians in relation to its intention of keeping the parklands intact as heritage for all South Australians for all time. My questions are:

1. In relation to the decision for the car park to be constructed on the south-east corner of the Botanic Park, why was that decision made and by whom was it made?

2. When will the area be returned to the Botanic Park? I ask for an exact date, as I believe that the question is a serious one, and any assurance given to the people of South Australia needs to be sincere.

3. What restoration work will be involved in restoring that area to the Botanic Park?

4. When will the Hackney STA depot be moved to Mile End?

Once again, I urge the Attorney-General to ask for a specific date to be given in answer to this question.

The Hon. C.J. SUMNER: I will refer the honourable member's specific questions to the responsible Minister and bring back a reply. However, I think that a number of things need to be said about this general issue. The fact is that this Government has taken more steps than any other Government in recent times (and indeed I think probably in the history of our State) to attempt to develop a policy for the parklands.

The Hon. C.M. Hill interjecting:

The Hon. C.J. SUMNER: The honourable member refers to the ASER project. It seems to me that anyone who considers that the ASER project is being built on parklands has some significant defect in their eyesight. ASER is being built on a railway station, which was a fairly unsightly piece of property.

The Hon. L.H. Davis interjecting:

The Hon. C.J. SUMNER: The honourable member says that it was not meant to be a railway station and that it was built on the parklands. I suppose that the honourable member could say that Parliament House has been built on the parklands. I am not sure whether the honourable member is suggesting that we now embark on bulldozing Parliament House because he says it is on parklands, or that we bulldoze the Adelaide railway station and shift it because he says it is on parklands, or that we bulldoze the whole of the North Terrace precinct, because he says it is on parklands. There has to be a little bit of commonsense introduced into this debate. Saying that the ASER project is being built on the parklands is really a monstrous red herring, because it is being built on a railway station, which was very unsightly. There is little doubt that the ASER development will enhance the parklands and that part of Adelaide quite considerably, so let us leave the ASER development aside.

The Hon. L.H. Davis: You brought it up.

The Hon. C.J. SUMNER: The Hon. Mr Hill brought it up.

Members interjecting:

The Hon. C.J. SUMNER: The claim is correct. There is little doubt that this Government has taken more action with respect to the parklands in an attempt to get the parklands back to what they ought to be than has any other Government in recent times and, I suggest, than any other Government since the foundation of the State. I say that advisedly, because there has always been an encroachment on the parklands by successive Governments over a period of time. One has only to look at the Adelaide High School, which was built on parklands because that was a cheap option during the periods of the Playford Government. One has only to look at extensions to the Royal Adelaide Hospital, which occurred during the periods of successive Governments, some Liberal and some Labor. Furthermore, with respect to Labor Governments in the 1970s, there was a large section of parklands returned to their rightful use on the corner of North Terrace and Hackney Road where the old E & WS depot used to be. That was a significant return of alienated areas to parklands.

Some 12 months or two years ago the Government decided that we ought to develop a policy for the parklands, and that is what we did. We appointed Mr Ken Tomkinson, a Planning Appeals Commissioner, to examine the whole of the parklands to see what areas could be returned to parklands state. He examined a number of areas. Following that, the Government realised that it could not do this overnight. You can do it overnight, provided the community is prepared to pay the cost.

The Hon. C.M. Hill: You put the swimming pool in the parklands: you're a hypocrite!

The Hon. C.J. SUMNER: You can do it if you are prepared to pay the cost.

The Hon. C.M. Hill: A huge area of land belongs to the swimming pool.

The PRESIDENT: Order!

The Hon. C.J. SUMNER: There is no additional land taken up for the swimming pool. The honourable member must not have been out there. There was no additional land taken up by the swimming pool: the construction was built over an area, if you like (and I do not know whether the honourable member wants to call it alienated parklands or not), where the swimming pool already was. No additional land was taken for the swimming pool. That is something that the honourable member ought to examine, because that happens to be the situation.

All I am saying to honourable members opposite is that, if they want to return areas of the parklands to parklands use, then there is a cost to Government and a cost to the community, and a very substantial cost to the community. But this Government has decided that it ought to take a stand on the parklands. It appointed Commissioner Tomkinson to examine the whole of the parklands areas to see which ones could be economically and effectively returned to parklands use. We said that we could not do it immediately and that we were not in a position where we could provide $100 million tomorrow to move the Hackney bus depot, the Adelaide Gaol, Thebarton Police Barracks, etc., overnight.

The Hon. I. Gilfillan interjecting:

The Hon. C.J. SUMNER: We provided money to purchase the site out of parklands for the depot to be shifted; we have made that commitment and the money has been allocated.

The Hon. I. Gilfillan interjecting:

The Hon. C.J. SUMNER: The honourable member says that we have not done anything: what we have done is prepare a plan for the parklands. That has never ever happened in the history of this State before.

The Hon. I. Gilfillan: Shame!

The Hon. C.J. SUMNER: It is a shame and this Government has taken action to develop a long-term plan, which we know we cannot implement tomorrow and which will take a period of time. There will be announcements about this at some time when the Tomkinson examination is finalised, but there will be a long-term objective set out for the parklands—the first time a Government has taken that action. There will be a cost to the community, and it will have to pay that cost. That is fair enough; if the community wants the parklands returned, then the community, through Government, depending on priorities, will have to meet that cost. But the Government has already indicated that the bus depot ought to be shifted, and that is accepted; a decision has been made to shift it. The land has been purchased. Surely that is a concrete example of action that has been taken. There will be land near the Morphett Street bridge, part of the railway station area, which will be returned to parklands in the reasonably near future. When the Adelaide Gaol is closed down, that will be another whole area that will be returned to parklands, although that again is a cost.

The Hon. Barbara Wiese interjecting:

The Hon. C. J. SUMNER: Yes; that is on parklands. Does the Hon. Mr Gilfillan want that pushed over? That will be an interesting issue for the honourable member to address. It is on parklands, but it is a gaol, so presumably he will consider that that building ought to remain on the parklands. That is a little dilemma he can wrestle with within his Party and make a decision about. In any event, the area ought to be returned to public use.

But that will be a cost, too, because when we vacate the gaol, presumably it will be there as a heritage item and some allocation will have to be made to enable the building to be maintained. However, there are at least three areas where decisions are in train to return land to parkland use. All I can say is that the Government has made a conscious decision with respect to the parklands. It established an inquiry, and further announcements will be made about that in due course. We hope to create a long-term plan in respect of the parklands. We cannot do it all overnight, obviously, but a commitment has been made to proceed along the lines that I have outlined. In respect of the matter raised by the honourable member, he may remember that the tropical conservatory was due to be built in the middle of Botanic Park.

The Hon. I. Gilfillan: We protested about that.

The Hon. C.J. SUMNER: Yes, the honourable member protested and the Government agreed. It was the Botanic Gardens proposal to put it in the middle of Botanic Park. The Government did not agree with that, I can assure the honourable member.

The Hon. I. Gilfillan: You did.

The Hon. C.J. SUMNER: That is not true. The Government made no decision to put the tropical conservatory in Botanic Park, I can assure the honourable member of that. The decision that was made was that it ought not be in there. Nevertheless, the project apparently had some public support as a bicentenary project, so the land was made available as the first step in shifting out to the bus depot—all highly desirable. So, as a result of that there was the need for some temporary parking facilities to be built, and on my understanding of the situation that is all they are. The long-term project, for which decisions have already been made and land has already been purchased, is to shift the whole of the bus depot out of there.

That will be an incredibly significant decision in South Australian terms as far as the use of the parklands is concerned. Part of the land will be used for the tropical conservatory and the rest of it, apart from the building on the site for which I assume another use will be found, will substantially be returned to parkland and public use. In summary, all I can say is that the Government has developed a plan; we are concerned about the parklands, and I am sure that further announcements will be made about it in due course. In relation to the specific questions raised by the honourable member, I will refer them to the Minister responsible for those matters and bring back a reply.

SATELLITE APPLICATIONS

The Hon. PETER DUNN: I understand that the Minister of Tourism has an answer to a question that I asked on satellite applications on 21 August.

The Hon. BARBARA WIESE: The Minister of State Development and Technology has advised me that the Progress Report on Satellite Applications for South Australia (The Use of Aussat in the Delivery of Government and Other Services to the Central Zone) has no official status and is, as its name implies, a progress report to my colleague the Minister of State Development and Technology of the activities (relating to program development) of six working groups. A copy of the report was forwarded to the convenor of each group with the request that they make the report available to any member of the group should they wish to read it. The convenor of the Health Commission, Dr. Simon Chapman, and representative on the working group of the Drug and Alcohol Service Council has a copy of the progress report. The working groups represented health, tertiary education, public radio, aboriginal, schools, arts and local government. The Drug and Alcohol Services Council would have made contribution to the activities of the health working group.

QUESTIONS ON NOTICE

GRAND PRIX

The Hon. K.T. GRIFFIN (on notice) asked the Attorney-General: Notwithstanding the answer given by the Attorney-General on 17 September 1986, that 'for commercial reasons it is not considered appropriate to provide the names of individual companies' which have entered into agreements with respect to the use of the logo and other insignia relating to the Grand Prix and other agreements referred to in the questions asked on that date, and in the light of the disclosure by the Government of the names of various companies granted licences during the debate on the original Grand Prix Bill—

1. Will the Attorney-General now disclose the names of the companies and individuals requested in my questions on notice on 17 September 1986?

2. If yes, what are the answers?

The Hon. C.J. SUMNER: The replies are as follows:

1. No.

2. See above.

SALARY OVERPAYMENTS

The Hon. R.I. LUCAS (on notice) asked the Minister of Tourism:

1. What action is the Minister taking to correct the overpayment of salaries to Education Department staff identified by the Auditor-General in his 1985-86 report?

2. Will the Minister ensure that the average overpayment each fortnight of $47 000 is reduced substantially during 1986-87?

