LEGISLATIVE COUNCIL

Thursday 12 November 1987

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

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

DISTINGUISHED VISITOR

The PRESIDENT: I draw members' attention to the fact that Mr R. Hetherington, formerly of South Australia and now a member of the Legislative Council of Western Australia, is in the gallery. We welcome him to South Australia.

ROAD TRAFFIC ACT AMENDMENT BILL (No. 2)

At 2.16 p.m. the following recommendations of the conference were reported to the Council:

As to the amendment:

That the Legislative Council no longer insist on its amendment but make the following amendment in lieu thereof:

Clause 3, page 1, lines 26 to 33 and page 2, lines 1 to 46—leave out the proposed new section 152 and insert the following:

152. (1) A member of the police force or an inspector may, for the purposes of determining any of the masses to which this Act relates, direct the driver or other person in charge of a vehicle—

(a) to drive the vehicle or cause it to be driven forthwith—

(i) to a place at which a weighbridge or other instrument for determining mass is located; or

(ii) to a particular place convenient for using an instrument for determining mass; and

(b) to do such things as are reasonably necessary to enable the masses in question to be determined.

(2) A member of the police force or an inspector may not give a direction under subsection (1) in relation to a vehicle that is not on a road unless he or she has reasonable grounds to believe that the vehicle has been driven on a road in contravention of a provision of this Act relating to mass.

(3) A person who—

(a) fails to comply with a direction under subsection (1); or

(b) leaves a vehicle unattended for the purpose of avoiding a direction under subsection (1),

is guilty of an offence.

Penalty: For a first offence—not less than $5 000 and not more than $10 000.

For a second or subsequent offence—not less than $10 000 and not more than $20 000.

(4) A court may not reduce or mitigate in any way a minimum penalty prescribed by subsection (3).

(5) Where a court convicts a person of an offence against this section, the court may order that the person be disqualified from holding or obtaining a driver's licence for a period not exceeding three months.

(6) A disqualification under subsection (5) operates to cancel the person's driver's licence as from the commencement of the period of disqualification.

(7) Subject to subsection (8), the place to which a vehicle may be required to be driven pursuant to this section must not be more than eight kilometres from the place at which the vehicle is located when the direction is given.

(8) If there are reasonable grounds for believing that the driver of the vehicle intends in the ordinary course of the journey to travel along a particular road, the vehicle may be required to be driven any distance further along that road to a place that is not more than eight kilometres from either side of the road.

And the House of Assembly agreed thereto.

Consideration in Committee of the recommendations of the conference.

The Hon. J.R. CORNWALL: I move:

That the recommendations of the conference be agreed to.

The Hon. PETER DUNN: I wish to thank the Minister for conducting this Council's contribution to the conference in the manner that he did and for his successfully convincing the other House that we were on the right trail. I thank him for doing that so successfully. However, several matters arise. The breaking and entering clause of the original Bill was certainly not acceptable to us. At the finish of the conference everyone agreed that the position as posed here is much more acceptable. It is severe, but so are the consequences of overloading.

A minimum penalty has been provided here, and we hope that this will avoid legal bickering. It is quite a simple and straightforward matter: if a person transgresses, does not stop when asked to do so and does not travel to a place where the vehicle can be weighed when instructed to do so, the simple effect of this Bill is that for the first offence a fine of $5 000, up to $10 000, will apply, and that for subsequent offences a fine of $10 000, up to $20 000, will apply. I think that that is fair and reasonable.

There was a small problem regarding how far those vehicles can travel—whether within a radius of eight kilometres from the point of contact by the policeman and the driver of the vehicle or whether the vehicle might have to travel more than eight kilometres to a weighbridge is not exactly clear. I understand that the Minister in the other place will clarify that matter. However, I recommend this proposal.

The Hon. J.R. CORNWALL: The general thrust and substance of the amendments before us were agreed to by the managers from both Houses. However, there seems to be some minor concern in respect of new subsection (8). Some members, including my learned friend the Attorney, have privately expressed to me a concern that there might be some ambiguity in new subsection (8). Therefore, I seek your advice on this matter, Madam Chair. At this stage it might be wise if Mr Cameron had a word to say.

The Hon. M.B. CAMERON: I believe there is a minor problem with new subsection (8) which has been drawn to my attention. In these matters we are guided by people more learned than the members of Parliament in matters of law and—

The Hon. J.R. Cornwall: It could be a misprint.

The Hon. M.B. CAMERON: It could well be a misprint, because the words 'from either side' appear to have a potential for creating problems. It is not intended to send people back to the place they have just left to be weighed, if they are already on a journey. If a person is going from Port Pirie to Port Augusta, it is certainly not intended that when they are halfway to Port Augusta, heading towards Western Australia, that they should be required to return to Port Pirie for the purpose of weighing. It is not intended to create difficulties for people in that way. I would suggest that, if there is any ambiguity—

The Hon. C.M. Hill: It refers to 'a distance farther along that road', so it doesn't say the vehicle has to be turned around and brought back.

The Hon. M.B. CAMERON: If there is any difficulty at all, I would suggest that we adjourn—

The Hon. C.J. Sumner interjecting:

The Hon. M.B. CAMERON: Does it matter?

The CHAIRPERSON: Under Standing Orders, only one conference on any Bill or other matter can be held.

The Hon. M.B. CAMERON: Right! Well, let's get on with it. If there is a problem, it is not a problem that cannot be solved in some way. I am sure the Attorney has the means at his disposal to bring forward any amendment that is required in the matter as a matter of urgency, if necessary.

The CHAIRPERSON: Under Standing Orders that cannot be done.

The Hon. J.R. CORNWALL: I have consulted my good comrade, Trevor Crothers, who represented this Council very well and who has had significant experience; he has

been everything from a marathon runner to a transport driver in his time, and he explains it very well. With great deferential respect to my learned colleague, the general intention (which is reasonably well expressed) is that the direction would not be to deviate more than 8 km from the main course between two points or between two towns. So, if the direction was to drive 200 km to Port Augusta on the main road, that would have to be accepted. However, you could not direct that the driver go more than 8 km in some deviation from the main road. That is as I understand it. Tugging my forelock and paying due respect to my Leader, as I always do, I do not think that creates any real problem. However, I am very pleased that the matter was raised so that we could get some clarification.

The Hon. M.B. CAMERON: I am very grateful that the Minister of Health was able to come back long enough from the Grand Prix to give us his wisdom. It just shows the importance of the Minister being present in the Council doing his duties on a day like this. I am sure that he now realises how important it is for him to do the job for which he is paid. We are very grateful that he is able to come here and straighten out the Attorney-General on this matter.

The Hon. C.M. HILL: Could the Minister further explain new subsections (7) and (8)? First, new subsection (7) provides that the vehicle must not be driven more than 8 km from the place at which that vehicle is located when the direction is given.

The CHAIRPERSON: Subject to subsection (8).

The Hon. C.M. HILL: Yes, I am coming to that. In relation to new subsection (7) it would seem that, if in the example of Port Pirie and Port Augusta it is stopped 10 miles south of Port Augusta, it could not be taken up to Port Augusta because that distance would exceed 8 km. Secondly, in regard to new subsection (8), the vehicle may be required to be driven any distance farther along that road—and in that case it could be driven to Port Augusta in the example cited—to a place that is not more than 8 km from either side of the road.

Is it not the intention that the vehicle must be driven along that route—I think, to conform with the spirit of new subsection (7)—not more than 8 km distant from the point of being checked out? The margin of 8 km on either side of some intended route seems quite strange. Taking the question in totality, I think that this will cause much bother and argument between drivers and inspectors. It should be made clearer at this point in time to help in interpretation of the law.

The Hon. R.I. LUCAS: New subsection (8) refers only to requiring the driver of the vehicle in the ordinary course of the journey to travel along a particular road. It would not take much to think of circumstances in country areas of South Australia where, to get from wherever it is that the vehicle is stopped to wherever you have to go, one has to deviate and move from roads to roads, turn left and turn right and certainly not continue along the example we referred to, namely, one road that might link, say, Port Pirie and Port Augusta. There may well be cases where, to get the vehicle that has been stopped to the intended location, you would have to travel along quite a number of different roads. On my reading of new subsections (8) and (7), on the drafting of new subsection (8) you could only be directed to go down a particular road which is quite specifically defined in the law as a particular road—singular—and you could get to that intersection—

The Hon. J.R. Cornwall interjecting:

The Hon. R.I. LUCAS: Can you listen?

The CHAIRPERSON: Order!

Members interjecting:

The CHAIRPERSON: Order!

The Hon. J.R. Cornwall interjecting:

The CHAIRPERSON: Order, Minister!

An honourable member: Certainly, throw him out.

The CHAIRPERSON: Thank you. I will not give the Minister the pleasure of throwing him out so that he can go to the Grand Prix. I ask members to limit their comments when they have the floor to the matter before the Committee, which, as I understand, is the motion that the Minister has moved that the recommendations of the conference be agreed to.

The Hon. R.I. Lucas interjecting:

The CHAIRPERSON: My comments apply to you just as much as to anyone else, Mr Lucas.

The Hon. J.R. Cornwall: He is a disgrace to this place.

The Hon. R.I. LUCAS: Are you finished?

The CHAIRPERSON: You have the floor, Mr Lucas.

The Hon. R.I. LUCAS: The only point I want to make, now that the Minister who handled the conference for us is listening, is in relation to the fact that I believe that in the drafting of this Bill, under new subsection (8), a driver could be required to go to a particular intersection out bush somewhere and not be able to continue any further, if we are talking about more than one particular road and getting from where the vehicle is stopped to wherever the weighbridge is, or the further destination. So, it is understandable if, for example, there is one road linking Port Pirie and Port Augusta, and we can see the argument that the members are developing. However, if the members are talking about having to go to intersections linking up a number of roads between where the vehicle is stopped and where it has to go, on the current drafting it would appear to be unsatisfactory. Under new subsection (8) the vehicle and the driver concerned would be able to go no further than the first intersection with the first road.

The Hon. PETER DUNN: I posed this question this morning in the conference because I was unclear about it. Although the drafting is not as clear as it should be, the answer I received was very clear: to be able to get a vehicle to a weighbridge which may not be on that highway (for example, if a vehicle is travelling from Melbourne to Perth on highway No. 1) it is reasonable to ask that vehicle to travel X number of miles along highway No. 1 until it comes to a weighbridge. However, there may not be a weighbridge within a reasonable distance; it may be in another State. If that is the case, the vehicle could be asked to deviate up to eight kilometres to get to the weighbridge. The intention is clear, but perhaps the drafting is not clear.

The Hon. R.I. Lucas: What if you come to the intersection of the highway from Mt Gambier to Keith, for example, and the Naracoorte turn-off, you have two highways intersecting and you can only go along 'a particular road'. Once you get to the intersection you are lost.

The Hon. PETER DUNN: No. The drafting refers to 'the ordinary course of his journey'. That does not say 'a particular road'; it says 'the ordinary course of his journey'. However, the practicalities of it are that these people will be issued with mobile weighing devices and will be able to do the weighing there and then. I expect that they will be able to do it with mobile and portable weighing machines. So, the practical point is that, if the area is unsuitable for the use of a portable weighing machine and the machine indicates an overweight, the driver of the vehicle can be asked to travel to a weighbridge where a more specific weight can be measured.

