LEGISLATIVE COUNCIL

Thursday 14 November 1991

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

PETITION: PROSTITUTION

A petition signed by 25 residents of South Australia concerning prostitution in South Australia and praying that the Legislative Council would uphold the present laws against the exploitation of women by prostitution, and not to decriminalise the trade in any way, was presented by the Hon. Peter Dunn.

Petition received.

PAPER TABLED

The following paper was laid on the table:

By the Minister of State Services (Hon. Anne Levy)—

State Services Department—Annual Report, 1990-91.

MINISTERIAL STATEMENT: CRIMINAL LAW REFORM

The Hon. C.J. SUMNER (Attorney-General): I seek leave to make a statement.

Leave granted.

The Hon. C.J. SUMNER: On 14 August 1990, I made a ministerial statement to the Council on the subject of criminal law reform. In it, I announced that Mr Matthew Goode, a Senior Lecturer in Law and past Dean of the Faculty of Law at the University of Adelaide, had been employed by me in order to conduct a review of South Australian criminal law and to generate reform proposals. At that time, I indicated that a review of the reports and recommendations of the Mitchell committee had revealed that a great deal had been achieved but that there was still much work to be done, and I tabled for the information of members an audit of the work of that committee and the response of Government to it. I also tabled the first three of a series of discussion papers prepared by Mr Goode.

Much has happened in the field of criminal law reform since I made that statement. It is time that the Parliament and the community are brought up to date with what has been happening in South Australia and nationally. It is for this purpose that I now make this statement, and I table a first interim report by Mr Goode on progress in the last 18 months. As that report makes clear, it is important, for reasons which I will now outline, that all levels of the community should be aware of the events that have taken place since I last made a statement to the Parliament.

In the statement that I made in August last year, I informed the Council that I favoured a process of evolutionary reform to the codification of the criminal law. In that statement, I outlined the arguments for and against such a course, and concluded that the arguments showed a decisive balance of policy factors in favour of codification. While I spoke in advance of events which, at the time, appeared unlikely to occur, it has turned out that the policies which I then advocated have contributed to moves towards national standards for the codification of the criminal law by the cooperative efforts of the Standing Committee of Attorneys-General, a subcommittee of that standing committee (of which I am a member), and a committee of officers nominated by the Attorneys-General, representing all the jurisdictions in Australia.

The last decades of the twentieth century have seen an impetus to criminal law reform and codification which also marked the end of the last century and saw the enactment of the first (then) revolutionary criminal codes in Queensland and Western Australia, with Tasmania following suit a little later. The English Law Commission produced a draft code for England and Wales in 1989. The Canadian Law Reform Commission produced a new draft code for Canada in 1987. In April, 1991, a specially appointed consultative committee reported to the New Zealand Government on a thorough redraft of the New Zealand Crimes Bill, originally produced for consultation in 1989. There has been a code review in Western Australia, which is now moving to implementation, and a code review is under way in Queensland. In 1990, the Commonwealth Review of Criminal Law, chaired by Sir Harry Gibbs, produced the first of a series of reports recommending the systemisation and codification of the Commonwealth Criminal Law.

It was in this climate that the Third International Criminal Congress held in Hobart in September 1990 considered the interim recommendations of the Gibbs committee, and called for a national effort to ensure co-ordination of these reform efforts and initiatives within Australia, so that the energies and resources being expended could be harnessed to produce a nationally consistent criminal law and a nationally consistent criminal code. At a major conference held in Brisbane in April 1991, distinguished judges, academics, prosecutors, politicians, law reformers, defence lawyers and barristers from all Australian jurisdictions met. Attendance was by invitation only and this was perhaps the most distinguished single collection of criminal law specialists to have met for some time. The conference focused specifically on the Gibbs recommendations, with the quite deliberate view of achieving so far as is possible a national consensus on the general principles which should guide the criminal law in all Australian jurisdictions. The final report of that conference recorded significant progress, and called for the creation of a national criminal law for Australia.

The Standing Committee of Attorneys-General had not been idle while this was going on. Indeed, all members of the standing committee showed an active interest in and support for the general propositions that were being advanced in this debate. In June 1990, the standing committee agreed that the matter of a uniform criminal code should be placed on the agenda of the standing committee, and in September 1990 the standing committee agreed to the formation of a committee of Commonwealth, State and Territory officers with expertise in the criminal law to meet on a regular basis, to determine the issues on which agreement about national consistency can and should be reached and to report to the Standing Committee on Criminal Law Reform. In July 1991, the standing committee received a report from the Criminal Law Officers Committee reporting significant progress, took the view that it was in favour of working toward a uniform criminal law, and approved the process outlined in the report. The tabled report outlines that process in detail for the further information of members.

The process approved by the standing committee consists of two parts: the development of consistent standards in relation to specific matters of immediate concern in one or more jurisdictions for approval by the standing committee as uniform policy; and the development of the model penal code itself. By October 1991, the Criminal Law Officers Committee was able to report to the standing committee

that very significant progress had been made in relation to both areas of the report. In relation to the model penal code, the scope of agreement and cooperation between the officers from all jurisdictions had been such that the officers committee was able to attach to its report a working set of drafts in relation to most, but not yet all, of the general principles of criminal responsibility.

At its October meeting, the standing committee formally agreed to the preparation of the model criminal code, beginning with the fault elements and general defences, and further agreed to a series of recommendations about the abolition of the year-and-a-day rule, the taping of confessional evidence, the abolition of mandatory life sentences, the abolition of marital rape immunity and the general principles that should govern legislation dealing with the taking of forensic samples.