The Hon. BARBARA WIESE: The Education Department's payroll system, in line with most fortnightly pay systems, generates pays for most of its employees for an anticipated number of days. In the case of the Education Department, the number is 6.5 days, where no changes to the calculated pay are expected. As any changes that occur during a period are adjusted in the following pay period or periods, the system is likely to identify some amounts as over-payments during each pay-period. However, only a very small proportion of the amount relates to genuine overpayments which are subject to negotiated repayments over a period of time. The Education Department has been putting significant effort into reducing overpayments and maintaining them at acceptable levels, in line with the type of system in operation. Important progress has been made since the function has been transferred to area administration, and the current level of new overpayments has been reduced to 0.1% of a typical payroll. When compared with other agencies, this level shows a better than average performance.

GOVERNMENT VEHICLES

The Hon. I. GILFILLAN (on notice) asked the Minister of Health:

1. Would the Minister provide department by department statistical details for the last year available of—

(a) the numbers of accidents involving Government vehicles?

(b) the third party claims resulting?

(c) cost of damage done to vehicles involved?

2. *(a)* Do the details provided by answer to question No. 1 show the State average for numbers and costs of accidents?

(b) If so, by how much?

3. Would the Minister provide details of driver offences committed by drivers of Government cars in the same period?

The Hon. BARBARA WIESE: On behalf of the Minister of Health, I give the following reply. The time and effort to provide the information asked for is not considered warranted. However, if the honourable member has any specific examples or instances that he wishes to raise, I will be pleased to pursue them.

LINCOLN COVE MARINA

The Hon. M.J. ELLIOTT (on notice) asked the Minister of Health:

1. Why did the E.I.S. for the Lincoln Cove Marina, and the supplements to it, fail to address the high level of fluorides in the fertiliser work's effluent?

2. Considering the fact that the Department of Environment and Planning was aware generally of such problems, and as such had insisted that Adelaide and Wallaroo Fertilizer's rebuilt plant at Port Adelaide should have no liquid effluent, who bears the responsibility for the failure to address them?

3. When did the Minister first become aware of the fluoride in the effluent water at Port Lincoln?

4. Will the Government release a full report of the studies carried out since it has become aware of potential problems with the effluent and will this report include the methodology as well as results of such studies?

The Hon. BARBARA WIESE: On behalf of the Minister of Health I provide the following reply:

1. The E.I.S. did recognise that the material beign discharged by the Adelaide-Wallaroo Fertilizer Co. was toxic. (See Supplement p. iii and Section 3.1 and 3.2.3.) The marine survey of Porter Bay stated that 'there was no clear indication of poor environmental conditions for most species recorded'. (See Draft E.I.S. p. 53.)

2. The assessment of the E.I.S. recommended that the drain receiving the wastes be diverted to Proper Bay; wetland disposal was not intended. Responsibility for not constructing the drain to the sea rests with the construction authority—Department of Marine and Harbors.

3. 13 May 1986.

4. A copy of the report is being forwarded to the Member.

DR M. HEMMERLING

The Hon. R.I. LUCAS (on notice) asked the Attorney-General:

1. Is Dr M. Hemmerling still a member of the State Public Service?

2. If not, on what date did he resign?

The Hon. C.J. SUMNER: The replies are as follows:

1. No.

2. The resignation took effect as from 1 March 1986.

PRESIDENT'S ROOM

The Hon. K.T. GRIFFIN (on notice) asked the Attorney-General:

1. What are the total and detailed direct and indirect costs of redecorating and refurnishing the President's room?

2. What further costs, if any, are expected to be incurred with respect to the redecorating and refurnishing of the President's room?

3. Are these costs or part of these costs included in the 1986-87 Budget Estimates and, if so, in which program and at what amount?

The Hon. C.J. SUMNER: The replies are as follows:

1. The costs are as follows:

	$
Building work including design and supervision, removal of the existing ceiling, making good the original, painting, moving of telephone points and the supply and installation of new carpet and new pendant light	5 668
Furnishings, including chairs, a table, lamp, mirror and handling costs	5 339
Work not yet committed, including window treatment and incidentals	610
Total	$11 617

2. No further costs other than the $610 already identified but yet to be committed should be incurred on the project.

3. An allowance for the costs associated with this project have been made within the 1986-87 Budget Estimates as part of the annual provision for minor works within the capital works program for other Government buildings. However, specific projects for minor works are not identified as part of the Budget Estimates. The Department of Housing and Construction in consultation with various agencies allocates a budget figure for individual departments

and departments normally develop a program of works within that allocation.

VEGETATION CLEARANCE

The Hon. PETER DUNN (on notice) asked the Minister of Tourism:

1. How many applications for vegetation clearance have been received by the Department of Environment and Planning since the Native Vegetation Management Act was proclaimed?
2. How many applications have been processed?
3. How many applications have been totally rejected?
4. How many applications have been partially rejected?
5. How many applications have been agreed to in full?
6. How many applications have been granted Heritage Agreements?
7. How many applications have had the appeals provision applied?
8. How many applications have received payment using the formula set out in the Native Vegetation Management Act?
9. How many applicants have received payment under clause 30 (3) of the Native Vegetation Management Act and what is the total of this amount?
10. What is the total amount of money paid to applicants?

The Hon. BARBARA WIESE: The replies are as follows:

1. 148 applications have been received (three were exempt and a further three were subsequently withdrawn).
2. 29 applications have been processed (plus an additional 55 applications outstanding from the Planning Act).
3. 11 applications have been totally refused (plus a further 104 Planning Act applications). Of these, 12 applicants have been advised that they may receive some clearance consent if a Heritage Agreement is negotiated over remaining vegetation.
4. 15 applications have been partially rejected (plus 34 Planning Act applications).
5. 3 applications (plus four Planning Act applications).
6. 12 applications have been received and granted.
7. No applicants have used the provision for an appeal against the Valuer-General's valuation.
8. 8 applicants have received the standard financial assistance payment totalling $597 900 and a further $271 400 remains to be paid.
9. 6 applicants have received discretionary payments totalling $51 400 and a further $47 800 remains to be paid.
10. The total payment is $649 300 with a further $319 200 committed for payment.

NUCLEAR SHIPS

The Hon. M.J. ELLIOTT (on notice) asked the Minister of Health:

1. Are nuclear powered ships permitted to berth at:
   (a) Port Adelaide?
   (b) Outer Harbor?
2. Are nuclear armed ships permitted to berth at:
   (a) Port Adelaide?
   (b) Outer Harbor?
3. In the case of:
   (a) nuclear powered ships,
   (b) nuclear armed ships,
   how close to residential areas are they allowed to berth?
4. How many of the ships visiting Adelaide for the Navy's 75th celebrations are:
   (a) nuclear powered,
   (b) nuclear armed or capable of being nuclear armed?
5. Of the ships visiting Adelaide for the Navy's 75th celebrations, how many nations will be represented, and how many ships will represent each of those nations?

The Hon. Barbara Wiese, for the Hon. J.R. CORNWALL: The replies are as follows:

1. *(a)* and *(b)* No.
2. *(a)* and *(b)* Visits by vessels that may be armed with nuclear weapons are permitted under the same general terms and conditions as those that apply to visits by vessels belonging to the Government of non-nuclear weapons States. Because of the 'neither confirm nor deny' policies, the existence of nuclear weapons on a vessel cannot be ascertained one way or the other.
3. *(a)* and *(b)* The responsibility for arranging visits to Australian ports, including safety aspects, by any foreign warships belongs to the Commonwealth Government. With respect to nuclear powered warships, this responsibility is discharged through a standing Commonwealth committee and in accordance with the criterion set out in a Commonwealth publication titled 'Environmental Consideration of Visits by Nuclear Powered Warships'. Assessment of safe berths and anchorages is done on a case by case basis depending on the type of warships proposed to visit.
4. *(a)* None.
   (b) Naval authorities will not disclose this information.
5. Presently, it is anticipated that eight ships will represent Australia, three will represent the United Kingdom, two will represent the USA and one will represent France.

PUBLIC WORKS STANDING COMMITTEE

The Hon. T.G. ROBERTS: I move:

That pursuant to section 18 of the Public Works Standing Committee Act 1927 two members of the Council appointed to the Parliamentary Standing Committee on Public Works have leave to sit on that committee during the sitting of the Council on Thursday 23 October 1986.

Motion carried.

SUMMARY OFFENCES ACT AMENDMENT BILL (No. 2)

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Summary Offences Act 1953; and to repeal the Trespassing on Land Act 1951. Read a first time.

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

That this Bill be now read a second time.

Its purpose is to rationalise and reform various statutory provisions relating to trespass to land and, in consequence, seeks to repeal the Trespassing on Land Act 1951.

On 2 May 1985 the Trespassing on Land Act Amendment Act 1985 was assented to and came into operation. On 28 March 1985, during debate on the Bill for that amendment Act, I advised Parliament that I would cause to be prepared and published a discussion paper on the Trespassing on Land Act and the general question of trespass and its relationship to the criminal law.

The foreshadowed discussion paper was in fact published in June 1985 and sought public comments and submissions.

Over 70 copies were distributed including to members of Parliament, the Judiciary, the Commissioner of Police, the Law Society, the Legal Services Commission, the Criminal Law Association, Government departments, the United Farmers and Stockowners, the South Australian Dairyfarmers' Association Incorporated, the Adelaide Hills Trespass Committee and others.

The discussion paper (in its Part IX dealing with General Considerations) observed as follows:

One important consideration in the whole debate on trespass to land is that of the competing interests of those whose conduct, whilst technically civil trespass, is nevertheless innocent of aggravation, threat or annoyance towards the person or property of others.

For example, to make trespass a crime would render criminal the lost wayfarer; the person who comes on to the land of an occupier to request permission to stay; the collector for charity or the person who simply seeks assistance.

The argument to criminalise simple trespass tends to overlook the fact that the role of the criminal law is to punish wrongdoers, not the foolish or mistaken. To visit the trauma and stigma of prosecution and possible conviction on a simple trespasser would, it is submitted, be conducive to causing new forms of mischief, not the least being that the administration of justice could itself be brought into disrepute.