The Hon. I. GILFILLAN: As a member of the conference, which I think has probably been guilty in not getting the wording correct in new subsection (8), I put on the

record that although the intention is clear, I think, and it was unanimously agreed, the wording is confusing, to say the least. There are three mentions of 'road' in that subclause: 'a particular road', in the second to last line 'that road' and in the last line 'the road'. The point is that they do not apply to the same road. I suggest that the use of the words 'that road' in the second to last line could be changed to 'that direction' and thus the confusion would be removed. However, at the moment there is definitely confusion in the wording and it will need to be amended.

The Hon. T. CROTHERS: I wish to inform the Committee just what the deliberations of the conference were; I will put this matter in its proper perspective so there is no ambiguity and no misunderstanding by members as to what transpired at the conference. The wording of the recommendation of the conference in relation to the 8 kilometres is that which was contained in a draft amendment drawn up by the Crown Law people as a result of a request by the managers at the conference last night. The wording of the amendment that was placed before the conference and the wording of this recommendation are identical. The managers received explanatory notes that were prepared for the Minister of Transport in the other place in regard to various aspects of the Bill, and they explain the thrust of new subsection (8). The explanation states:

A vehicle cannot be required to go a distance of more than 8 km in any direction from the place at which the vehicle was located—

and the Committee should note that—

when the direction was given or at which it was left unattended. However, this limit may be exceeded if the vehicle is driven along the route that the driver is believed to have been following, provided that any deviation from that route does not exceed 8 km.

The thrust of the amendment is to stop the drivers of overloaded trucks who deliberately deviate off the road or who have been warned by radio transmission from other truck drivers that inspectors are out in force and are requiring trucks to be weighed. That is the thrust of the recommendation. I understand that at present in the absence of a capacity to weigh vehicles with a mobile unit, weighing stations are at fixed points. This amendment covers the driver of a truck, which is spotted by an inspector or a police officer who believes that that truck is overloaded, who attempts to drive off the road on to private property, for instance. That has occurred, and some drivers have taken trucks through wire fences, damaging the fence and letting livestock into the vagaries of open paddocks. That is the purpose of the recommendation. If inspectors reasonably suspect that a driver has avoided the detection unit, they can, within 8 kilometres, bring those drivers back on to the main route, direct them to the weighbridge and weigh the truck.

The conference, I believe very wisely, determined that the penalty for a first offence would be a minimum of $5 000, with the court having no discretion; the amendment is worded in that way. The maximum is determined at the court's discretion up to $10 000 for a first offence. Subsequent offences carry a minimum fine of $10 000 and a maximum of $20 000, and again the court is allowed no discretion in respect to the minimum fine. That is really the thrust of the amendment, and I believe it is clearly understood. I agree with what the Hon. Mr Dunn said. This issue was clearly understood by mangers from the Council this morning. The drafting may leave something to be desired; I do not know whether members here may decide to redraft the provision, but the principles were certainly agreed to by all members at the conference.

The Hon. M.B. CAMERON: There has been some misunderstanding of the role of the conference that considered this matter.

The Hon. C.J. Sumner: Mr Dunn raised it in the conference.

The Hon. M.B. CAMERON: Yes, but it was merely a point of clarification. The Attorney raised this matter in advice to the Minister of Health when the Council first considered this matter this afternoon. The conference considered certain amendments that were moved and passed in this place. Those amendments did not relate to new subsections (7) and (8). In the original Bill they were new subsections (5) and (6). At no stage was any amendment considered to these new subsections by the conference.

The Hon. C.J. Sumner: A question was asked in the conference.

The Hon. M.B. CAMERON: Just as a point of clarification, and no changes were made because the conference was not asked to consider new subsections (5) and (6).

The Hon. C.J. Sumner interjecting:

The Hon. M.B. CAMERON: No; no amendment was considered on these matters.

The Hon. J.R. Cornwall interjecting:

The Hon. M.B. CAMERON: That is a matter for the original draftees of the Bill, namely, Cabinet. Parliamentary Counsel put back in the same subsections that were in the original clause when it was redrafted to include the amendments that were considered by this Council. So, we have got carried away over a subject that perhaps should have been raised in the original debate in this place. However, it was not a duty of the conference to consider these matters.

The Hon. C.M. Hill: Who are the masters: the managers or this Council?

The Hon. M.B. CAMERON: I guess that, in the long run, this Council is. The Hon. Mr Hill makes a point, but the problem that we have when Bills come back to the Council is that we either accept the Bill and the decision of the managers or we reject them. If we reject the decision of the managers, the Bill can lapse. If that is a decision of this Council, so be it. But, we were not at any stage empowered by this place to consider amendments to these two subclauses, because they were not part of the amendment.

The Hon. J.R. CORNWALL: I think I can clarify this. I make clear that because of other ministerial duties I was unable to be at the conference when it resumed at 10.30 this morning, but I thought that I was very well represented by the Hons Trevor Crothers, Mr Gilfillan, Mr Cameron and, particularly Mr Dunn. They had a very clear idea, as I did, of what the managers for this place were trying to achieve. What they were trying to achieve they have achieved. It was to make very clear that, if a driver of one of these juggernauts that was suspected of being overloaded by 10, 20 or 30 tonnes refused to accept a direction to go to a place to have the truck weighed, the penalty for a first offence would be between $5 000 and $10 000, which is a fair amount of money. That is rather different from the original Bill and the amendment that was moved by Mr Dunn in the first instance.

There was agreement between the managers that in the event that a driver was suspected of overloading and did not accept a direction to personally drive his rig to a place where it could be weighed, the first offence should be not less than $5 000 up to a maximum of $10 000 and, for a second or subsequent offence, anywhere between $10 000 and $20 000. That is a very big penalty, and the managers make no apology for that, because all 10 of us believed that, if somebody was breaking the law to that extent, the penalty should fit the crime. That is what we have achieved in the

amendments and that is what we all agreed to—every one of us.

We cannot amend new subsections (7) and (8). I am unable to say whether they are there at the whim of Parliamentary Counsel, because somebody left them in when perhaps they should have been removed, or because when the first ruling comes up in court they will prove to be absolutely necessary to make the Act work. There is not a damn thing that any of us can do about it at this stage, but we certainly have achieved what we set out to do with regard to penalties. The spirit and intent was very clear among the 10 of us who attended that conference. In the event, I cannot see that we can do other than accept what is here. If new subsections (7) and (8) prove to be problems, we will bring the legislation back and amend it accordingly, with the goodwill and undoubted support of the members of this place.

The Hon. K.T. GRIFFIN: I concede that, the report having been presented on behalf of the managers and as an agreement of the conference, we are in a position in which we are obliged to pass or accept the conference's report. However, I want to put one matter on the record: in view of the fact that this will be accepted, as I interpret it, I would not want the inclusion of a very substantial minimum penalty to be taken as an indication of general acquiescence in acceptance of minimum penalties.

The Attorney-General and I would both share the view, as do many other members of the Council, that minimum penalties are, generally speaking, undesirable, although there may be rare occasions in which minimum penalties may be appropriate. The passing of this second new section should not be taken as any acquiescence in any acceptance of a general policy or principle of minimum penalties.

The Hon. J.R. CORNWALL: I am very pleased that the Hon. Mr Griffin raised that point. These penalties are used very sparingly indeed in legislation in this State. However, there is a classic case in point in, I think, the Road Traffic Act for the offence of refusing to submit to a breathalyser test. There is a minimum penalty for the first offence and a further penalty for a second and subsequent offence.

The Hon. M.B. Cameron interjecting:

The Hon. J.R. CORNWALL: Again, this is for refusing; it is not for contravening the legislation in any other way. It is for refusing to comply with a legitimate request or direction. In that sense there is a precedent for it—one that we all agree must be used very sparingly indeed. I am pleased that the honourable member raised the matter. It should be on the record.

Motion carried.

QUESTIONS

ABORIGINAL POLICE AIDES

The Hon. M.B. CAMERON: I seek leave to make a statement before asking the Attorney-General a question about Aboriginal police aides.

Leave granted.

The Hon. M.B. CAMERON: On 21 October in this Council I asked the Attorney-General whether he would act to suspend or seek to suspend a decision to remove supervising officers working with Aboriginal police aides in the Far North of this State. On that occasion I told members that there was real concern among members of the Aboriginal community that if the supervising officers were removed prematurely a lot of the excellent work that the aides had done would be wasted. There is also a real fear among the police aides that, once the supervising officers are withdrawn, they will become the target for reprisals from people with whom they have dealt.

During a recent trip that I made to the Aboriginal lands late last month, together with the Leader of the Opposition, very real concerns about the premature withdrawal of these supervising officers and the fear of reprisals were raised again. As I have indicated in the Council previously, everyone to whom we spoke, whether Aborigines, white advisers, or members of the Franks Team, agreed that the aides were necessary and were having a very keen influence on eradicating petrol sniffing among Aborigines. Generally, there was not one murmur of dissent. In fact, the first question raised with us at a meeting of the Pitjantjatjara Council concerned the matter of retaining the officers who support the police aides. Everyone was convinced that they were essential and that if the aides were to remain effective the supervising officers should be left there.

We were also told that aides were needed in further areas, in particular, at Pipalyatjara and Mimili, where some indication was given of problems involved in shifting from one community to the next. Those communities are not presently covered by the scheme and they are a fair distance from either side of where the aides and their officers are already present. But, again, the comment was made very clearly to us that, without supervising officers, the aides were not likely to be of much effect and that there would be a return to the old system which really did not work.

When I brought up the matter of the planned withdrawal of supervising officers the Attorney-General said that he would bring back a reply. That was on 21 October. I have heard second-hand that some effort was made by the Government to circumvent the answer to the question by a press release from a Government member—I think it might have been the Deputy Premier—who made some sort of issue of the matter to the media immediately prior to the last visit that I made to the Aboriginal lands. I will be interested to hear first-hand, first, just what decision the Government has made and, secondly, whether the Government has decided to withdraw any of the supervising officers and leave any of the aides without that cover. If the Government has decided to put in additional aides without supervising officers with them, will the Government reconsider that decision, because it is the desire of the communities involved and of all the people in that area to have supervising officers alongside the aides? The point was made to us that, bearing in mind the amount of training that these aides have had, no police constable would be asked to take over the supervision of a community, bearing in mind all the problems that have occurred in this area.

The Hon. C.J. SUMNER: This matter is under consideration by the Government, and a decision will be made in due course. At that time I will bring back a reply for the honourable member.

The Hon. M.B. CAMERON: By way of a supplementary question: has any press release been issued by any member of the Government—in particular, by the Deputy Premier—in recent days?

The Hon. C.J. SUMNER: Well, I don't know. I am not the Deputy Premier, as the honourable member probably knows—although I am the acting Minister of Emergency Services for this week. But I have not issued a press release in terms that the honourable member has indicated. When the Deputy Premier returns I will refer the question to him and get a reply.

MINISTERIAL STATEMENT: ENFIELD COUNCIL

The Hon. BARBARA WIESE (Minister of Local Government): I seek leave to make a statement.

Leave granted.