In this respect, one has only to envisage the situation where an owner or occupier has called a person on to his land to discuss business. If, during talks, he decides he has had enough and revokes his permission, the invitee would immediately thereupon be committing the crime of trespass. The criminal law normally requires that the guilty mind accompany the guilty act. But in the example quoted, no such contemporaneity is evident, unless there is some sort of 'relation-back' doctrine which achieves this end. But that sort of fiction is surely to be avoided if people are properly to order and manage their affairs in full confidence that they are not acting in breach of the criminal law. The danger arises, too, that in the event of uncertainty of application of the criminal law people may resort to 'self-help' remedies which are generally anathema to the law of this State. However, consideration could be given to some rationalisation and improvement.

In its conclusions the discussion paper noted the following:

The law, be it criminal or civil, seeks to strike a balance between the competing interests of the people that comprise the society it regulates. It attempts (or should attempt) to accommodate simultaneously interests which are very often simply contradictory or adversary. One thing it should not do is suppress the practice, or deny the social utility, of behaviour which does not harm the person or property of others.

The following considerations may weigh against any extreme change to the law of trespass to private land in this State:

(i) that the basic rules, however conceptually untidy they may appear, have served society for a long time;

(ii) that to make simple trespass a criminal offence would create many more problems than it would solve and would significantly upset the existing balance (however delicate that may be perceived) of competing interests to the detriment of the administration of justice itself;

(iii) that the general law (both criminal and civil) already contains sufficient substantive and procedural rules and rights of redress to cater for the situations which are considered worthy of closer attention and that the experience of other jurisdictions (e.g. New Zealand) fortifies this belief;

(iv) that certain provisions of the law (e.g. sections 17a and 17b of the Police Offences Act 1953) remain relatively untried and untested in the courts;

(iv) that certain provisions of the criminal law remain relatively under-utilised in dealing with the situations considered worthy of closer attention;

(vi) that, as society becomes more and more mobile and pluralistic, the law will be required to meet further changes in competing attitudes to the ownership of property and the enjoyment of the environment; therefore, any attempt to codify the law could ossify its ability to respond sensitively and adequately to meet such new demands.

The discussion paper then advanced, for consideration and discussion, five major propositions:

(i) that, in general, ordinary trespass to private land (i.e. trespass unaggravated by circumstances of harm or injury or threat of harm or injury to person or property) not be made a criminal offence and not be made the subject of any criminal proceedings;

(ii) that the Trespassing on Land Act 1951 be repealed;

(iii) that the present sections 7 and 8 of the Trespassing on Land Act 1951:

(a) be incorporated into the Police Offences Act 1953; and

(b) be extended beyond enclosed fields to 'premises' as defined in sections 17a and 17b of the Police Offences Act 1953;

(c) be extended to enable an 'authorized person' (within the meaning of section 17a (3)) to have the power to make relevant requests;

(iv) that a provision like section 8 of the New Zealand Trespass Act 1980 (dealing with gates) be incorporated into the Police Offences Act 1953. It should be noted that provisions dealing with gates are not foreign to the Statute law of this State (e.g. section 45 Dog Fence Act 1946; section 44 Impounding Act 1920; section 35 Vertebrate Pests Act 1975);

(v) that a provision like section 6 of the New Zealand Trespass Act 1980 (dealing with disturbance of domestic animals by trespassers) be incorporated into the Police Offences Act 1953.

Generally speaking, these propositions proved acceptable to a considerable majority of respondents who prepared written submissions. Subsequently (in January 1986), the Government approved the preparation of draft legislation along the lines of that which had been proposed and had received intimations of acceptance. The draft legislation was circulated for comment, in May 1986, to members of the Judiciary, the Law Society, the Commissioner of Police, the United Farmers and Stockowners, the South Australian Dairy Farmers Association, the Adelaide Hills Trespass Committee, Legal Services Commission and the Criminal Law Association.

A number of very useful and helpful comments were received and taken into account when this Bill was prepared in final form. It therefore represents the culmination of a protracted and exhaustive process of dialogue between Government and expert and lay opinion. In this exercise, the community's input has been invaluable and, as with any move to clarify and reform the criminal law, the Government has attempted to strike an acceptable balance between competing claims and interests.

The net effect of this Bill is:

(a) to extend the range of persons enabled to exercise certain powers with respect to trespassers;

(b) to widen the scope of premises in relation to which those powers are exercisable;

(c) to retain reasonably high levels of penalties for the mischiefs covered;

(d) to introduce two new provisions dealing, respectively, with interference with gates and disturbance of farm animals—mischiefs that have been clearly identified as being of particular concern to the rural community;

and

(e) to place all relevant provisions within the Summary Offences Act 1953 so that, as nearly as practicable, that Act will in future be a self-contained code to deal with these and related matters.

By contrast, the scope of the Trespassing on Land Act 1951 is, in the view of the Government, unacceptably narrow:

(a) in consequence of the fact that it applies only to an 'enclosed field' which is nowhere near as extensive as 'premises' as defined in section 17a of the Summary Offences Act;

(b) because the persons who are able to invoke the law's protection are limited to owners and occupiers or their employees—a situation to be contrasted with the definition of 'authorised person'

in section 17 (3) of the Summary Offences Act; and

(c) because the Act only applies to such parts of the State as are specified by proclamation, in contrast to the Summary Offences Act which applies throughout the whole of the State.

Like any measure in the criminal law, the success of these amendments can only be assured by timely and scrupulous enforcement. They do, however, equip the ordinary citizen with greater protections and powers than presently exist.

In this regard I should, again, point out that the discussion paper of June 1985 made the following pertinent comments:

The Attorney-General's Department is committed to an ongoing program for the monitoring and evaluation of legislation to which detailed reference has been made in this discussion paper. This continuing process is undertaken at both the theoretical and practical levels. The substantive law is examined for defects or deficiencies which may be exposed from time to time (especially by the various decisions and pronouncements of the superior courts). Moreover, in November 1984, the Attorney-General wrote to the Commissioner of Police to request that he be kept continually informed regarding the use, by the police, of particular relevant provisions of the criminal law . . .

This ongoing dialogue will ensure that any problems that may surface will be quickly brought to the notice of the responsible Minister and his advisers.

This Bill is the product of such dialogue. The Government wants it to continue if the success of these particular measures is to be assured.

I commend this Bill to members. I seek leave to have the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal.

Clause 2 makes amendments to section 17a of the principal Act. The effect of the amendments are as follows: new subsection (2a) provides that a trespasser on premises must give his or her name and address on request to an authorised person. Penalty: $1 000.

New subsection (2b) requires that an authorised person, when exercising powers under section 17a must, if requested, inform the trespasser of the authorised person's name and address, and the capacity in which the authorised person is authorised.

New subsection (2c) provides that a person who falsely pretends to be an authorised person is guilty of an offence. Penalty: $500.

Clause 3 provides for the enactment of new sections 17b and 17c. Under section 17b (1), a person who, without the authority of the occupier of land on which animals are farmed—

(a) opens and leaves open a gate on or leading to the land;

(b) unfastens and leaves unfastened such a gate;

or

(c) closes and leaves closed such a gate, is guilty of an offence. Penalty: $500.

Under subsection (2) it is a defence to a charge under subsection (1) that the defendant did not intend to cause loss, annoyance or inconvenience and was not done with reckless indifference to the interests of the owner of the animals.

New section 17c deals with disturbance of farm animals. Under subsection (1), a person who, while trespassing on land used for farming animals, disturbs an animal thus harming it or causing loss or inconvenience to the owner of the animals is guilty of an offence. Penalty: $500.

Under subsection (2) it is a defence to a charge under subsection (1) to prove that the disturbance was not intentional nor attributable to recklessness.

Clause 4 provides for the repeal of the Trespassing on Land Act 1951.

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

SELECT COMMITTEE ON DISPOSAL OF HUMAN REMAINS IN SOUTH AUSTRALIA

The Hon. G.L. BRUCE: I move:

That the time for bringing up the report of the select committee be extended until Thursday 18 November 1986.

Motion carried.

COMMERCIAL AND PRIVATE AGENTS BILL

Adjourned debate on second reading.

(Continued from 17 September. Page 913.)

The Hon. K.T. GRIFFIN: The Opposition supports this Bill. It replaces the Commercial and Private Agents Act of 1972, which has been amended substantially only once, namely, in 1978. The Bill results from a review of the present Act and the public exposure of a draft Bill, and brings the practice and procedures up to date.

Generally speaking, the Bill provides for agents to be licensed by the Commercial Tribunal. Those agents are the commercial agents who repossess goods, ascertain the whereabouts of goods which are the subject of any security interest, provide for the collection of debts, the execution of legal process, service of summonses, execution of any distress for the recovery of rates, taxes or moneys and, in some circumstances, such as commercial tenancies, the execution of any distress for unpaid rent. Under the Bill, an agent is also a person who undertakes a para-police role, for example, in protecting or guarding property, or providing suitable personnel for controlling crowds. The Bill also covers those people who provide information about the personal character or actions of any person, the Dun and Bradstreet sort of service, credit reference advice, hiring out guard dogs, providing advice upon or installing security devices, searching for missing persons, obtaining evidence for legal proceedings, and other related tasks.

Certain areas have been included for the first time, such as hiring out of guard dogs and those involved in providing a para-police role within the community. The Bill does not apply to a variety of persons, such as police officers, sheriff's officers or employees of the Crown, officers or employees of a local government council, legal practitioners, accountants, loss adjusters, land and business agents, building societies, credit unions, licensed credit providers and bankers; nor does it extend to their employees.

The Commercial Tribunal, which was established by the Liberal administration in 1980 or 1981, is the body which will have responsibility for disciplinary matters as well as for licensing. An additional requirement not previously attaching to commercial agents is that they be required to keep trust accounts, and those trust accounts may be used only for the purpose of paying in moneys collected on behalf of other persons and payment out in accordance with special provisions identified in the Bill.