The Hon. BARBARA WIESE: On Tuesday 3 November and Wednesday 4 November, the Hon. J.C. Burdett asked questions concerning an alleged breach of the conflict of interest provisions of the Local Government Act. The allegations related to Cr R. Binka of the City of Enfield. Crown Law opinion has been sought twice on this matter. The material first considered by Crown Law included a letter and attachments received by me from the City of Enfield, dated 28 May 1987.

I confirm that the letter to which the Hon. Mr Burdett referred was one of those attachments, and was included in the material initially considered by the Crown Solicitor. Her opinion in July was that no breach of the Local Government Act or other legislation occurred. On 2 October 1987, I received a second letter from the City of Enfield, containing copies of the minutes of certain council meetings at which Cr Binka was present. This letter and the enclosed minutes also were referred to the Crown Solicitor with a request that the earlier advice be reviewed. In other words, all the correspondence referred to by the honourable member was considered. The Crown Solicitor has reconfirmed her original opinion that no breach of the Local Government Act has occurred.

THE ORPHANAGE

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Minister of Tourism, representing the Minister of Education, a question about the Orphanage.

Leave granted.

The Hon. L.H. DAVIS: The Orphanage on Goodwood Road, Millswood, is the office for the Arts Education Team, which consists of seven or eight project officers; also, the Music Branch of the Education Department is located at the Orphanage. I understand that for the past six weeks the Arts Education Team project officers have had no secretary to assist them and that also their photocopier has not functioned properly. Therefore, they have had to go to other Education Department centres for secretarial services and photocopying, and that has been wasteful of both time and patience. I also understand that working conditions at the Orphanage leave Education Department employees less than gruntled.

During the winter a ceiling leaked badly and flooded two offices, causing damage to documents. Further, pigeons have taken over the attic and have messed there throughout the year, and they are especially noisy in winter time. The staff at the Orphanage find their billing and cooing somewhat distracting. When the Music Branch is in full swing it is difficult to know whether the pigeons are joining in or acting as perceptive critics. The pigeons and the pigeon poo in the attic precludes the use of this valuable space. In fact, there are so many pigeons at the Orphanage it is unlikely that any pigeon would be without parents! Will the Minister immediately investigate these complaints, which would indicate chronic mismanagement of resources, lack of secretarial support, and poor working conditions for the staff?

The Hon. BARBARA WIESE: I will refer the question and the very colourful explanation to my colleague in the other place and bring back a reply.

LEGAL AID

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

Leave granted.

The Hon. K.T. GRIFFIN: The State Budget this year provided for no State funds to go to the Legal Services Commission as the State's contribution to legal aid, the first time this has occurred since the commission was established in 1979. A window-dressing device was used to provide for $840 000 to go to the Legal Services Commission but in the same budget papers that was taken back into general revenue—so, in effect, there was a juggling of figures in the books but no State money going into legal aid this year.

I can remember when I was Attorney-General the now Attorney-General levelling constant criticism against the Liberal Government for providing what he said was too little for legal aid—figures like $607 000 for our last Budget in 1982-83 which on present values would be about $1 million. Now, there is a complete turnaround by the State Government—the Federal Government provides $8.4 million, the State Government provides nothing. The State Government is instead requiring the Legal Services Commission to draw on reserves which have accumulated over the years and which have been accumulated largely from interest on all legal practitioners' trust accounts.

As I understand it, the Government tried to get the Legal Services Commission to pay over $1 million of those reserves to the State Government but that was not agreed by the Legal Services Commission. In fact, an opinion by the Crown Solicitor was that such a payment to the Government was illegal. Notwithstanding that opinion that the payment of such reserves to the State Government was illegal, the Government has adopted a device, without the consent of the Legal Services Commission, by which those reserves are to be whittled away by the backdoor, obviously contrary to the spirit of the law, by the Government not making any grant from revenue.

When the Attorney-General informed the Legal Services Commission of its budget decision the Legal Services Commission then wrote to the Attorney-General expressing grave concern. The letter said in part:

> The current proposal by your Government is quite different from funding arrangements in years gone by. Certainly the requirement that the commission draw on reserve funds is completely new and unexpected. I feel sure the commission would be seriously concerned about it, and I expect that the Law Society of South Australia would be disquieted by the implications for the legal profession.

The letter then went on to deal with the history of the discussions since 1986 between the Government and the Legal Services Commission. Apparently the Attorney-General formed a Reserve Funds Committee. That committee itself felt obliged to point out that there was no convincing reason why those funds (the reserve funds of the Legal Services Commission) should be earmarked as solely State funds.

In a letter of 11 May 1987 to the Attorney-General the committee indicated that it and the Legal Services Commission were proceeding under the assumption that the usual State grant would continue for the 1987-88 financial year. The Attorney-General confirmed by letter of 27 July 1987 that the position of future funding for legal aid had not changed since the last meeting of the committee. Then, as a bolt from the blue, the Attorney-General wrote to the Legal Services Commission on 27 August saying no State funds would be available to the Legal Services Commission

this year. The commission, in its letter to the Attorney-General, responding to that advice says:

> The commission was not consulted about the change in your thinking on the matter, or in the context of budget discussions, which would have been the normal and accepted procedure during the course of annual funding deliberations . . . you refer to the requirement that the commission should draw on its reserves. This, some may think threatens the very independence of the commission, which is otherwise guaranteed to it by statute.

By the Labor Government's own statute introduced by the then Attorney-General, Peter Duncan, the Legal Services Commission is by law independent. The letter went on to say:

> When a Government indicates, as you have in your letter, that there will be no State funding for the immediate future, it necessarily places a cloud over the commission's operations and future . . . The decision will seriously and detrimentally affect morale within the commission.

My questions to the Attorney-General are:

1. Why did the Government embark upon a course of action which, if taken head-on, was illegal?

2. Why did the Government take the action in respect of the 1987-88 budget without proper consultation with the Legal Services Commission and the Law Society and which was contrary to previous understandings?

3. In the 1987-88 budget discussions was the Attorney-General 'rolled' by the Treasurer in a disgraceful about-face in respect of the requirements of the Legal Services Commission in the provision of legal aid?

Members interjecting:

The Hon. C.J. SUMNER: I'll give it any time you like. I have never heard of a more monumental beat-up by way of a question in this Council since I have been here and I do not think I have ever heard of a more monumental beat-up from the shadow Attorney-General since he has been in Parliament. Often his questions are reasonably phrased and he is seeking some reasonable information about a particular topic, but on this occasion he has, frankly, used a beat-up. He has used inflammatory terms such as 'illegal', which is utterly incorrect, as well he knows. As I said, the question is a beat-up, it is unjustified—

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: There are unjustified accusations in it. The honourable member has used inflammatory language, which has no basis in fact.

The Hon. L.H. Davis: You've said that three times.

The Hon. C.J. SUMNER: That's right, and I will repeat it.

The PRESIDENT: And I will call the honourable Mr Davis to order three times, also.

The Hon. C.J. SUMNER: If the honourable member keeps interjecting and not understanding, then he will get an answer to his interjections. I repeat: the reality is that what the Hon. Mr Griffin has engaged in here (uncharacteristically, I might add) is a beat-up.

The Hon. T.G. Roberts interjecting:

The Hon. C.J. SUMNER: As the honourable Mr Roberts says, it is disappointing to see the shadow Attorney-General stoop to these tactics. The first point to be made is that what has happened in this year's budget with respect to State funding to the Legal Services Commission will have no effect on the operation of the commission or the amount of money available.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: Just a minute! You have asked a question, beat-up though it may be and if you want the answer, I will give it to you. The decisions in this budget will have no effect on the operations of the Legal Services Commission in this financial year, nor any effect on the legal aid which is granted to applicants for legal aid in this financial year. So, that ought to be made crystal clear, as a beginning to the answer. Therefore, there is no cloud over the commission's operations.

The Hon. L.H. Davis: Explain the letters.

The Hon. C.J. SUMNER: There is nothing whatsoever to explain in the letters. There is no cloud over the commission's operations. The fact that the Government has required the commission to use up some of its reserves has no effect on the independence of the commission. The reality is that the commission is independent of Government in its decision making, and that is enshrined in the legislation. However, to suggest that the Legal Services Commission is independent of Government in its financing is ludicrous, because it is not true. The Legal Services Commission operates, as the Hon. Mr Griffin knows, with Government funding, basically.

The Hon. L.H. Davis: Why change the arrangements?

The Hon. C.J. SUMNER: We haven't changed the arrangements in the sense that there will be any effect on the legal services delivered to individuals in this year. Well, you shake your head—

The Hon. Diana Laidlaw: I do shake my head.

The Hon. C.J. SUMNER: Because you don't know what you're talking about.

The Hon. Diana Laidlaw: That's not what the staff are telling clients.

The Hon. C.J. SUMNER: I can tell the honourable member now that it has not had any effect on the operation of the Legal Services Commission in terms of the legal aid available to clients. The reality is that the commission is not independent of Government as far as funding is concerned. The commission operates, principally, through Commonwealth and State Government funding, which is supplemented by interest on trust accounts, which is obtained and paid into the Legal Services Commission to assist with the money that is available for the operation of the commission. There is no question that, because there may be different funding arrangements, there is any threat to the independence of the commission. If the Federal Government withdraws funding, does that mean that the independence of the commission has been affected?

The Hon. L.H. Davis: I think it does.

The Hon. C.J. SUMNER: Then you're saying that the Government must always maintain a level of funding to a legal services commission.

The Hon. K.T. Griffin: That's what you were arguing when I was Attorney-General.

The Hon. C.J. SUMNER: Just a minute! That's what you're saying. You are saying that the funding of the Legal Services Commission should never be reduced, which is a ridiculous proposition, as you know.

The Hon. L.H. Davis interjecting:

The Hon. C.J. SUMNER: What's he saying? I would like to answer his interjection. What are you saying?

The Hon. L.H. Davis: You're not answering the question so you might as well answer interjections.

The Hon. C.J. SUMNER: I am quite happy to answer interjections. It must be patently obvious that there is no threat to the independence of the commission. Secondly, as a result of this decision, there is no cloud over the commission's future. What is being discussed at the moment, and has been in discussion for some time, is the State and Federal funding arrangements for the commission. They have not yet been resolved, but that is not a matter that is involved in this decision. What has happened here is that the Legal Services Commission has had reserves which it could not use. The Government has decided that the com-

mission should use up, in this financial year, $840 000 worth of those reserves without funding from—

The Hon. L.H. Davis: But you used some fancy financial footwork to cover it up.

The Hon. C.J. SUMNER: No, there's no fancy financial footwork. That is just patent nonsense.

The Hon. R.I. Lucas: Creative.

The Hon. C.J. SUMNER: It is not creative at all: it just requires the commission—

Members interjecting:

The Hon. C.J. SUMNER: I explained it in the Estimates Committee. I am not sure how anyone is being caught. The Opposition seems to have decided that it has hit on this magic issue all of a sudden. How extraordinary! My recollection is that the matter was dealt with in the Estimates Committee. Members opposite had the budget here three weeks ago and it is as simple as that.

Members interjecting:

The Hon. J.R. Cornwall: Ms President, did you hear what Mr Cameron just said?

The PRESIDENT: No, I did not hear what Mr Cameron said.