It will be interesting, when we get to Committee, to contrast that provision of the Bill with that relating to travel

agents. Initially, I moved for trust accounts to be kept by travel agents but, subsequently, the Government removed them. I would suggest that travel agents handle much more money than commercial agents will ever handle, but that is something for the future in respect of the travel industry. Broadly speaking, therefore, this Bill can be supported, but some matters need clarification and may even need to be the subject of amendment.

In the definition of 'agent' it is not clear whether the Bill requires to be licensed those persons who breed dogs for guard duties and sell them. The Bill certainly includes within the definition of 'agent' persons who hire out or otherwise supply a dog or other animal for the purpose of protecting or guarding a person or property. That suggests to me that the person who actually breeds dogs which might be used for guard purposes and who sells them after training them—or even before training them—is not caught within the definition, but that certainly needs to be clarified. I think it would be quite inappropriate to license the breeders of dogs and to regulate their breeding activities and their training and selling activities. I can certainly accept the need for those who lease out a guard dog being subject to the provisions of the Bill, but not those who are actually involved in breeding.

The question, of course, is: what is a guard dog? Many people receive advice from the police, for example, that the best way to ensure that thieves do not break into their residential premises and steal their personal property is to have a dog on the premises. It is the mere barking of the dog and perhaps the ferocious baring of the teeth, without actually physically biting the intruder, which keeps the intruders out of premises. That sort of dog can be anything from a German Shepherd, I suppose, or even a Great Dane down to the silky haired terrier or other small dog. All of those can be trained to alert a person to the presence of an intruder or to bark when danger is suspected. I think it would be quite wrong for this Bill to seek to regulate the activities of people who breed and sell those dogs, because it would establish another fairly extensive network of regulation and licensing, and intrusion into people's lives, which is inappropriate.

Also, within the definition of 'agent' is a person who searches for missing persons. That is in the context of a person who, for monetary or other consideration, performs on behalf of another the function of searching for missing persons. There is some question whether that might extend to the State Emergency Service or the Country Fire Services, where there is search activity for someone, say, missing at sea or missing in scrub or other inaccessible country. Many of those people would be volunteers, but some of them would be employed on a salary, and among their duties would be the responsibility for conducting searches for missing persons.

I feel fairly confident that they are not to be included in the ambit of the Bill. That certainly ought to be put beyond doubt, and it may be that an appropriate amendment is required to ensure that bodies like SES and CFS are not included within the licensing provisions. There is a provision in the Bill which sets an annual licence fee which is to be prescribed by regulation. That is not uncommon, but I think it important to have on the record what sort of annual licence fee the Government has in mind for inclusion in a regulation. Before we pass the Bill we ought to know the range within which the Government is contemplating fixing those fees.

The definition clause refers to the definition of 'commercial agent', which includes persons performing functions of a prescribed kind. That means that the Government can, by regulation, include a range of persons within the definition of 'commercial agent', thus requiring them to be licensed, rather than doing that in the principal Statute. As honourable members will know, I have a very strong objection to doing very much by regulation, particularly determining the scope of any legislation; so, unless there can be some convincing argument put to me why there ought to be a right to prescribe certain functions under both the definitions of 'agent' and 'commercial agent', I will seek to have that deleted.

The other aspect of the definition clause which needs some consideration is whether 'commercial agent' includes a person who factors debts. It may be that that is only within the ambit of legislation like the Consumer Credit Act. Of course, in the factoring process a creditor will sell the debts due to that creditor for a discounted figure. The purchaser of those debts does, in fact, have a power of attorney or other authority to collect those debts, which remain in the name of the original creditor. In those circumstances, the person who has purchased the debts on that factoring basis is collecting or requesting the payment of debts, in a sense, on behalf of another for a monetary consideration, which is the discounted price. I do not believe that the definition of 'commercial agent' ought to include a person who acquires debts under the factoring process.

Clause 14 (3) and clause 15 deal with aspects of the rights of a licensee where a licensee is in default. Under clause 14 (3) the licence of a body corporate is to be of no force or effect while the body corporate is in default. Under clause 15 a person who acts as an agent in contravention of a provision of this part of the Bill is not entitled to recover any fee, commission, or other consideration. I can see the value in having these sorts of provisions in the Bill to provide some sanctions against actions contrary to provisions of the Act or to the provisions of any licence, but my recollection is that the Builders Licensing Act, which we passed earlier this year, provided a more flexible approach, giving the Commercial Tribunal power to modify the operation of these sorts of provisions. I would like to have that aspect clarified in respect of this Bill.

There are aspects of division II of part II of the Act which we explored during debate on the Builders Licensing Act and which I suppose now must be taken to be resolved in the sense that I did not get the numbers on that occasion for amendments and I do not presume that I will get them on this occasion, but the points that I made there in relation to certain powers of the tribunal to initiate investigations apply also in this case. Also, in connection with the basis upon which disciplinary action may be initiated where there is a breach of any other Act or law other than this Bill, or where a licensee has acted negligently, fraudulently or unfairly, again the arguments I put in relation to the Builders Licensing Act earlier this year apply equally to that provision. I do not intend to propose amendments on this occasion. I merely want to have my own concern about those clauses indicated here for the purpose of consistency.

In clause 26 of the Bill there is a provision that the Commercial Tribunal may review the charges of an agent. I do not have any difficulty with the principle of the clause, but it is very much open ended. There are no criteria specified in the Bill by which the tribunal will determine whether an agent's fees for services rendered are reasonable or not. It is not even required that the tribunal should determine that in the circumstances of the work undertaken the charges should be reasonable; so, it is very much open ended. I would like to have included in this clause some criteria by which the tribunal's decision may be governed.

In clause 29 of the Bill payments to a commercial agent of moneys sought to be recovered by the agent on behalf of another person in respect of a debt owed to that other person is to constitute a discharge as between the debtor and the creditor of the liability in respect of the debt to the extent of the amount of the payment. The only concern I raise in respect of this clause is the situation where the payment is made to a person who is in fact a commercial agent who holds himself or herself out to be acting for a particular person and, in fact, the authority of the commercial agent does not extend to the collection and receipt of those moneys.

It appears from the way in which this clause is drafted that the payment by the debtor to the commercial agent, even in those circumstances, would constitute a discharge. I would have thought that there needs to be some responsibility placed on the debtor, also, to ensure that there is adequate authority on the part of the commercial agent to, in fact, collect and receive outstanding moneys.

In clause 30 (7) *(c)* the commercial agent is required to keep certain accounts, records and documents. Under subclause 7 *(c)* a person who refuses or fails to comply with a requirement duly made under the section is guilty of an offence.

It seems to me that it may be that the failure is inadvertent but, nevertheless, the agent is liable to a maximum penalty of $2 000, and certainly a mark against that person in respect of his or her licence. I think it would be appropriate in that paragraph to provide that, if the agent fails without reasonable cause or reasonable excuse to comply, then an offence is committed.

In clause 32, a bank or other financial institution is deemed not to be affected with notice of any specific trust to which moneys deposited in a trust account are subject, and shall not be bound to satisfy itself of the due application of the moneys. However, subclause (2) provides:

> This section does not relieve a bank or other financial institution of any liability for negligence.

The question arises whether it excludes any liability for a wilful act or omission. I do not suppose that it does, but I would like some attention to be given to that.

Banks and auditors are required to disclose to an authorised person documents and papers relating to a commercial agent's accounting. An authorised agent is a person authorised by the Director-General of Public and Consumer Affairs under the Prices Act, but no particular qualifications are required. I raise this point because I believe that for a person to act as an investigator that person ought to have minimum qualifications specified either in the legislation itself or by regulation, so that we can be assured that the person is likely to act responsibly and reasonably and is going to have the appropriate capacity to assess the information that is given and to make the correct requests to banks or auditors. The Corporate Affairs Commission has highly qualified investigators, and I would find no difficulty if they were the persons who had the responsibility for investigating the trust accounts particularly specified under this Bill. However, no qualifications are set out in this legislation or in the second reading explanation. I may move some amendments in relation to this provision, but that depends on the responses given by the Attorney-General on this subject.

Clause 40 deals with letters of demand. The clause requires a commercial agent to have a letter of demand for payment of a debt approved by the Commercial Tribunal or to lodge with the Commissioner a sample of the document or letter within 14 days of first using it. I can appreciate that there are some letters of demand and documents of demand that are quite outrageous and, certainly, they need to be examined carefully, but I would have thought that that would be more easily and more appropriately dealt with under the code of conduct or by regulation than by requiring a formal application to the Commercial Tribunal for approval of a letter of demand. To me, that seems to be quite unnecessarily bureaucratic and heavy handed, whereas some general form prescribed by the regulations or some principles identified in a code of practice would be the more appropriate way to deal with this issue. As I say, that seems to me to be unnecessarily heavy handed and bureaucratically interventionist in the way in which this is to operate.

Clause 53 deals with proceedings being issued, but only with the authority of the Commissioner or authorised officer unless some other person is given consent by the Minister. It seems to be somewhat unusual that police officers are excluded and that only officers of the Department of Public and Consumer Affairs have the authority to issue proceedings. I would be pleased if the Attorney-General could give some indication as to why police officers are not included in this authority.

Clause 54 deals with regulations and particularly the codes of practice for the holders of licences. My view is that codes of practice can be developed in consultation with industry groups and that, once agreed, can be promulgated by way of regulation. I hope that in the context of developing these codes of practice there is a mandatory requirement for prior consultation with industry groups before the codes of practice are promulgated by regulation.

In the light of those matters and subject to appropriate clarification of them, the Opposition is prepared to support the second reading and the general principle of overhauling the 1972 legislation, which has now been in operation for some 15 years and in relation to which, quite obviously, one can identify a number of problems which must be rectified. The Opposition supports the second reading.

Bill read a second time.

In Committee.

Clause 1 passed.

Progress reported; Committee to sit again.

COMMONWEALTH POWERS (FAMILY LAW) BILL

Adjourned debate on second reading.

(Continued from 17 September. Page 913.)

The Hon. DIANA LAIDLAW: I support the second reading of this Bill, which refers to the Commonwealth Parliament's power to legislate with respect to the maintenance of children and the payment of expenses in relation to children, child bearing, custody and guardianship of and access to children. The Bill will enable the Commonwealth Parliament to confer on the Family Court of Australia jurisdiction to deal with the above matters.

The Bill does not give the Commonwealth Parliament power to legislate in relation to adoption and child welfare which are traditionally areas of State responsibility. The Family Court of Australia can make orders only in relation to the maintenance, custody, guardianship of and access to children of a marriage. It does not have jurisdiction in respect of children who are not children of the marriage. In South Australia disputes concerning ex-nuptial children are dealt with by the Supreme Court or the Local District Court in relation to custody and access and by the Magistrates Court in relation to maintenance.

This fragmentation of family law jurisdiction has led to some very real human problems. At times the loopholes have fostered real confusion about the appropriateness of a particular jurisdiction to deal with a complex custody prob-

lem and they have permitted children to become pawns in legal games that can be played in a particularly hard manner between parents. Such confusion and inconvenience has led to unnecessary expense for litigants and to anomalies arising from disputes being handled in more than one court.

In addressing this Bill it is appropriate to assess the problems in Australian family life that require legal solutions. In Australia, in 1985, which is the last full year for which figures are available from the Australian Bureau of Statistics, there were 113 751 marriages and 39 830 divorces and 21.85 per cent of men and 20.1 per cent of women who were married in 1985 were remarrying. As a result of the 39 830 divorces that year, legal custody of 46 800 children had to be determined; 60.6 per cent of all divorces involved an average of 1.2 children under 18 years of age; and 15.5 per cent of all births in Australia in 1985 were ex-nuptial.

In South Australia the disputes in families requiring legal solution are increasing as are the number of children born outside marriage. In 1985 the number of children born outside marriage numbered 2 865. The above statistics demonstrate very clearly that the concepts of family life in Australia are shifting dramatically. The general concept of family life held some 20 years ago is virtually unrecognisable today and it may be just as different again by the turn of the century. As we in this country accept that family law is concerned above all to support and assert the integrity of the family and to promote the welfare of children, we should not tolerate loopholes which undermine this objective. However, in highlighting the loopholes, I do not suggest that our State courts have made poor custody, guardianship, access or maintenance decisions. Both State and Family Courts will, in most cases, reach the same decision. However, this has not always been the experience and, in principle, neither court is bound—nor should it be—by the view taken by the other as to the most appropriate determination that would keep children together.

Discussion as to how to eliminate the problems that have arisen from this fragmentation of family law jurisdiction has been continuing since 1974 at successive Constitutional Conventions and at meetings of the Standing Committee of Attorneys-General. The matter was addressed also by a Joint Select Committee of the Commonwealth Parliament on the Family Law Act in 1980. On all those occasions the need for reform has been highlighted and a variety of techniques to deal with the problem has been examined, particularly the reference of power solution and the establishment of a State Family Court system. I am aware that during the period of the Fraser Government successive Attorneys-General encouraged the States to determine upon a reference of power, but I understand that the States were not able to agree to the appropriate terms of reference. Recently, agreement on the terms of reference of certain family law matters to the Commonwealth has been reached by the required number of four States—South Australia, New South Wales, Victoria and Tasmania—while Queensland has refused to cooperate. Western Australia is not involved because it alone has a State Family Court vested with Commonwealth jurisdiction in respect of the Family Law Act.

The proposal contained in this Bill to refer powers to the Commonwealth as the medium for solving the family law jurisdictional problems that I have outlined earlier offer many positive advantages. First, the arrangement will provide all children, if the need arises, with access to the Family Court, a jurisdiction that is bound to uphold the principle and the welfare of the child as paramount. It is staffed by judges with special qualifications and training and it is equipped with counselling and welfare services. The approach is one of conciliation. Secondly, I believe that it will end the maintenance of two legislative and court systems dealing with issues that fall within the same category. Thirdly, it is understood that the new arrangements would reduce legal costs, because the costs of operating the Family Court are significantly lower than those involving Supreme Court actions.

I said earlier that, to overcome the current fragmentation of jurisdiction, a variety of techniques has been examined, including the establishment of State Family Courts. It is this option to which I now refer briefly and, in doing so, I will outline some of the difficulties that would be involved in pursuing this option at this time in preference to a reference of powers. There is no doubt that the establishment by States of their own Family Courts, with the Commonwealth vesting its jurisdiction in these courts, would be a most—and possibly the most—satisfactory way of resolving the problems. The experience of Western Australia confirms the merits of the proposal. However, other than Western Australia, no State has taken up this option provided for under the Family Law Act, notwithstanding the encouragement that it received, particularly during the period of the Fraser Government.

I understand that in 1973 legislation was passed in South Australia to bring a State Family Court into operation later that year. Unlike its Western Australian counterpart, it was never vested with Federal as well as State jurisdiction in relation to family matters and ceased operation in 1975. Today, the single integrated State court proposition has problems. The Family Court is now well established, with about 45 judges and an infrastructure involving hundreds of officers. It would be a most difficult and complex task to transfer all these people and functions to the State. Equally, I acknowledge that there are problems associated with the proposal that is at times advanced that the State should set up State courts with joint commissions being given to the existing judges and to others who may be appointed by both the Commonwealth and the States and for the two to act back to back. This proposal would involve enormous costs to South Australia in establishing and maintaining what would be a very expensive infrastructure.

A further reservation that is applicable to both State court proposals, notwithstanding the merits of each, is the fact that the checkered history of efforts to find a solution to the problems of a divided jurisdiction suggest that any agreement or action on either count would be a long time in coming. To delay action at this time would simply perpetuate the discrimination against ex-nuptial children and would require affected children and their families to wait even longer for the resolution of a situation which nationally is acknowledged to have a detrimental impact on children.

As the Hon. Trevor Griffin stated when the subject was canvassed yet again at the last Constitutional Convention in Brisbane in July 1985, I believe the issue needs to be resolved at the earliest opportunity. I will raise a number of specific questions arising from this Bill to which I and the Opposition would appreciate a response from the Attorney when he replies, but first I will make a few remarks about the collection of maintenance payments. As all honourable members would be aware, earlier this month the Federal Government released a discussion paper on a proposal to introduce a national child maintenance scheme. The State and Federal Liberal Oppositions recognise the urgent need to reform Australia's system of child maintenance and support the establishment of a national approach to the collection of maintenance.

The Hon. R.J. Ritson: A very good idea.

The Hon. DIANA LAIDLAW: It is an extremely good idea and in fact it was the subject of a private member's

Bill introduced by the Hon. Peter Durack during the last session of Federal Parliament. The current system, whereby the payment of maintenance is effectively a voluntary act, is hopelessly inadequate. By comparison with the experience in other States—where 75 per cent of sole supporting families rely wholly or substantially on public support through social security payments—in South Australia we are a little better off. In South Australia 70 per cent of money owing in child maintenance is recovered. However, this leaves 30 per cent dependent on social security support for very basic and minimum support, even though the non-custodial parent may be in relatively good financial circumstances.

In fact, I understand that studies on this subject suggest that female sole parents are worse off by $78 a week after separation, whereas the non-custodial parent (generally the male) who continues in paid work is better off by a sum above that amount; meanwhile, increasing numbers of children living with their custodial parent (and I repeat that it is generally the mother) are living in poverty. I understand that 16 per cent of South Australian children live in this situation.

Any new scheme that is introduced by the Federal Government must be based on the premise that it is the basic right of a child to be supported by both parents and must not tolerate a non-custodial parent who fails to meet financial responsibility to children. The Bill that we are addressing is one step in the process of introducing a national child maintenance collection scheme. By bringing the determination of the maintenance of all children of separated parents, including ex nuptial children, under the jurisdiction of the Family Court, I believe this Bill is a most positive step forward.

I indicate that the Opposition has a number of concerns with this Bill which, at this stage, we will address in the form of questions. The first relates to establishing paternity. Today, while the number of ex nuptial children born each year in South Australia is increasing steadily, so, too, is the number of children born as a consequence of artificial insemination by donor, by *in vitro* fertilisation techniques, by embryo transfer techniques using donor semen and/or ova and by areas such as surrogate motherhood contracts.

Currently in all cases relating to ex nuptial children before the Supreme Court it is necessary for the court to obtain a declaration as to paternity pursuant to the Family Relationships Act. From a perusal of the Bill I am unable to ascertain whether the power to determine paternity where this is disputed is also to be referred to the Family Court. I submit that, if the Family Court does not have this jurisdiction to determine paternity where it is disputed, the current fragmentation between the Family Court and the Supreme Court will continue, and much of the benefit to be gained from the referral of powers would not be realised.

I also raise a further issue which the Opposition would like to explore, that is, the merit or value of the Supreme Court retaining concurrent jurisdiction so that the transfer of power to the Commonwealth is not absolute. This proposition would allow for some flexibility as to options for a State court or the like in the future, while not prejudicing the objective of having ex nuptial children in a marriage situation dealt with in the Family Court. I would like also to ascertain whether the Attorney-General, during negotiations on the referral of powers, received any indication or commitment from the Commonwealth Government that additional resources will be made available for the Family Court to meet its increased responsibilities. This concern has been expressed to me by a number of Family Court lawyers and also by officers involved with the Family Court in this State. I believe the concerns are valid when one considers the impact of recent Federal Government cuts in the operating budgets of courts within this State.

I remind honourable members, particularly the Attorney-General, that only now—several months after the belated appointment of a fifth Family Court judge—is the Family Court in this State beginning to reduce the length of waiting time for hearings. It would be a great shame if appropriate resources were not allocated to the court to allow it to handle the extra responsibilities which would arise from the referral of powers as proposed in the Bill. If this is not so, the waiting time will be lengthened and the current frustrations and confusions which this Bill seeks to eliminate will be perpetuated (although admittedly in a different form). I understand that my colleague the Hon. Trevor Griffin will address this matter also and that he may have other matters to raise in relation to the Bill. In the meantime, I indicate my support for the second reading.