The Hon. J.R. CORNWALL: It is his caper to pick up these asides and put them in *Hansard*, but I do not think on this occasion I will do that. Let me say that the language he used was absolutely disgusting. Perhaps he would like the Council to know what he said. It is not the kind of language that I am accustomed to in the circles in which I move.

Members interjecting:

The PRESIDENT: Order! The Attorney has the call.

The Hon. C.J. SUMNER: The other thing that the Hon. Mr Griffin said which, as I recollect it, is not correct is that the Legal Services Commission is not prepared to pay any of its reserve funds back to Government. At one stage, the Legal Services Commission was prepared to pay some amount (and I do not have it in my mind at the moment) of its reserve funds back to Government, but following a Crown Law opinion it was determined that that would not be possible.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: They have agreed to it. If the commission has not agreed to it, the officers have agreed in principle to payment back of some of the reserve funds. That is the situation. All that has happened with respect to this is that, in pursuit of that objective, if it is not officially agreed to by the commission, it has certainly been the subject of discussion with officers of the commission, and the purpose of this decision was to achieve that objective. It has been achieved by requiring the commission to use up some of its reserve funds which are more than $840 000. The requirement to use up those reserve funds before any further payments are made does not exhaust its reserve funds, but the $840 000 stays in the budget as a line and indicates the continuing commitment of those State Government funds to the Legal Services Commission. That is the reason why it is in the budget line.

The Hon. K.T. Griffin: It doesn't mean anything, really.

The Hon. C.J. SUMNER: Of course the funds can be chopped off at any time and the honourable member knows that as well as I do. That does not have to be explained to the Council.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: That is not right. Are you suggesting that we should have reserves that are left sitting there doing nothing?

The Hon. K.T. Griffin: No, the commission should be given the opportunity to do something about it, but not to the benefit of the State Government.

The Hon. C.J. SUMNER: All that the Government's decision is designed to do is to ensure that the commission uses up some of its reserve funds in such a way as to have no effect on the operation of the Legal Services Commission and not to deal with the issue of future funding of the commission, given that there is still a line in the budget dealing with the amount of State Government funding to the Legal Services Commission. Really, we are requiring the commission to use up its reserves and I would have thought that that was a legitimate decision. As to the general approach to legal aid in this State, as a result of cooperation between Federal and State Governments, in the past five years there has been an incredible improvement and extension of legal aid and legal assistance available in this State—certainly much more than was available—

The Hon. K.T. Griffin: We negotiated that.

The Hon. C.J. SUMNER: You did nothing.

The Hon. K.T. Griffin: We negotiated that with the Commonwealth.

The Hon. C.J. SUMNER: You did nothing.

The Hon. K.T. Griffin: We did.

The Hon. C.J. SUMNER: We had a proposal for an extension of legal service regional offices to Whyalla and Noarlunga in 1979. They were firm proposals in the pipeline in Government in 1979. What did members opposite do between 1979 and 1982? They did not proceed to give one extra bit of assistance to the Legal Services Commission for regional offices. They refused to go ahead with regional offices. Why—because the Law Society objected to it. Members opposite would not take on the Law Society and between 1979 and 1982 they would not extend legal aid in this State. They know that as well as I do. They squibbed on the issue. They were not prepared to take on the private legal profession by the extension—

The Hon. K.T. Griffin: Yes, I was.

The Hon. C.J. SUMNER: That is what it was all about. Members opposite were currying favour with the private legal profession. They were not prepared to extend the Legal Services Commission office to Whyalla. Why—because the local practitioners objected. Members opposite were not prepared to go down to Noarlunga.

The Hon. K.T. Griffin: That's not correct and you know it.

The Hon. C.J. SUMNER: Why didn't you go ahead with it? You tell us your reason. You're interjecting. Why didn't you continue with it? We know the answer to that. For whatever reason, members opposite did not go on with it between 1979 and 1982. They did not proceed with the extension of legal aid in this State by continuing the proposal for regional offices which had been started at the Elizabeth office, the regional offices in Whyalla and Noarlunga. Under this Government, with the cooperation of the Federal Labor Government, what has happened in this area since 1982? There has been additional funds of a significant amount given to legal aid throughout Australia.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: And the State as well. We have cooperated with funding for the regional offices through the Legal Services Commission.

The Hon. K.T. Griffin: That has not really expanded at all.

The Hon. C.J. SUMNER: Just a minute.

The Hon. K.T. Griffin: What about Splatt? You took back $340 000 for Splatt.

The Hon. C.J. SUMNER: Why not? That was all right. That is not unreasonable, given that he was a Legal Services Commission client in the first place. It prepared the initial report.

The Hon. K.T. Griffin: You set up the Royal Commission.

The Hon. C.J. SUMNER: And what was the end result? In any event, in the past four or five years we have witnessed an extension of legal aid in this State to a new office in Noarlunga, a regional office in Whyalla and the establishment of a Legal Services Commission office at Tea Tree Gully and last year at Port Adelaide.

Four extra Legal Services Commission offices have been established in this State in the past five years. How the member can be critical of the actions of the State and Commonwealth Governments in relation to legal aid in the past five years is beyond me. There has been a significant increase in access to legal services in this State—

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: I am not taking full credit for it—as a result of the cooperative approach between the Commonwealth and State Governments. That, in brief, is the reason that I say that the honourable member's question is a beat-up. His inflammatory assertions have no basis and, frankly, as Attorney-General, I am proud of the record of this Government, with the cooperation of the Federal Government, in the area of the extension of legal aid in the past five years.

The major problem that exists for the future is not this question which the honourable member has raised and which was dealt with in the Estimates Committee, anyway, five weeks ago: it is the question of what is the appropriate funding relationship between the Commonwealth and State Governments to the Legal Services Commission, and that matter is being addressed by way of consultation between the respective Governments.

MINISTERIAL STATEMENT: BOWEL CANCER TEST

The Hon. J.R. CORNWALL (Minister of Health): I seek leave to make a brief ministerial statement on the 'Ez Detect' test for bowel cancer.

Leave granted.

The Hon. J.R. CORNWALL: Let me say that the matter was raised responsibly by the Hon. Mr Cameron on Tuesday. It is of such moment that I thought I should get it on record in this place.

The Hon. M.B. Cameron: In answer to a question.

The Hon. J.R. CORNWALL: Yes—because Parliament is not sitting next week. The local commercial agency responsible for the distribution of this test material in Adelaide has been asked to provide supporting literature on its accuracy. They are pursuing this aspect with their Melbourne office. Gastroenterologists consulted in Adelaide are yet to see supporting literature on the value of this particular product. I am told that the test was applied to 10 patients at the Queen Elizabeth Hospital who were known ahead of time to have blood in their stools. Only one had bowel cancer. The other nine had a variety of conditions ranging from polyps, to haemorrhoids and Crohn's Disease.

The test verified that there was blood present (a fact that was already known). It is not possible to conclude, based on one bowel cancer case, how many false negatives would occur if the test were used on a sample of bowel cancers in the community. Nor can one say how many false positives are likely to arise due to blood contamination of the stools from sources other than cancer. If and when the company provides supporting literature in relation to the accuracy of its test—and I repeat if and when—I will be pleased to bring it to the Council.

JUSTICE INFORMATION SYSTEM

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Attorney-General a question about the Justice Information System and data protection.

Leave granted.

The Hon. M.J. ELLIOTT: Many South Australians were concerned by the recent ID card legislation at a national level, and recently I have received a number of calls in relation to the Justice Information System in this State. The major concern expressed to me has been that there is no existing legislative framework in South Australia which offers data protection. At least in the case of the Australia Card it was intended that complementary legislation guaranteeing data security would be passed.

I believe that both the Victorian and New South Wales Governments are examining legislation for data protection agencies, but, so far, while plans for the JIS are well advanced in South Australia, there are no legislative guarantees for civil liberties. It is intended that the JIS will replace some of the manual record keeping presently undertaken by the Department for Community Welfare, the Attorney-General's Department, the Department of Labour, the Department of Correctional Services and the Police Department.

However, as I understand, it is an administrative decision as to what records are to be kept, by what departments, who is to have access to them and whether or not individuals who have files kept on them should have access. I know that the Government has said that it will or will not do certain things, but it is purely an administrative decision.

The people who have contacted me have suggested that it is important that South Australia passes legislation which gives us guarantees not only in relation to Government data bases but also in relation to private ones that are being generated at this time. It is not really a question of whether or not the JIS itself is a good or bad thing; the fears expressed seem to relate more to lack of protection. Does the Attorney-General intend to introduce soon in this place legislation offering data protection, setting up a data protection agency and giving guarantees to the rights of individuals in South Australia?

The Hon. C.J. SUMNER: The Democrats seem to have come on this issue somewhat late in life. I suppose one cannot really expect them to keep up with all the matters that are going on in government, but a perusal of the Estimates Committees for, I think, virtually every year that I have been a Minister would indicate that there have been questions about the Justice Information System during those committee deliberations. Explanations have been given at those times and press releases have been made from time to time about the Justice Information System and its progress.

On the question of data protection, the honourable member will also recall that that matter was addressed by me earlier this year—or perhaps late last year—in the context of the debate on freedom of information, when I outlined certain privacy principles including principles of access to Government-held information by individuals to whom that information relates. Those privacy principles are at present being given further consideration by the Government, but the Justice Information System has been instructed to ensure that appropriate privacy principles are incorporated into the

operations of the system and that appropriate security of information is built into the system as it develops.

The Hon. M.J. Elliott: You obviously don't know much about computers if you say that sort of thing.

The Hon. C.J. SUMNER: I have said that to the people running the Justice Information System. They are all computer experts, and they have never objected to that statement. I assume that the Hon. Mr Elliott is suggesting that he has greater expertise in that area than Mr Malcolm Hill, who has been the Director of the JIS for the past four to six years, or than the Deputy Director of the JIS. Of course, there is silence from the Hon. Mr Elliott because he knows that what I am saying in terms of the directions—

The Hon. M.J. Elliott: That is tripe, absolute tripe!

The Hon. C.J. SUMNER: Well, the directions in relation to security of information have been given to the Justice Information System. A privacy security group is working within the Justice Information System. Within the board of management policy group another group is concerned to ensure that the privacy principles, which were broadly outlined by me during the freedom of information debate, are applied to the Justice Information System. Right from the very word go, right from the first day, I think, that the Justice Information System was suggested—and allow me to say during the time of the previous Government when the Hon. Mr Griffin was Attorney-General—the initial decisions were taken to proceed with the Justice Information System.

My recollection is that at the time I took office the Government, after further inquiries (and I believe at that time it was at a fairly early stage), took the decision to proceed with the Justice Information System and allocate funds to it. One of the important issues that was raised when the decisions were made was appropriate privacy protections and security of data. That is being addressed at the policy level and the operational level within the Justice Information System, using the broad privacy guidelines. For instance, the OECD privacy guidelines have been well known throughout the community and the world.

The Hon. K.T. Griffin: Is this covered in the legislation?

The Hon. C.J. SUMNER: Just a minute; I am getting to that. I am trying to put the Council straight on what has been happening within the Justice Information System. So, they have had instructions, both policy and operational, to ensure that proper security protections are built into the system and, as far as I know, that is occurring. If the honourable member wants further information on that, I will be able to provide it. Make no mistake about this point: instructions have been given. The JIS is to accord with and be built up to operate within the context of the normally accepted principles relating to privacy and security of information held by computer data banks. I should say that on the general question of privacy there will be a further statement from the Government in the near future.

The Hon. R.I. Lucas: This year?

The Hon. C.J. SUMNER: This year or early next year, but certainly in the not too distant future. However, the broad principles have already been outlined and taken up, and instructions have been given to the Justice Information System. I am talking about privacy in the broader sense of the word and the broader implications that will be the subject of further consideration by the Government in the near future. So, there are administrative directions within Government that obviously must be complied with, and whether or not there is legislation in terms of the public sector at least is probably not of major importance given that the directions have been made by the appropriate authorities.

At this point in time no decision has been taken on whether or not legislation is necessary, but that matter can be considered at the appropriate time when the considerations of Government on the general question of privacy are concluded. However, I can reaffirm that at all stages in my dealings with the Justice Information System the question of privacy and security has been of major concern. Indeed, I should say that when we decided to proceed with the JIS there was correspondence from the Council for Civil Liberties on the topic. We sought the views of the council on privacy and security and we received responses, which were taken into account in the decision to proceed.

Therefore, the Government has acted quite properly in the matter. It believes that appropriate safeguards must be provided for the security of information, and I am advised by the computer experts (who, I assume, know more about it than the Hon. Mr Elliott) that with a system like this, properly constructed, there can, in fact, be greater security of information than would occur with a manual system.

AUSTRALIAN FAMILY ASSOCIATION

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before asking the Minister of Health a question about the Australian Family Association Conference.

Leave granted.

The Hon. CAROLYN PICKLES: On 10 November the Hon. Miss Laidlaw directed a question to the Minister of Health regarding the Australian Family Association Conference and stated that South Australia was the only State that had not funded a delegate to attend the conference. The Minister indicated that he would make inquiries regarding this matter and bring back a response. Has the Minister received any information from the department—

Members interjecting:

The Hon. CAROLYN PICKLES: Members ought to listen to this answer; it is a great answer.

Members interjecting:

The Hon. CAROLYN PICKLES: No, it is more fun reading it in Parliament.

Members interjecting:

The Hon. J.R. Cornwall: Yes, I have, and I do not believe I will be the one who is embarrassed.

The PRESIDENT: Order! Does the Minister want the call?

The Hon. J.R. CORNWALL: Yes, thank you, Ms President. I am very pleased that the Hon. Miss Pickles raised this matter, because Ms Laidlaw—

The Hon. M.J. Elliott interjecting:

The Hon. J.R. CORNWALL: I will put it into *Hansard*; I will put quite some detail into *Hansard*. You really are a half smart man who makes a fool of himself too frequently in this Chamber, Mr Elliott. On Tuesday, I think, the Hon. Ms Laidlaw stated that the South Australian Government was the only State Government not to fund an Australian Family Association delegate to attend the national conference in Brisbane. I am making inquiries of Victoria and New South Wales in this regard (and let me say that I have not received final replies), but may I say that I would be surprised if either of those two States had funded delegates to the conference, given a number of factors, the first being some of the key speakers. Present was Mr B.A. Santamaria, who was described as 'our national President'—that is, the President of the AFA, not the ALP. Also present was Ms Katharine West—

Members interjecting:

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: —a well-known political commentator. Dame Leonie Kramer was also present—no comment—and Mr John Fleming (who has come over to us, of course), that well-known defector. Members should pay attention to this.

Members interjecting:

The Hon. J.R. CORNWALL: When I say 'us' I mean the right wing of my church. Professor William Marshner—

Members interjecting:

The Hon. J.R. CORNWALL: No, no, within the spectrum of the Catholic Church I obviously take a different philosophical stand from people like the Hon. Mr Lucas and Mr Fleming. Let me make that clear. However, I still claim to be a Catholic, and I am quite proud of it. Also present was Professor William Marshner, Professor of Theology at Christendom College, Virginia, United States of America. At that conference he stated:

I suggest that the traditional family, based on a conjugal relationship that is perpetual and exclusive, is the only form of sexual association that makes sex private. All the other forms of association, such as free love, youthful promiscuity—

Members interjecting:

The Hon. J.R. CORNWALL: But I've got a great line. Professor Marshner continued:

. . . the homosexual lifestyle, prostitution, are not private behaviour in a biological sense. Oh, they're private in a social sense, given that the trendiest of the trendies do not couple, as a general rule, in the public square. They slink off behind closed doors and drawn drapes to indulge in what the immortal Gilbert called 'the felicity of unbounded domesticity'.

Members interjecting:

The Hon. J.R. CORNWALL: Yes. He further stated:

They create enormous, anonymous communities of pooled bodily fluids. When a deadly virus or bacteria enters that pool at any point, it makes the rounds uncontrollably. This is what AIDS has taught us. This is why there is no real analogy between the family and other so-called lifestyles. Where human beings live in families, by the traditional rules of family life, they are biologically discreet on a couple by couple basis.

If a disease appears, it should go no further than a single couple. The rest of the population is safe. So, when we are challenged by the advocates of sexual pluriformity, when they ask us 'Why don't you just live and let live?' the answer is that we do. We live and let live, whereas you (sexual liberationists) infect and let die.

I make no further comment.

STATUTORY AUTHORITIES

The Hon. C.M. HILL: I seek leave to make an explanation before asking the Attorney-General, representing the Treasurer, a question on the subject of possible losses by statutory bodies.

Leave granted.

The Hon. C.M. HILL: In yesterday's national and local press the report of the Victorian Auditor-General was highlighted relative to the State of Victoria. The report stated that four Victorian Government authorities had lost about $713 million because of fluctuations in foreign exchange rates and inadequate risk policies. The report did not include possible losses that the authorities are expected to have made in this financial year as a result of the upheaval in the world's financial markets. The report did not include possible losses occasioned through the overseas borrowing of the Victorian Government's central borrowing agency. The report emphasises that within some statutory bodies risk management strategies were late in being adopted and not enough insurance had been taken out against a fall in the value of the Australian dollar. Several Victorian authorities, such as the State Electricity Commission and the State Transport Authority, were listed in the press. My questions are:

1. Can the Minister assure the Council that South Australian statutory bodies which are under the direction and control of relevant Ministers and which are involved directly with overseas borrowings and investments are not suffering financial losses as a result of such involvement?

2. Have they implemented adequate risk management strategies and taken out adequate insurance cover against the fall in the value of the Australian dollar?

The Hon. C.J. SUMNER: As I understand, when this matter was raised in the newspapers, the Premier said that South Australian authorities have been instructed not to have an exposure to currency fluctuations. I do not have any further details on that at this stage. The losses that were referred to in Victoria related to currency fluctuations, not directly to the drop in the share market.

The Hon. C.M. Hill: They haven't got on to that yet in Victoria.

The Hon. C.J. SUMNER: That may well be. Obviously, any company—private or public—that has invested in the stock market in recent times will have suffered some loss.

The Hon. R.I. Lucas: What were the losses?

The Hon. C.J. SUMNER: I do not know whether any losses have been recorded in South Australia. With respect to the currency situation, as I understand from the Premier's statement which I read and which I can clarify and bring back further information on—

The Hon. R.I. Lucas: What date is the Premier's statement?

The Hon. C.J. SUMNER: I do not have the Premier's statement in front of me but I recollect that when the Victorian matter was publicised the Premier said that South Australian authorities did not have that exposure to currency fluctuations. If that is not the case, I will bring back further information for the honourable member. With respect to investments in equities, I do not have any particular information except that any organisation, whether State or private, that invested in equities would have had to examine the effect of the stock market crash on those investments.

On that point it is interesting to note that the Hon. Mr Davis has been very critical over recent years of the South Australian superannuation fund (SASFIT) for its concentration on investment in property. I am sure that the Hon. Mr Hill would recall that Mr Davis has railed in this place against SASFIT for its concentration on investment in property. Mr Weiss was interrogated in this place by the Hon. Mr Davis, who was critical of the—

The Hon. L.H. Davis interjecting:

The Hon. C.J. SUMNER: Just a minute. The honourable member was critical of the concentration by SASFIT on property investment. The Hon. Mr Hill, being an old property man from way back, stayed silent when the Hon. Mr Davis criticised SASFIT with respect to its investment portfolio, because he knows where to put his money in the long term.

The Hon. C.M. Hill: There is no politics in this question.

The Hon. C.J. SUMNER: No, I agree; it is quite a legitimate question.

The Hon. C.M. Hill interjecting:

The Hon. C.J. SUMNER: As I understand, no statutory authorities are in what might be called a direct loss situation or in difficulty as a result of the reduction—

The Hon. C.M. Hill interjecting:

The Hon. C.J. SUMNER: The Premier's response to that, which I will clarify and report on if it is any different, is that the statutory authorities over which the Government has control have been instructed not to leave themselves

exposed to foreign exchange fluctuations. That is the answer to that question.

The Hon. C.M. Hill: As long as the horse isn't out of the stable.

The Hon. C.J. SUMNER: Sure, as I have said, they are the instructions that the Premier said had been given. If that is not the case, I will bring back some information. With respect to the share market, all one can say is that it has come down. The point of bringing Mr Davis into the matter is that there is a difference of opinion as to what is an appropriate mix of investments for an organisation. What I am saying is that his concentrated criticism of SASFIT for being involved more in property than equities may now seem to be less valid than he thought over the past three or so years. If there is any further information that I can get for the honourable member, I will.

ETHNIC AFFAIRS COMMISSION

The Hon. M.S. FELEPPA: Before asking the Minister of Ethnic Affairs a question about the 1987 annual report of the South Australian Ethnic Affairs Commission, I seek leave to table a letter on this subject.

Leave granted.

The Hon. M.S. FELEPPA: My questions are: has the Minister had the opportunity to read the 1987 report? Will he indicate to this Council when the report will be tabled in Parliament and will he give an assurance that the 1986-87 annual report of the commission will be ordered to be printed?

The Hon. C.J. SUMNER: The report has been prepared and I expect it to be tabled on our resumption in approximately 10 days time. I expect that the Printing Committee, that very powerful body that Parliament establishes—

An honourable member: And hardworking.

The Hon. C.J. SUMNER: That is right. I am sure that that powerful and hardworking body will give serious consideration to the printing of the report of the Ethnic Affairs Commission. It is my expectation that this will be one of the reports that the committee will give priority to as far as its being ordered to be printed.

WASTE MANAGEMENT BILL

The Hon. BARBARA WIESE (Minister of Local Government) obtained leave and introduced a Bill for an Act to provide for the management of waste and for the continuation of the South Australian Waste Management Commission; and to repeal the South Australian Waste Management Commission Act 1979; and for other purposes. Read a first time.

The Hon. BARBARA WIESE: I move:

That this Bill be now read a second time.

It replaces the South Australian Waste Management Commission Act 1979. The Bill provides for continuation of the existence of the South Australian Waste Management Commission and for control of the operation of waste depots, waste transporters, and producers of certain hazardous wastes through a licensing system. The Bill includes enforcement provisions, and the right of appeal against decisions or directions of the commission. These principal features of the Bill reflect those of the current Act.