The Hon. M.J. ELLIOTT: I support the second reading. I have basic support for the Bill, but I also have some concerns. The delay in ensuring equal conditions for children whose parents have separated gives me some cause for concern. It would appear that this Bill will address that issue. My concern relates to a number of complaints received from angry mothers just recently. It would appear that the Family Court has made orders relating to access in spite of concerns expressed by the mothers about their children being abused during access. Often, I am told, officers from DCW and CAFHS feel that there are grounds for concern but the Family Court seems more concerned with the rights of the parents. I realise that it is not the intention of the Bill to address this issue. I would, however, point out that a problem exists and will be similarly experienced now by children outside marriage.

It is perhaps more disturbing when one considers that the Family Law Act was written with a strong emphasis on providing protection for children. I would have thought therefore that this Government may have taken this opportunity to begin some dialogue with that court. Underlying both the delay in providing equal treatment for all children and the preoccupation by the Family Law Court in addressing parents' rights is the real issue that children are in a most vulnerable position.

If the Government will not champion their cause then who will? Are we just reflecting community attitudes in relation to children's rights? I would not begin to suggest that anyone here knowingly holds such an attitude. We must set the scene—begin to question those community attitudes before children's rights will be properly attended.

I therefore ask whether the Government has considered this matter of protecting children who may be abused during access visits. Upon receipt of a claim that a child is being abused during access, the Family Court may agree to suspend access, in order that the claim be investigated. I understand that the children in these situations feel quite threatened and are unlikely to talk openly if they are shortly to face the parent who may be abusing them. A suitable period of four to six weeks may provide sufficient time to establish whether abuse is occurring or otherwise. The present situation seems to suggest that the children's rights and needs are relegated to quite a low priority.

How does the Government intend to address this issue? What assurance can I give the concerned parents who feel the law is preoccupied with protecting a person who is possibly abusing their children? These are serious issues and have far-reaching implications for our future social stability. Abused children are often the future abusers. The guilt and anger resulting from abuse has marked effects on people

throughout their lives. We are in a position to change this situation. I support the second reading.

The Hon. K.T. GRIFFIN: I do not like giving anything to the Commonwealth at any time, but this is one of those cases where there does not seem to be much option, and I can acknowledge that there are children within a family, born out of wedlock, whose interests are prejudiced by not being able to be dealt with in the Family Court where disputes between married parents are subject to resolution. As my colleague the Hon. Diana Laidlaw has said, the Western Australian experience of a State Family Court vested with Federal jurisdiction is by far the best mechanism for dealing with issues of children of a marriage and ex-nuptial children, but I can recognise the difficulty in getting that established here.

We certainly considered it when we were in Government between 1979 and 1982, but there were considerable difficulties, not the least of which was the question of what to do with the Federal Family Court judges and how they would fit into a State Family Court system. It should be remembered that until, I think, 1959 the State Supreme Court exercised State jurisdiction in dealing with marriages, because until then marriage law was dealt with on a State by State basis and not on a uniform Federal basis.

After that date, when the Matrimonial Causes Act was passed by Federal Parliament, State Supreme Courts continued to deal with matters relating to marriages, children of marriages and ex nuptial children, having been vested with Federal jurisdiction. It was not until the mid-1970s, under the Whitlam administration, that we had the establishment of the Federal Family Court and the move to deal at the Federal level with all matters relating to disputes within marriage. It was during that period that a State Family Court was established here, but the Dunstan Labor Government was not prepared for that State Family Court to be vested with Federal jurisdiction and was quite content for the jurisdiction then exercised by that court to be transferred to the Commonwealth. The Dunstan administration did not take up the proposal for State Family Courts as occurred in Western Australia.

One needs to remember that at that time, during the Whitlam era, there was a great push towards centralism and control of all these sorts of matters from Canberra, and both the Federal Court and the Federal Family Court have blossomed within that concept but now, probably, it is too late to turn back the clock. Certainly, something needs to be done to assist ex nuptial children living with parents who are having their own disputes resolved in the Family Court.

The question which obviously arises from a consideration of the Bill before us is whether the Bill is designed to transfer power absolutely to the Commonwealth or to retain some concurrent jurisdiction within the State courts and, particularly, the State Supreme Court. There may, of course, be occasions when issues relating to the custody, access and maintenance of an ex nuptial child can be quickly resolved in a State court, and the parents are not in any way before the Federal Family Court in resolving any issues between themselves or other children of those parents. It seems to me appropriate that there be some concurrent jurisdiction remaining with the State Supreme Court and other State courts to deal with those questions.

It is quite obvious that certain jurisdiction is retained in State courts under the Adoption of Children Act, the Children's Protection and Young Offenders Act and the Community Welfare Act, and it may be that my concern that absolute power is being transferred to the Commonwealth is unfounded but, certainly, that issue needs to be addressed. Some of the practitioners who deal with families and children where there are currently problems of determining jurisdiction believe that there would be some value in retaining concurrent jurisdiction in these sorts of matters in the Supreme Court, as well as vesting them in the Family Court. I believe that it would be helpful and in the interests of those children that the State courts retain some concurrent jurisdiction.

In that context I have been informed that there have been negotiations between the Attorneys-General for the States and the Commonwealth and the judges across Australia for State Supreme Courts—particularly the South Australian Supreme Court—to be vested with Federal jurisdiction under sections 45D and 45E of the Trade Practices Act. That, I must say, is a welcome move if, in fact, there is a proposal by the Commonwealth Government to vest State Supreme Courts with those jurisdictions, because it would certainly facilitate the resolution of industrial disputes if the State Supreme Courts were to have that jurisdiction relating to sections 45D and 45E.

Members may recall that those two sections of the Trade Practices Act essentially deal with secondary boycotts and the question of preventing a person accustomed to supplying goods or services from entering into a contract or arriving at an understanding with a third person not to continue to provide those goods and services. Therefore, in the area of industrial disputation, a State Supreme Court vested with that jurisdiction would facilitate actions designed to resolve industrial disputes and to ensure that union power is not abused and that the full force of the law is brought to bear on the resolution of those disputes, if not by arbitration then by order of the court directed towards getting people back to work as quickly as possible. I would like the Attorney-General to say what is the stage of negotiations between the States, the Commonwealth and the judges with respect to vesting the State Supreme Court with jurisdiction under sections 45D and 45E of the Trade Practices Act.

The Hon. Diana Laidlaw has referred already to the question of paternity. From my reading of the Bill it seems that there is a considerable doubt whether that question is referred to the Commonwealth or remains with the State courts. Clause 3 of the Bill deals with the maintenance of children and the payment of expenses in relation to children or child bearing, and the custody and guardianship of and access to children. The question of paternity is not transferred. I would also ask the Attorney-General to answer the question whether or not that matter is adequately addressed by the Bill.

I will refer to two other issues. It may be that the State of the law is presently relatively undeveloped or unclear. They are technical constitutional questions, but I think that they need to be addressed. I know that the Bill provides for the powers transferred to the Commonwealth to be revoked on a proclamation by the State. That raises the question whether, if the transfer of power is not for a set time, it is within the power of the Commonwealth to act on that reference for an indefinite period.

The second question relates to the continuation or determination of laws made by the Commonwealth whilst it exercises the power. There is an argument that those laws enacted by the Commonwealth cannot be overridden by the States if at any time in the future the States seek to regain the power which has been transferred to the Commonwealth. That may be a hypothetical question, but, nevertheless, I think it is a realistic question to be addressed because at some time in the future there may be a need for one or more of the four States to seek to withdraw these

powers from the Commonwealth, particularly if there is a perceived inadequacy in the way in which they are being administered, or inadequate resources are made available to enable proper exercise of this power.

There are a few questions there for the Attorney-General to wrestle with. It may be that we will need to consider some amendments if the answers are not adequately dealt with. In that event, the Attorney-General would need to address the question whether the form of reference of power by the four States—New South Wales, Victoria, Tasmania and South Australia—needs to be in identical form to be a valid transfer of power, or whether each State can transfer in a different context, and the Commonwealth validly act on the reference insofar as each State has authorised that transfer. I hope that, in the course of considering the Bill, the Attorney-General will answer those questions. To enable that to occur, I am prepared to support the second reading.

The Hon. M.S. FELEPPA secured the adjournment of the debate

ANIMAL AND PLANT CONTROL (AGRICULTURAL PROTECTION AND OTHER PURPOSES) BILL

Adjourned debate on second reading.

(Continued from 25 September. Page 1193).

The Hon. J.C. IRWIN: The purpose of this Bill, which contains 77 clauses, is to repeal the Vertebrate Pests Act and the Pest Plants Act 1975, and to amalgamate both authorities involved into one organisation. As the Minister said on second reading, the Vertebrate Pests Act was proclaimed in 1975 and operated initially under the control of the Minister of Lands. The Pest Plants Act, proclaimed in 1976, operates under the Minister of Agriculture. In 1977, the operating of the Vertebrate Pests Act was transferred to the control of the Minister of Agriculture, thus opening the way for the setting up of a single control authority for both animls and plants under the one piece of legislation.

The two Acts are similar in concept and compatible in operation. Both Acts place prime responsibility on landholders and are administered through local government. This Bill provides for these arrangements to continue. There will, of course, still be a partnership with the State Government, councils providing 4 per cent of rural rate revenue and 1 per cent of urban rate revenue, the State Government statutory subsidy being 50c for every $1 paid by each council.

The system of supporting subsidies for councils with specific disabilities discovered under present legislation will also be maintained. The Government's present overall contribution through statutory subsidy and support subsidy is in excess of $1 for each $1 paid by councils. The Bill extends the responsibility of previous Acts in order to control entry, movement and keeping of all vertebrate pests except fish and protected native animals.