However, the Bill differs from the Act in a number of important ways which will allow the commission to achieve its objectives more efficiently and effectively. Since proclamation of the current Act in July 1980, a number of shortcomings have become apparent. Decisions of the commission have been subjected to legal challenge and weaknesses in the Act have been exposed. For example, the commission finds itself unable to take immediate and decisive action to control or stop undesirable or hazardous waste handling or disposal practices. Significant difficulties have arisen in proving illegal dumping of both hazardous and non-hazardous waste. The criteria for granting licences are not sufficiently clear to enable the commission to exercise its judgment properly.

The commission has been unable to ensure that general improvement in waste management practices and orderly development of the industry is achieved through agreed long-term plans.

In October 1984, the Minister of Local Government appointed a committee to review the Act. The committee reported in December 1985. The recommendations have been reviewed and comments have been sought from relevant employer organisations, trade unions, conservation groups, local government and individuals. The comments received have been considered in the drafting of this Bill.

The definition of 'waste' has been extended to include material discarded or left over in the course of industrial, commercial, domestic or other activities, regardless of its commercial value or reusability. This will overcome the claim that some materials which require control are not 'waste', since they have some value.

The Bill reduces the size of the commission from 10 to seven members, while retaining appropriate representation from relevant organisations. The Bill proposes that the Minister nominate two members from panels submitted by the United Trades and Labor Council, one from a panel submitted by the Local Government Association, and one from a panel submitted by the Chamber of Commerce and Industry. The Minister also nominates the presiding member, who must have knowledge of the waste management industry. Two other members are nominated by the Minister of Local Government, and the Minister of Environment and Planning respectively.

The PRESIDENT: Order! There is far too much audible conversation in the Chamber. Will members please leave the Chamber if they wish to continue these conversations, so that those remaining can hear what the Minister has to say.

The Hon. BARBARA WIESE: Thank you, Ms President. The Bill clearly sets out the fundamental objective of the commission: to ensure appropriate management of waste throughout the State which includes minimising damage to the environment, conserving resources through recycling and reducing waste generation.

The Bill provides for the development, in consultation with local government and other relevant parties, of waste management plans for areas of the State. It is proposed that these plans, which are approved by the Minister following appropriate public display and comment, may also be included in the State Development Plan, and a consequential amendment to the Planning Act will be introduced in order to achieve that objective. This will require planning authorities to have regard to waste management plans when considering waste depot applications. When considering the licensing of depot operators, the commission will also have to be satisfied that the proposed depot is in accord with the relevant waste management plan.

The Bill substantially upgrades the criteria for establishing waste depots. Whereas the current Act licenses depots, the Bill proposes to license operators of depots. In granting such

licences, the commission must be satisfied, among other things, that the applicant is a fit and proper person with sufficient financial resources to operate the proposed depot. It has been the experience of the commission that there is a small, but intransigent, number within the waste industry who operate at standards unacceptable to the community, but who can continue to gain licences through changes in their corporate structure. The commission has found that past bad practice is not admissible in appeals under the existing Act. The commission has also observed that lack of sufficient financial resources is the prime reason for failure to comply with acceptable standards. The same lack of resources will make monitoring and final rehabilitation of completed sites difficult to achieve. Similar provisions are contained in the Builders Licensing Act, the Land and Business Agents Act, and the Second-hand Motor Vehicles Act.

The Bill broadens the scope of activities which produce certain hazardous wastes, and hence require licensing to include teaching and research activities. This will remove the doubt whether such activities constitute industrial or commercial processes. The Bill creates an offence of depositing waste without lawful authority that is likely to result in risk to health or safety, damage to the environment, or nuisance or offensive condition.

The Bill substantially increases maximum penalties for offences against the Act. The maximum penalty for failure to disclose a pecuniary or personal interest in a matter being considered in a commission meeting is increased from $500 to $5 000. Maximum penalties for operating depots, collecting and transporting waste and for producing certain wastes without the appropriate licence, or in contravention of a condition of licence, are increased from $2 000 to $20 000. The maximum penalty for hindering or obstructing authorised officers acting in pursuance of their duties is increased from $500 to $5 000, and for failing to comply with a formal direction from the commission, from $2 000 to $10 000, with a continuing offence penalty after conviction of $2 000 per day. The maximum penalty for unlawful disclosure of information obtained by a person engaged in administration or enforcement of the proposed Act is increased from $1 000 to $5 000.

The Bill provides for the expiation of prescribed offences. It is intended that these will in the main be offences against the regulations, for example, failure to have loads properly secured, failure of vehicles transporting waste to meet certain standards, and excess litter in or around depots.

The Bill increases the scope of authorised officers to act in ensuring compliance with licence conditions and in obtaining and recording information that may subsequently be used as evidence. In addition to entering and inspecting any land, premises, vehicle or place in pursuance of their duties, authorised officers may break into the land, premises, vehicle or place on the authority of a warrant issued by a justice. Authorised officers may require any person to produce documents, and may examine and copy such documents, take photographs or video recordings. They may seize and retain anything that may constitute evidence of the commission of an offence. They may require any person to answer questions pursuant to their investigations.

The Bill allows the commission to exempt persons or activities from its provisions. This will permit unlicensed operators to engage in activities of a specific duration that would otherwise be unlawful. An exemption may be appropriate, for example, where building and construction wastes may be used over a short period to fill a small depression. It may also be appropriate where all the waste produced in a particular activity can be transported in one load.

The Bill substantially changes the appeal provisions in the existing Act, which allows any person aggrieved by a decision of the commission to appeal to the Minister, who must appoint an arbitrator to determine the appeal. In the Bill, appeal to the District Court is available to certain persons to whom a decision or direction of the commission relates.

The Government believes that the Bill will overcome the major problems that have been experienced by the commission in ensuring that waste handling and disposal are conducted according to standards that would be expected by all South Australians. In addition, local government and the waste industry in general will be able to plan and organise their affairs, both current and future, in accordance with plans and guidelines to which they have had the opportunity to contribute. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clauses 1 and 2 are formal.

Clause 3 repeals the South Australian Waste Management Commission Act 1979.

Clause 4 is an interpretation provision. 'Waste' is defined (subject to certain inclusions and exclusions) as any matter, whether of value or not, discarded or left over in the course of industrial, commercial, domestic or other activities. A 'waste depot' is defined as a place for the reception, storage, treatment or disposal of waste excluding residential premises and any place at which waste produced at that place is temporarily stored. Further inclusions or exclusions may be made in the regulations.

Clause 5 provides that the measure binds the Crown but that no criminal liability attaches to the Crown under the measure.

Clauses 6 to 13 concern the South Australian Waste Management Commission.

Clause 6 provides that the commission continues in existence as a body corporate.

Clause 7 sets out the objectives of the commission. These include: to promote effective, efficient, safe and appropriate waste management policies and practices; to promote the reduction of waste generation; to promote the conservation of resources by the recycling and reuse of waste and resource recovery; to prevent or minimise impairment to the environment through inappropriate methods of waste management; to encourage the participation of local authorities and private enterprise in overcoming problems of waste management; to provide an equitable basis for defraying the costs of waste management; and to conduct or assist research relevant to any of the above. The clause provides that the commission is subject to the control and direction of the Minister.

Clause 8 deals with membership of the commission. It provides that the commission consists of seven members appointed by the Governor. Five members are appointed on the nomination of the Minister. Of these, the presiding member must be a person with knowledge of the waste management industry; two must be selected from separate panels of three submitted by the United Trades and Labor Council of South Australia; one must be selected from a panel of three submitted by the Local Government Association of South Australia; and one must be selected from a panel of three persons actively engaged in some aspect of the waste management industry submitted by the Chamber of Commerce and Industry South Australia Incorporated. The sixth member is appointed on the nomination of the

Minister of Local Government and the seventh on the nomination of the Minister for Environment and Planning. The clause provides that the term of membership is a period not exceeding three years, though members may be reappointed; that members may have deputies; and that members and deputies are entitled to allowances and expenses as determined by the Governor. The clause also sets out the circumstances in which the office of a member becomes vacant.

Clause 9 deals with meetings and procedure of the commission. Four members constitute a quorum. Decisions are by the majority of members present at a meeting.

Clause 10 requires members to disclose the nature of any direct or indirect pecuniary or other interest they have in a matter under consideration by the commission. The clause also requires a member with such an interest not to take part in any deliberation or decision on the matter and to leave any meeting when the matter is being considered. The maximum penalty provided is a fine of $5 000.

Clause 11 provides for the commission to appoint employees. Such employees are not Public Service employees.

Clause 12 enables the commission to delegate any of its powers or functions to a person or a committee. A delegate who has a direct or indirect pecuniary or other interest in a matter is disqualified from acting in relation to that matter.

Clause 13 contains financial provisions. It requires the commission to pay all money received into a bank account and enables the commission to invest money not immediately required for the purposes of the Act.

Clauses 14 to 33 are substantive provisions on waste management.

Clause 14 provides that the commission may prepare a waste management plan for a specified area of the State. The plan must set out the measures that the commission considers necessary or desirable for proper waste management in the area. The commission must consult with councils in the area and with any person who has, in the opinion of the commission, a particular interest in the matter. Once an initial plan is drawn up it must be sent to councils, put on public display and representations invited through newspaper advertisements. The final plan must be given to the Minister and if the Minister approves the plan, it must be published in the *Gazette*.

A consequential amendment to the Planning Act 1982 provides that an approved waste management plan or part of such a plan may be included in the development plan.

Clauses 15 to 19 deal with waste depots.

Clause 15 requires a person who operates a waste depot to be licensed.

Clause 16 sets out the criteria of which the commission must be satisfied before granting a licence to operate a waste depot. These include—that the applicant is a fit and proper person to hold a licence; that the applicant has made suitable arrangements to fulfil the obligations that may arise under the measure; that the applicant has sufficient financial resources to operate the proposed waste depot in a proper manner; that the proposed waste depot is suitable for the purpose; that, having regard to the number and adequacy of existing facilities in the vicinity of the proposed waste depot, the granting of the licence would not prejudice the orderly development of waste management facilities in the area; that the granting of the licence would not contravene the principles of any approved waste management plan for the area; and that any consents or approvals required for use of the proposed waste depot for that purpose have been obtained.

The commission may grant a licence subject to such conditions as it considers appropriate, including conditions that the licensee accept certain types of waste or that prohibit the licensee from accepting certain types of waste or that regulate the manner in which waste is to be dealt with at the depot. A licence may be granted for a limited period.

Clause 17 requires a licensee of a waste depot to display at each entrance to the depot a notice stating the name of the licensee and that he or she is licensed to operate the depot. The notice must be in a form approved by the commission. The maximum penalty provided for not doing so is $1 000.

Clause 18 requires a licensee of a waste depot to pay the prescribed fee to the commission in respect of waste received at the depot. Fees not paid may be recovered as a debt and action to suspend or cancel the licence may be taken.

Clause 19 empowers the commission to establish or operate a waste depot with the approval of the Minister. Existing facilities in the locality must be inadequate or the depot must otherwise be required in the public interest.

Clause 20 provides for licensing of persons who collect or transport waste for fee or reward. The commission may grant such a licence if satisfied that the applicant is a fit and proper person to hold the licence and has made suitable arrangements to fulfil the obligations that may arise under the measure or other laws of the State. The commission may impose such conditions as it considers appropriate including conditions regulating the kinds of waste that may be collected and transported or regulating the kinds of vehicles that may be used.