The Bill gives effect to the authority for wide agreement for uniform approaches to the control of exotic species. The classification system adopted also means that for the first time feral animals will be able to be proclaimed as pests. In Committee, we wish to move some amendments to clause 27 of the Bill to modify the powers of authorised officers, and section 65 should be amended to require officers appointed under the Act to advise landholders or their agents, wherever possible, of the intention to enter onto their land.

My 10 years involvement with local government included proclamation of the Vertebrate Pests Act in 1975 and the Pest Plants Act in 1976, through to the formation of single boards to administer these Acts. In my case the Tatiara district set up a single council board and has now joined with another council to form a joint board. I know of no person or council that does not welcome this Bill to authorise a single authority to administer a single Act, the authority being the Animal and Plant Control Commission.

The early days of manoeuvring between rural councils to find partners for joint boards are best forgotten. I am sure that things have settled down now somewhat, but the unsightly, unplanned rush, leaving small councils and some other councils out on a limb, should not be repeated or tolerated. I must say—and the Minister of Local Government is in the Council now—that the potential for this same sort of situation of juggling for position exists in the battle for amalgamation of councils. Some councils will be left out on a limb when all the dust settles.

The Bill being before us gives me an opportunity to touch on two areas of concern to me involving weeds. I spend more time in the city now than I used to, and I have observed in some of our parks and streets a great proliferation of weeds, something that most rural councils would not, or should not, tolerate. I refer to the obvious ones: salvation jane or Paterson's curse; onion weed; cowchop, which is the three-cornered jack; cape weed, marshmallow and geranium. These are not all high category weeds, but a number of them are and they must not be allowed to flourish and proliferate; they are someone's responsibility and must be attended to. The best way to deal with this would be for the commission to inspect and force councils to clean them up over a number of years, because this cannot be achieved with one year's spraying.

Make no mistake, some of the weeds that I have listed are easily transported by horses grazing in the parklands and then being taken off to horsing events around the State in other locations, and car tyres picking up the seeds. If members know what three corner jack is like they know that it is very easy for car tyres to pick it up and transport this weed all over the place. It is no good for some councils to enforce strong weed control while others allow the seeds to breed for reinfestation.

Millions of dollars are spent on weed control in rural areas in order to protect our overseas markets and to make the best use of our productive land. This should not be jeopardised by either urban councils not caring because it does not affect them, or some rural councils not pulling their weight. The roadside spread of weeds is very real in potential and in fact. Weeds allowed to prosper on the verges of the South-Eastern Freeway, for instance, can by the action of a single grader be spread right throughout the South-East.

I imagine that a similar situation applies in relation to all major road systems. I must add that I have frequently observed weed spraying being undertaken between here and Murray Bridge. This effort must not slacken off. I applaud that weed spraying, because the adjoining hills areas are still full of Salvation Jane. Honourable members who do not know what that is should have a look at what that lovely blue flower does at this time of the year.

The Hon. Peter Dunn: We call it Paterson's curse.

An honourable member interjecting:

The Hon. J.C. IRWIN: It is a lovely colour—and so is Cape Tulip, found in the Mid North, but that is a very dangerous weed. The District Council of Tatiara, with which I was previously associated, frequently tried to persuade both the Barley Board and the Wheat Board to consider the proposition of having a nil tolerance of weed seeds in their grain. I have my back to my colleague, the Hon. Mr Dunn

as I say that. Apart from its being illegal to transport weed seeds—and the transportation of grain containing weed seeds makes a mockery of that—our overseas markets take a dim view of wheat contaminated by weed seeds. There is no need to remind this Council of the perilous state of the international grain market. Markets will be won and held not only by price and grain quality considerations but also by the supply of grain free of contamination. If other countries can provide the right quality grain, free of contaminants, then we will stand to lose more markets.

I again make a plea for the broadacre farmers, the commission, the various boards and grain handling authorities to work harder to eliminate weeds. There would be no better or more effective means of eliminating weeds than to have one's product knocked back because it was contaminated. That is far more preferable than having our valuable grain market unable to compete with our overseas competitors. As far as I am concerned, there is only one proper answer. The transport of weeds is not, of course, confined to the matter of weed seeds in grain. I refer briefly to the transportation of weed seeds on livestock. The commission and the boards must not relax in this area of concern. The inspection of stock at sale yards, on transports, on roadsides—that is, when they are grazing on roadsides or being taken to market by way of the roadside—or at border crossings, etc, must not be relaxed. Penalties must be used in relation to any breaches and to provide an underlying deterrent effect. The Opposition supports the general thrust of this Bill. As has been indicated, the Opposition will move a number of amendments and will consider the amendments that have already been circulated by the Democrats. I indicate the Opposition's support for the second reading.

The Hon. M.J. ELLIOTT: I support the second reading of the Bill. In my discussions with people around the State, I have had an indication of general support for the Bill. At this time I wish to discuss three matters that have been raised with me. The first relates to clause 4, which provides simply that the Act binds the Crown. I have been asked whether the Minister can clarify that that in fact refers to national parks, roadsides, and so on, and that the Crown will be under exactly the same obligation as will farmers—and I believe that it is intended to mean that. The second matter is of even greater significance, and refers to clause 7, which relates to the structure of the commission itself. I believe that it is important that the commission must be representative of all parts of the State. I believe that the commission must have a great deal of local government experience and farming experience. Most importantly, it should contain people with experience in working on local pest control boards. For that reason, I shall move amendments to provide that the Local Government Association must nominate a panel of persons from which the Minister will choose five—one from each of the five regions of the State—and that those five people will all have been or presently be on a pest control board. I believe that only in that manner can we have a commission that will fully understand the problems that local pest control boards have. I think that in that way the Act will function best.

The third matter that has been raised with me relates to clause 52 (2) *(b)*, clause 53 (4) and clause 54 (2). This relates to the penalty to be imposed after the commission of an offence, in relation to which the reward will be greater than the penalty. For instance, a person may move a very large number of stock, knowing that they are contaminated with some form of weed seed, but the reward for the stock will be far greater than the penalty of $2 000 that is applicable. I believe that this matter needs to be addressed. There might be a better solution, but my suggestion is that offences committed that are applicable to these clauses should be prescribed offences under the Crimes (Confiscation of Profits) Act. However, if there is another way of getting around the matter, I would welcome it. I do not see this as an anti-farmer proposal but, in fact, a pro-farmer provision. Farmers who do the right thing should be protected from those people who are willing for the sake of reward to commit an offence and to bring pest plants or vertebrates into their area. For that reason, I feel that a provision such as that which I have suggested is necessary. In so saying, I support the second reading.

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

HAWKERS ACT REPEAL BILL

Adjourned debate on second reading.

(Continued from 24 September. Page 1124.)

The Hon. J.C. BURDETT: I support the Bill. It is a substantial deregulation measure, and I support it on that basis. At present small businessmen are complaining, justifiably, that they have to have an enormous number of different licences in order to operate. This measure will at least take away one of those licences applicable in a certain area and, in my view, quite clearly it will bring no harm to consumers. Over the years, since the time when the Hawkers Act was first passed in 1934—and there were previous Acts—the control of itinerant traders has been picked up in other areas. As the Minister said in her second reading explanation, the Door to Door Sales Act by-laws, which can be passed under the Local Government Act and, to a certain extent at least, the powers of councils in regard to planning, provide adequate controls over non-resident or itinerant traders in the present context. So, that being so, the Hawkers Act has become largely redundant. What it sets out to achieve is achieved more appropriately in other ways.

The term 'hawker' is defined in the original Act as follows:

> . . . any person who travels either personally or by his servants or agents by any means of locomotion (whether by land, air or water, and whether with or without a vehicle) from place to place or from house to house carrying or exposing goods for sale by retail.

There are of course people who still do that and who fall within that definition but the control that is necessary to cover their activities is provided by other means. The other controls do not involve only legislative measures. Some itinerant traders seek to go into an area, say in the country, for a few days selling some specific kinds of goods. Very often the premises that they seek to rent in order to do that are owned by the local governing body, so that, quite apart from anything of a legislative nature, it clearly has a control in that way, in deciding whether or not it will let the premises and, if so, on what conditions. Persons who operate within the definition of 'hawker' as provided in the Act still exist, but what most of us regard as the traditional hawker has largely disappeared, so that the circumstances that the original Act set out to control have gone or have changed.

Those of us in this Chamber who are old enough will recall the hawker of the traditional kind. During my childhood I can recall hawkers coming to my parents' farmhouse. Usually, they would drive a truck in which they would carry clothing, softgoods, etc. Hawkers also carried groceries and medicinal products of various kinds. Sometimes the hawkers came without any knowledge or warning and on other

occasions they came on a weekly or some other regular basis. The prospective customer would climb into the van and look at the wares to decide whether or not to purchase. This applied mainly in country areas. In those days the hawker provided a very real service to the country community. Many of them came from Middle Eastern countries and provided good quality products, especially in the clothing line. The prices were usually negotiable. The end result was that the clients, especially in country areas on farms, or other isolated residents, would receive a service which was satisfactory to them and which they could not otherwise conveniently have, because many of them did not have the opportunity to visit towns frequently.

Apart from my experience on my parents' farm, when I first went to Mannum hawkers still operated in some of the rural areas, particularly on the other side of the Murray River. They were colourful people who provided a real service. I understand that a few people still operate in a similar way, but most itinerant traders operate in quite a different way and I have no doubt that they also provide a service. Their activities require some control, which I believe is achieved particularly by the Door to Door Sales Act, the Local Government Act and the planning powers of the councils.

When this Bill was introduced it seemed to hinge on what consultation had taken place and what consultation was being undertaken, because it seemed that the repeal of the Act was proper, useful and a means of deregulation, provided that nobody was upset by it. In the Minister's second reading explanation she referred to a working party report that was prepared by her department. I thank her for making a copy of that report available to me. It recommends the repeal of the Act. She referred also to a survey which had been conducted by the Local Government Association. I consulted that association, which confirmed that it had conducted a survey and that it had written to all its member councils. It received 64 responses which I perused and it would be fair to say that they expressed no real opposition. I referred also to business organisations which I felt were appropriate and again I found no opposition.

I think it is proper that, when we find redundant legislation on the Statute Book, even though it may sometimes be colourful, we remove it and thereby remove one other licence that traders have to take out. As a matter of interest, to ascertain the extent of the number of licences which have to be obtained, I ask the Minister to ascertain the number of current licences that are in existence. The Bill seems to be a sound measure of deregulation and I support the second reading.

The Hon. PETER DUNN: I support the Bill. I express my appreciation to the hawkers for the service that they have provided to isolated areas of this State. I agree with the comments of the Minister and the Hon. Mr Burdett. However, the deregulation will allow them to still ply their trade, but under a slightly different regulation. Today, the term 'hawker' has become slightly fudged, because some people look upon them as being people who try to take them down and that may be as a result of more recent times when people have endeavoured to sell books and the like on a door-to-door basis. In the past the hawker has been a very responsible part of the isolated community and he has provided a service that was unavailable in the areas that were distant from the capital city. They have provided a great service in the supply of fresh linen, clothing, blankets, lighting and medical products.

Everyone will remember the Rawleighs agent and the Watkins agent. The Lincot linen man still travels Eyre Peninsula and sells beautiful Irish linen. They provide those things which are unavailable in the towns. The reason that they were unavailable then is that in many cases they were subject to spoilage by moths. In the early days we could not control pests like silverfish and moths with chemicals. Because of that, these hawkers travelled usually on a bimonthly basis, and supplied an excellent service and product to those areas. As a young fellow I distinctly remember two people in particular—Mr Alec Ihup and Mr Sunda Singh—whose very names suggest their origins. They were excellent in plying their trade and, if they did not have an item, they always had it the next time that they visited. One could be assured that they chose the very best places to stay when they travelled. The farmers, stationhands and owners supplied them with meals and accommodation.

Today, with modern transport, the rapid transport of goods and so on hawkers are not required to the same degree. However, I express my appreciation for the service they provided in the past to people living in areas who were unable to enjoy service similar to that available to people in the metropolitan area.

This is a deregulation measure and I applaud it. As I have said in the past, I believe that there is too much regulation of people who sell goods, particularly in the country. I cite again the owner of a service station in Iron Knob who was required to have 27 licences to ply his trade. I think that it is necessary to deregulate some of those areas and, for that reason, I support the Bill.

The Hon. BARBARA WIESE (Minister of Local Government): I thank members for their contributions to this debate. I am sure that many of us appreciated the reminiscences of members opposite about the work and value of hawkers in South Australia, particularly in country areas. In times past they certainly played a very important role in many country areas: and, indeed, in the outer suburban areas of South Australia. I grew up in Rostrevor, for example, at a time when there was very little transport and only dirt tracks. We certainly enjoyed the service of people like the Rawleighs man and others who passed through there during the 1950s. I appreciate the remarks that have been made by honourable members.

The Hon. C.M. Hill: It's the Avon girl now.

The Hon. BARBARA WIESE: Yes, that is right. With respect to the specific question asked by the Hon. Mr Burdett about the number of hawkers licences that have been issued, the most up-to-date information that I have is for the period March 1985 to March 1986. During that period, 169 hawkers licences were issued to people in South Australia. With those remarks I again thank honourable members for their contributions to this debate and express appreciation for the cooperation that I have enjoyed in presenting this Bill.

Bill read a second time and taken through its remaining stages.

PRIVATE PARKING AREAS BILL

Adjourned debate on second reading.

(Continued from 24 September. Page 1126.)

The Hon. K.T. GRIFFIN: This Bill seeks to provide a more effective framework within which the use of private walkways, roadways and parking areas can be regulated. It is a system supported by the Opposition, although there are some aspects of the Bill which in our view need further attention and clarification. Quite obviously the Bill results

from a number of concerns expressed within the community over a number of years about the inability of persons effectively to regulate the use of their private roadways, walkways or parking areas and the absence of an effective expiation scheme which would facilitate that enforcement. It is also recognised that local government bodies have been very limited in the extent to which they can become involved in the policing of parking and other traffic laws in some of the larger private parking areas such as shopping centre car parks. The same difficulty is faced by police.

The Bill is supported by the Opposition because it will provide a more effective framework for dealing with these problems. Among other things it provides for an owner to enter into an agreement with a council to enforce the Act on private land which is accessible to the public. It removes the need for the driver of a vehicle on private parking areas to be requested to be moved on before an offence is committed. It provides for offences and mechanisms for dealing with those offences if signs are disobeyed. It gives greater protection to those people who are disabled and who are in possession of a disabled parking permit. It attempts to provide the basis for developing a uniform code for signs and road markings. It provides for both owners and drivers of offending motor vehicles to be guilty of an offence (and I will make some further comment about that in a moment). As I indicated earlier, it allows for expiation fees to be levied by certain authorised local government officers. The provisions of the Bill are certainly not as complex as for on-street parking controls, but I expect that the complexity will come when the regulations are being drafted and considered by the community.

There are several matters to which I will draw attention. I raised some of these questions when the Bill was before us during the last session, but I suggest to the Minister that they have not been addressed either in the drafting of the Bill or in the second reading explanation. The first problem area that I see is with the definitions of 'no standing area' and 'permit parking area'. The definitions refer to parts of a private parking area marked out by signs or lines, or a combination of both. It seems that there is not the requirement to mark all of those permit parking areas and no standing areas by signs, or by signs and lines.

I suspect that there will be considerable difficulty if we only have certain no standing areas and permit parking areas marked only by lines without any explanatory sign being erected at the beginning and end of a no standing area or of a permit parking area. I would like to think that for the public, at least, there is some clear indication of where they can park or not park and where they can stand or not stand, and that that is not done just by coloured lines.

The next area of difficulty is in the definition of 'private parking area' and 'private walkway'. The definition of 'private parking area' provides:

> An area provided on land by the owner for the parking of vehicles used by persons frequenting premises of the owner.

The same definition applies to a private access road and a private walkway. What that does not take account of is the fact that there are some properties where a right of way has been granted by an adjoining owner over adjoining land in favour of an owner, and that the right of way allows access not to premises on the land of the owner of the property over which the right of way has been given but to premises situated on the land to which the right of way has been granted.

If that is accepted there is, in my view, a deficiency in those three definitions, because it will not allow a private access road, for example, to be covered by the provisions of the Bill where it is owned by some person other than the person who owns the premises to which access is given. I know that the definition of 'owner' in relation to land is broad, but I would suggest that where a right of way has been granted the person to whom it has been granted is not in fact in possession of that land over which the right of way has been granted. It is in fact the dominant tenement which is in the possession of the owner rather than the subservient tenement.

If a private parking area, private walkway or private access road is not by virtue of this argument covered by the provisions of this Bill then that, in my view, is a serious omission which ought to be addressed. It can be addressed quite simply by a broadening of those three definitions to make it clear that, where such a right of way has been granted, it is possible to extend the operation of the Bill to that right of way with the concurrence of the owner of the land over which the right of way has been granted.

In clause 5 (3) and clause 7 (1) any conditions or time limits imposed have to be displayed by notice fixed in a prominent position at or near the entrance to a private walkway, private access road or private parking area. That is all very good if there is only one entrance. It does not deal with the problem if there is more than one entrance. If one goes to some of the shopping centre parking areas—which are, in fact, private parking areas for the purposes of this Bill—one will see there are frequently three, four or even more entrances, and unless there is some notice at each entrance it would seem to me that the purpose of the Bill is defeated or, at least, not as effectively promoted as it should be. I would like the Minister to consider the requirement that there be a notice at each entrance to a private walkway, private access road or private parking area so that those who use those facilities will be left in no doubt as to the conditions which apply or the time limits which might be imposed in respect of those areas.

I wish to raise a question with respect to offences. A pedestrian who uses a private walkway, under clause 6, in breach of a condition imposed under part II of the Bill, may be guilty of an offence and liable to a maximum penalty of $200. That penalty is the same as for the driver and owner of a vehicle parked in breach of a condition or parked on a private pedestrian walkway. It seems to me to be somewhat harsh that the penalties for a pedestrian are the same as for the owner or driver of a motor vehicle, and I would like the Minister to give some attention to why the penalties are the same when the nature and impact of the offence may be quite disproportionate.

The other problem which has been drawn to my attention with clause 6 is that both the owner and the driver are to be guilty of an offence under the provisions of this clause. There is a concern that only the driver should be subject to a penalty and, although that may create difficulties in policing, it would certainly not result in any unjust or harsh consequences by virtue of the owner being unaware of the offence having been created by the driver. I would like that matter to be considered by the Minister and a response to be given during the course of the debate on this Bill. Apart from that, we support the second reading.

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

URANIUM SALES TO FRANCE

Adjourned debate on motion of the Hon. I. Gilfillan:

That the South Australian Government advise the joint venturers of Roxby Downs that it opposes any sales of uranium from

Roxby Downs to France or its agents until such time as France signs the Non-Proliferation Treaty and ceases nuclear weapon testing in the South Pacific, and that any such sale would jeopardise the Roxby Downs (Indenture Ratification) Act 1982.

(Continued from 24 September. Page 1116.)

The Hon. G.L. BRUCE: I move:

That this debate be further adjourned.

The Council divided on the motion:

Ayes (17)—The Hons. G.L. Bruce (teller), J.C. Burdett, M.B. Cameron, B.A. Chatterton, L.H. Davis, Peter Dunn, M.S. Feleppa, C.M. Hill, J.C. Irwin, Diana Laidlaw, R.I. Lucas, Carolyn Pickles, R.J. Ritson, T.G. Roberts, C.J. Sumner, G. Weatherill, and Barbara Wiese.

Noes (2)—The Hons. M.J. Elliott and I. Gilfillan (teller).

Majority of 15 for the Ayes.

Motion thus carried.

ADJOURNMENT

At 5.35 p.m. the Council adjourned until Wednesday 22 October at 2.15 p.m.