Clause 21 provides for licensing of persons who carry on an industrial or commercial process or a teaching or research activity in the course of which prescribed waste is produced. Conditions may be imposed including conditions requiring the licensee to store, treat or dispose of the waste in a particular manner.

Clauses 22 to 29 are general licensing provisions.

Clause 22 requires the commission, before granting any licence, to have regard to whether the grant of the licence would prejudice proper waste management in the State and whether the exercise of rights conferred by the licence would be likely to result in a nuisance or offensive condition, a risk to health or safety or damage to the environment.

Clause 23 enables the commission to add to, vary or revoke conditions of a licence.

Clause 24 requires licensees to pay annual licence fees to the commission and to lodge annual returns. A licence will be suspended for non-compliance with the clause and will be cancelled if non-compliance continues for six months.

Clause 25 allows an unlicensed person, with the consent of the commission, to carry on the business of a deceased licensee until the business is sold or six months expires.

Clause 26 makes it an offence to fail to comply with any condition of a licence. The maximum penalty provided is a fine of $20 000.

Clause 27 requires a licensee to produce his or her licence on demand to a member of the commission, an authorised officer, a police officer or any other person with whom the licensee has dealings in respect of waste management.

Clause 28 gives the commission power to suspend or cancel the licence of a person if the licence was obtained improperly, the licensee contravened or failed to comply with the measure or any other law regulating waste, if the licensee is guilty of negligence or improper conduct or in the case of a licence to operate a waste depot, if any consent or approval required for use of the waste depot for that purpose has expired. The maximum term of suspension is three years.

Clause 29 requires a person who holds a suspended or cancelled licence to return it to the commission.

Clause 30 makes it a general offence to deposit waste, without lawful authority, so that it results or is likely to result in a nuisance or offensive condition, a risk to health or safety or damage to the environment. The maximum penalty provided is a fine of $20 000.

Clauses 31 to 33 deal with enforcement of the measure.

Clause 31 enables the commission to appoint authorised officers for the purposes of the measure.

Clause 32 sets out the powers of authorised officers, namely, to: enter and inspect any land, premises, vehicle or place for the purpose of determining whether a provision of the measure is being or has been complied with; where reasonably necessary for that purpose, break into or open any part of, or anything in or on, the land, premises, vehicle or place (this power may only be exercised on the authority of a warrant issued by a justice); give directions with respect to the stopping or moving of a vehicle; direct the driver of a vehicle to dispose of waste in or on the vehicle at a specified place or to store or treat the waste in a specified manner; take samples of waste or any other material from any land, premises, vehicle or place for analysis; require any person to produce any plans, specifications, books, papers or documents; examine, copy and take extracts from any plans, specifications, books, papers or documents; take photographs, films or video recordings; seize and retain anything that may constitute evidence of the commission of an offence against the measure; require any person to answer questions put by the authorised officer for the purposes of the measure.

It is an offence to hinder or obstruct an authorised officer, to refuse or fail to comply with a requirement or direction of an authorised officer or to falsely represent oneself to be an authorised officer. The maximum penalty provided is a fine of $8 000.

Clause 33 gives the commission certain powers aimed at ensuring compliance by others with the measure. If the commission is satisfied that a person has breached the measure it may direct the person to refrain from the acts constituting the breach or to take specified action to ameliorate conditions resulting from the breach. If a person fails to comply with the latter type of direction or the commission considers urgent action is required to ameliorate conditions resulting from the breach it may take that action itself. Failure to comply with such a direction incurs a maximum penalty of a fine of $10 000.

In addition, if a person continues to breach the measure after being directed to refrain from doing so, the person is, on conviction for the offence, liable to a penalty of $2 000 for each day the offence continued after the direction was given. The costs or expenses incurred by the commission in taking action under the clause may be recovered as a debt from the offender. An offence of hindering or obstructing a person exercising a power or complying with a direction under the clause is provided and the maximum penalty provided is a fine of $5 000.

Clauses 34 to 47 are miscellaneous provisions.

Clause 34 gives the commission power to exempt a person or class of persons or an activity or class of activities from compliance with the measure. The exemption may be subject to conditions or limitations. A fee must be paid for application for an exemption.

Clause 35 makes it an offence to make a statement that is false or misleading in a material particular when furnishing any information under the measure.

Clause 36 gives an applicant for a licence, a licensee, a person to whom an exemption has been granted and a person to whom the commission has given a direction a right to appeal against a relevant decision or direction of the commission to the District Court. The appeal period is one month (subject to extension by the court). Where the commission has allowed the appellant a reasonable opportunity to adduce evidence or to make representations, the appeal will be limited to issues raised before the commission. The clause also provides that the commission must state its reasons for a decision or direction in writing if so requested.

Clause 37 allows the commission or the District Court to suspend the operation of a decision or direction of the commission pending the determination of an appeal.

Clause 38 provides immunity for persons acting in the course of the administration or enforcement of the measure.

Clause 39 makes it an offence to disclose confidential information gained in the course of official duties under the measure. The maximum penalty provided is a fine of $5 000.

Clause 40 provides that notices or documents may be served under the measure, personally or by post or by leaving them with a person apparently over the age of 16 years at the address for service of the person.

Clause 41 provides that offences against the measure are summary offences and prosecutions may be commenced within one year after the date on which the offence is alleged to have been committed or, with the approval of the Minister, at a later time.

Clause 42 enables expiation of offences prescribed for the purpose by regulation. Expiation notices must be served for such offences and prosecution may only be commenced by a police officer or person authorised by the commission on non-payment of the expiation fee.

Clause 43 provides that an employer or principal is responsible under the measure for the acts or omissions of his or her employee or agent. It also provides that, where a body corporate is guilty of an offence, each member of the governing body of the body corporate is guilty of an offence unless it is proved that the member could not by the exercise of reasonable diligence have prevented the commission of that offence.

Clause 44 is an evidentiary provision.

Clause 45 provides that the measure does not derogate from the Water Resources Act 1976.

Clause 46 requires the commission to keep a register of licences and exemptions granted under the measure.

Clause 47 gives the Governor regulation making power, including power to make regulations that—regulate the operation of waste depots; regulate the collection or transportation of waste; regulate the construction or maintenance of containers, vehicles and vessels used for the transportation of waste; provide for the measurement, determination, estimation or assessment of the volume or mass of waste; exempt a specified person or class of persons from compliance with the measure or a specified provision of the measure either absolutely or subject to conditions or limitations. The clause also enables regulations to confer powers and discretions or impose duties in connection with the regulations on the Minister, the commission or an authorised officer.

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

PLANNING ACT AMENDMENT BILL (No. 3)

The Hon. BARBARA WIESE (Minister of Local Government) obtained leave and introduced a Bill for an Act to amend the Planning Act 1982. Read a first time.

The Hon. BARBARA WIESE: I move:

That this Bill be now read a second time.

This Bill proposes a consequential amendment to the Planning Act 1982, following the introduction of the Waste Management Bill 1987. The latter Bill proposes that the Waste Management Commission develop, in consultation with local government and other relevant parties, waste management plans for areas of the State. Waste management plans will provide for the orderly development and management of waste facilities throughout the State and will enable local government and the waste industry in general to plan and organise their affairs in accordance with these plans. In order to ensure that planning authorities have due regard to waste management plans, the Bill provides that such plans, or parts thereof, may be added to the State's development plan.

Clauses 1 and 2 of the Bill are formal.

Clause 3 amends section 42 of the Act and is consequential on the enactment of the Waste Management Act 1987.

Section 42 allows the Minister to include in the development plan a coastal management plan under the Coast Protection Act 1972, and the scheme for the development of West Lakes under the West Lakes Development Act 1969. The amendment allows the Minister to further include waste management plans approved under the Waste Management Act 1987, in the development plan.

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

ARCHITECTS ACT AMENDMENT BILL

(Second reading debate adjourned on 10 November. Page 1782.)

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—'Insertion of new subsections 47a and 47b.'

The Hon. I. GILFILLAN: I move:

Page 2, after line 7—Insert the following new subsection:

(2) A liability that would, but for subsection (1), lie against a person on whom immunity is conferred by that subsection lies instead against the board.

The amendment is simple and, I hope, helpful to the implementation of this Act in that liability where an architect has felt aggrieved by a member of the board—

The Hon. M.B. Cameron interjecting:

The Hon. I. GILFILLAN: You are supporting it, if you want to know. The substantial argument, which will persuade honourable members to vote for the amendment, is that it coincides with similar clauses in other Acts which the Government has supported: the National Parks and Wildlife Bill, the Dentists Act and the Local Government Act Amendment Bill. They all have this fail-safe clause which enables an aggrieved architect to have some target to sue if a person feels that he or she has suffered some injustice. It is identical to clauses already included in other legislation introduced by the Government, and I believe it offers a proper legal responsibility in the case of some suspected perjury, slander or inadvertent misrepresentation by a member of the board.

The Hon. DIANA LAIDLAW: I indicated in my second reading speech that, if the Democrats moved this amendment (which was moved in the other House) the Liberal Party would be supporting it. That was certainly the decision of the Liberal Party in the other place. Our decision then and now is based on the fact that the amendment is in line with liability provisions in Acts that we have passed through this place.

This is a different provision in respect to liability and efforts were made to ascertain from the Minister in the other place why there was the change in respect of this Act compared to other examples. No satisfactory explanation was made and therefore we believe that the liability provisions should be consistent between the National Parks and Wildlife Act, the Local Government Act and the Dentists Act, to name but three. We are pleased to support the amendment.

Amendment carried; clause as amended passed.

Title passed.

Bill read a third time and passed.

ROAD TRAFFIC ACT AMENDMENT BILL (No. 2)

The House of Assembly intimated that it had agreed to the recommendations of the conference.

ROAD TRAFFIC ACT AMENDMENT BILL (No. 3)

Adjourned debate on second reading.

(Continued from 10 November. Page 1792.)

The Hon. PETER DUNN: The Opposition supports this Bill. The first part formalises what has been a practice for quite some time and that is that, when STA employees are involved in an accident, they may report the details of the accident through their own authority. That means that they do not have to go and locate a policeman to report an accident and therefore delay a bus, train, or whatever for that length of time. Further, they are in radio contact with their own authorities and therefore they can report quickly the details of what may have taken place. It does not mean that they still cannot go to the police and report the accident, nor does it mean that they do not have to report the accident: they still have to abide by the rest of the regulations that apply when an accident has occurred. This Bill formalises that. We consider that to be right and proper, considering that it has worked quite satisfactorily for a good while.

The first part of the Bill deals with the flexibility of handling minor defect notices. Particularly in the city, defect notices may involve only the replacement of a globe for a tail-light, reverse light or whatever. It may be a relatively minor offence. However, if the vehicle is defected, it takes time and at the moment it cannot be driven other than to the place of repair. This Bill allows for some flexibility. It allows for the officer defecting the vehicle to exercise some discretion by allowing a couple of days before the vehicle must be repaired.

More importantly, when the vehicle may have a fairly major defect and it needs to be inspected by the police or by an inspector, it allows for that vehicle to run for some 10 to 14 days after having been repaired. Particularly in the city, where there is a difficulty in getting vehicles inspected, that is quite sensible. Sometimes there is a delay of two or three days, which means that a person's livelihood probably is at risk, because he cannot get the vehicle inspected.

In the country certain inspection places may be some hundreds of miles from where the vehicle has been defected. This flexibility will allow the vehicle to be driven, repaired, and perhaps continue on, driven to the inspection place and then returned to the road. In the past vehicles have been defected, driven, repaired, driven for inspection, only to be defected again and sent back several hundred miles, so the operation repeats itself. For some people that is a very expensive operation. I believe that the flexibility in this Bill

makes it a more sensible and humane way of dealing with people who have defected vehicles.

The Bill provides for a defect notice to be delayed for three days before it has to be corrected. The CFS has some difficulties at the moment in that some of its vehicles have been defected and it may be able to use this provision to good effect. I have no doubt that there will be cases where emergency vehicles like this may be defected, but this Bill will allow those vehicles to be used if and when an emergency arises. I think that is a sensible approach.

The other part of the Bill provides for some more severe penalties. The original Act enables police to enter premises and inspect vehicles that are for hire and rental. I say 'rental', because the question was asked in another place as to whether a rental vehicle is a hire vehicle. The Minister explained at some length that his advice was that the vehicle for hire was indeed a rental vehicle. We all know that the taxi business undertakes inspection of its vehicles on a six monthly basis and therefore it is not involved in this Bill: it has a separate system of inspection.

This Bill endeavours to ensure that those hire vehicles (and I presume that includes the hire car business, hire trailers, caravans and like vehicles) are roadworthy. By adding the word 'hire' to section 160 of the principal Act it incorporates all those vehicles. If one thinks about it, that would be a considerable number. It is quite reasonable to assume that, if someone takes a hire vehicle on to the road, he expects it to be in a roadworthy condition and this Bill allows for that to happen. I might add that I am never very keen on allowing police, or inspectors particularly, to enter premises at will without gaining further authority from a higher official to do so.

However, at the moment this Bill does allow that. It says that one can enter second-hand car yards to inspect vehicles—and, as I understand, that is done not on a regular basis but on a random basis—and, where vehicles are deemed to be unroadworthy they are defected. I think the Hon. Trevor Griffin wishes to say more about this matter later, but as far as I can see the Bill is reasonable. It adds, as I said, to section 160, which allows for vehicles, either for sale or for hire, which are on lots and are not on the road, to be inspected prior to them going on to the road.

Although I do not think that is a big step forward, it is probably a sensible move to have inspected vehicles which will be used by people who may not understand what is roadworthy in relation to a caravan or a trailer. For example, there may be a boat which is on a trailer. The trailer itself must be roadworthy and the brakes, wheels, bearings and suspension, etc, must be in good order; otherwise, a serious accident may happen. The Opposition agrees with this Bill and would like it to proceed as it stands.

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

CANNED FRUITS MARKETING ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 11 November. Page 1830.)

The Hon. PETER DUNN: This very short Bill allows for the continuation of the Fruit Marketing Act, which has brought stability to the industry. I need say no more than that. This Bill has worked for a long time. The Opposition has consulted with the industry, which agrees with the Bill, as does the Opposition. I therefore support the Bill.

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

BIRTHS, DEATHS AND MARRIAGES REGISTRATION ACT AMENDMENT BILL

Third reading.

The Hon. I. GILFILLAN: I move:

That this Bill be now read a third time.

The Hon. C.J. SUMNER (Attorney-General): The Government opposes this Bill for the reasons that have previously been stated. I addressed this matter on 14 October and put forward some very cogent reasons—apart from the principle of it, which is unnecessary—as to why this Bill was flawed in what it attempted to do. Yesterday the Hon. Mr Gilfillan and the Hon. Mr Griffin attempted to patch up the Bill by proposing some amendments, but my perusal of the Bill, as it comes out of Committee, indicates that none of the concerns which I addressed on 14 October have been overcome.

In fact, the Bill still fails—apart from the principle—on the technical matters that I raised on that occasion. As I said at that time, this Bill would prohibit the provision of information from the State Government to the Federal authorities in a number of areas. Whatever procedure the Federal Government decides to use to try to combat taxation avoidance and social security fraud, this Bill, because of its prohibition on the making available of information to the Commonwealth Government, would inhibit that proposal. In other words, what the Democrats apparently proposed at the Federal select committee they are now going back on, because to get a tax file number which has greater integrity requires the availability from the State authorities of births, deaths and marriages records. This Bill prevents that.

The Hon. I. Gilfillan interjecting:

The Hon. C.J. SUMNER: Well, it can't. We cannot do that under the Bill. It would prohibit the computerisation of the records and the making available of the State computerised records to the Federal Government. That is what it does; you say that that is what it is designed to do. I assure the honourable member that it still does it.

The Hon. K.T. Griffin: That is good.

The Hon. C.J. SUMNER: Yes, the Hon. Mr Griffin comes out and says, 'That is good,' despite the fact that in order to have a properly upgraded tax file number these records must be available. Apparently, that will be knocked on the head by this Bill. It seems to me to be contrary to the position that the Democrats took in the select committee of the Federal Parliament when the matter was debated, but I suppose that is not something that we can go into, because that is a fairly usual approach.

The point I make is that, first, we are not addressing any specific issue at present as far as the Federal Parliament is concerned; therefore, there is no need for the legislation. It is quite hypothetical. Secondly, if the Federal Government attempts to proceed with an upgraded system—a tax file number or whatever—to overcome welfare fraud and tax cheating that have been identified, this Bill will place a barrier on the effective development of such a system, and that is not something that I will approve. Thirdly, the amendments have not overcome the technical flaws in the Bill that were identified on 14 October.

The Hon. K.T. GRIFFIN: The Opposition will support the third reading, the principal reason being that the principle is a valid one, which we support. There is an element of uncertainty about what the Federal Government will actually do.

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: The concept of the Australia Card has been around; that was an offensive proposition given the way in which it was proposed and promoted by

the Federal Government. Of course, there is now a proposal for a national register of births, deaths and marriages, which the State Government can agree to administratively. There is an upgraded tax file number system. I have no problems with an upgraded tax file number system, but let us see what the Federal Government proposes. This amendment requires any proposal to use the data in the State Births, Deaths and Marriages Registry to come before the Parliament. That is the place where the matter ought to be discussed. It cannot be discussed—

The Hon. C.J. Sumner interjectng:

The Hon. K.T. GRIFFIN: But it can come before the Parliament to be dealt with by way of an amendment if this Bill passes both Houses. That is quite a reasonable—

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: The problem is that we do not trust Governments of the same political persuasion. The State Government would not be drawn on what it would do about the Australia Card. It was negotiating with the Commonwealth Government at one stage and then, when the kitchen got hot, the Labor Government in this State said, 'Oh, we have called a halt.' When we tried to get Mr Bannon to express a view, we were told that it was all the Federal Government's responsibility. He is very keen on stepping one back from the controversy, because he does not want to be tarred with the same unsatisfactory brush as the Federal Government on issues that are a bit too hard. Therefore, he steps neatly aside and avoids the issue.

If this Bill was to pass both Houses, the State Government would have to bring before Parliament legislation of a complementary nature that would enable it to share data with the Commonwealth under this sort of proposal. There is no problem with that. It would come back to the proper reviewing body within the State. It cannot be dealt with administratively, and it seems to me that that sort of hurdle is quite appropriate. We can then look at any scheme that the State Government decides to negotiate with the Commonwealth Government. All we want to do is put the brakes on a bit. We do not want to come full stop, but if something is negotiated with the Commonwealth it can come back here. This is the appropriate place for decisions on principle to be made.

The Hon. I. GILFILLAN: I support the Bill and its intention. The Attorney raised the question of higher integrity income tax as a system to reduce tax evasion and the abuses that all of us would like to see reduced substantially in Australia. Certainly, I believe it is an option under the amended Bill that where information is required from the South Australian Registry of Births, Deaths and Marriages for validation for income tax files—

The Hon. C.J. Sumner interjecting:

The Hon. I. GILFILLAN: Instead of shouting—

The Hon. C.J. Sumner: I am telling you that you can't do it under the Bill.

The Hon. I. GILFILLAN: I do not know by what authority, whether it be some sort of divine—

The Hon. C.J. Sumner interjecting:

The Hon. I. GILFILLAN: The noisy interjector is claiming that his reading is more likely to be a valid interpretation than mine. I challenge that, because I believe that this Bill would prevent the provision of that information, first, for purposes associated with a national births, deaths and marriages register, and it certainly would not be that—

The Hon. C.J. Sumner: Or—

The Hon. I. GILFILLAN: Or a national data base. I think I can read it just as well without coaching from the Attorney. Information could not be provided for purposes of a national data base established to centralise identifying information on members of the public generally. Quite obviously, that wording has been chosen to describe a basic identifying information compendium of detail other than just a verification of a birth, death or marriage of an individual.

I consider that an intelligent and unbiased reading of the Bill would show that that is quite a reasonable transfer of information from the State Register of Births, Deaths and Marriages to those who are seeking to establish a higher integrity of the income tax file number. So, I consider that the banal criticisms of the Attorney-General are really just a repetition of pique at the fact that the Opposition is supporting the Democrats' Bill, which is a very serious attempt to prevent what was potentially one of the greatest infringements of civil liberties in Australia, and therefore—

The Hon. C.J. Sumner interjecting:

The PRESIDENT: Order!

The Hon. I. GILFILLAN: I am proud if I can be heard over the shouting—

The Hon. C.J. Sumner interjecting:

The PRESIDENT: Order!

The Hon. C.J. Sumner interjecting:

The PRESIDENT: Order, Mr Attorney!

The Hon. C.J. Sumner: He is misrepresenting what the Bill does. Is he allowed to get away with that?

The PRESIDENT: There is nothing under Standing Orders to prevent members debating an issue in any way they choose, but repeated interjections are prohibited under Standing Orders. That is why I am calling the Attorney to order.

The Hon. I. GILFILLAN: And very properly, Miss President, and I believe it is also so that members cannot contribute to the debate sitting in their seats while another member has the call and is on his or her feet. What I would like to say in conclusion is that I am proud to speak in support of the third reading of this Bill. It is a significant step in ensuring that Australians will not be subjected to the insidious introduction of an ID card, as was proposed originally by the Federal Labor Government.

The Council divided on the third reading:

Ayes (11)—The Hons J.C. Burdett, M.B. Cameron, L.H. Davis, Peter Dunn, M.J. Elliott, I. Gilfillan (teller), K.T. Griffin, J.C. Irwin, Diana Laidlaw, R.I. Lucas, and R.J. Ritson.

Noes (8)—The Hons G.L. Bruce, J.R. Cornwall, T. Crothers, M.S. Feleppa, Carolyn Pickles, T.G. Roberts, C.J. Sumner (teller), and G. Weatherill.

Pair—Aye—The Hon. C.M. Hill. No—The Hon. Barbara Wiese.

Majority of 3 for the Ayes.

Third reading thus carried.

Bill passed.

METROPOLITAN MILK SUPPLY ACT AMENDMENT BILL

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

ADJOURNMENT

At 4.54 p.m. the Council adjourned until Tuesday 24 November at 2.15 p.m.