Much of the work has been at very low visibility, although some of it has reached, or will shortly reach, this Parliament. But the scope of agreement and consensus about the process and the parameters of this nationally significant project are now such that it is important that information about it should be disseminated as widely as possible amongst all sectors of the community. That is the purpose of the preparation and tabling in this first interim report. It deals in detail with the philosophy underpinning the codification effort at both State and national level, and describes the work and agreements of the Criminal Law Officers Committee. It is also a report on the progress of review and reform in this State, and an analysis of the various issues that have been examined and discussed in the past 18 months. It is very much a report on work in progress.

It is impossible to tell quite what factors existed in the criminal, legal and political environment that produced this impetus for change and the general agreement was that the form and content of change should become a national agenda of general principles and significance, as opposed to the more parochial concerns of years gone past. In recent times, there have been growing areas of agreement between Australian Attorneys-General in very important areas of law. Some, like the companies area, have been complex and difficult to work through. There is, I believe, in Australia a maturing sense of national identity which is developing as a consequence of such matters as the Australia Acts legislation which finally and formally freed us from the status of colonies. I think that there is a gradual growing of the idea that this Federated Commonwealth is a real nation state and not just a collection of independent and often quarrelling States and Territories joined together for convenience.

Whatever the reason for this common agreement and working through of national standards, it offers tangible benefits to the community. It is simply not sensible for States and Territories to differ on the basic questions of criminal liability. It is not sensible for the law to be different in Bordertown, South Australia and Nhill, Victoria on, for example, such things as the age of consent to sexual intercourse; the age of consent to homosexuality; and the age of criminal responsibility.

To take another example given by the Attorney-General of Queensland, Mr Dean Wells, a mother who kills a child in circumstances of diminished responsibility, or what is known as infanticide, would face a maximum term of imprisonment of 15 years in Victoria, life in South Australia, Queensland and the Northern Territory, 25 years in New South Wales, 21 years in Tasmania, and seven years in Western Australia. In general terms, why should the general principles of criminal responsibility, and the punishment which certain behaviour might attract, vary so dramatically simply by the crossing of a State boundary?

It is even less sensible if, overlaying fundamental differences between States and Territories on such matters, there is a Federal system of criminal law operating within those States and Territories, which is different again. The criminal responsibility of a person for a crime should not depend on the accident of where he or she happened to be at the time. Nor should questions of territorial jurisdiction, extradition or Federal-State relations determine the results of criminal litigation where a crime is committed within Australia.

In addition, Australia is acquiring international responsibilities in a variety of areas such as the fields of the protection of human, civil and political rights, the protection of victims' rights and the enforcement of crimes against slavery, crimes against humanity, crimes against the international drug trade, and so on. We cannot, as a nation, say to the international community: 'Well, one tenth of Australia agrees with that, and one sixth agrees with something else.'

None of this is to say that the whole jurisdiction of the States and Territories over crime should be handed over to the Commonwealth. There will be matters on which local communities will want self-determination and local control. A good example is the law in relation to prostitution. That may well be a subject on which it will never be possible to achieve a national consensus, and on which it can be argued with some justification that a national standard is neither necessary nor desirable. Others may differ from that conclusion but argue for local self-determination on other issues. These arguments are very significant and are being worked through, not just in the field of criminal law, but also in such fields as environmental law. There is no easy answer, but the construction of national policy on such matters by agreement between the States and the Commonwealth is of central significance to the future.

It is vital to note that, at the moment, the state of agreement and unprecedented cooperative effort to produce a national criminal code crosses Party lines, professional roles and parochial interests. This is not a project inspired by Party-political Labor interests. Successive Liberal Attorneys-General of New South Wales have been as supportive of these developments as their Labor counterparts. Code lawyers from code States are compromising with their common law colleagues on the best way to proceed. Prosecutors and public defenders are cooperating to work out a series of statements of principles with which those on both sides of the fence can agree. I hope that, in this State, we can also achieve a tripartite political consensus of support for the principles and the process.

Difficulties remain. The crunch will come when the elements of a model penal code have been prepared and are recommended for implementation. No matter how thorough the consultation that is undertaken, there are bound to be those who will disagree. However, the continuing mood of compromise and cooperation in the national interest must be fostered and transmitted. I will continue to work within the Standing Committee of Attorneys-General to nourish and encourage these initiatives. I hope that, in so doing, I will have the support of all members of this Council.

It is of considerable importance that the process of reforming and codifying South Australian criminal law goes hand in hand with this unprecedented effort to produce a national criminal code, and that there be sensible consistency in the standards of criminal justice throughout this nation. If that means that there must be some delay in the production of, for example, significant reforms in areas

requiring overhaul, such as the law in relation to theft or homicide, the small sacrifice will be well worthwhile in the interests of national standards of consistency. Agreement will not be possible in everything. There will be issues about which one or more jurisdictions will differ, but it is imporant that we look to the positives that must come from this process and not the negatives. And it is also imporant that the Parliament and the community as a whole be kept as well-informed as possible about what is happening. The tabling of this report is a first step in the process of the public dissemination of information about the project, its content and its implications.

QUESTIONS

LABELLING OFFENCES

The Hon. K.T. GRIFFIN: I seek leave to make an explanation before asking the Minister of Consumer Affairs a question about labelling offences.

Leave granted.

The Hon. K.T. GRIFFIN: During the budget Estimates Committee the matter of expiation notices issued in Mount Gambier by the Office of Fair Trading was raised. Subsequently I raised the issue in questions and in the budget debate. What was of concern in those cases was that officers had been to a number of retail outlets in Mount Gambier, found that there were no labels on some items and inadequate labels on others and $200 expiation notices were issued. In one case, seven notices were issued in relation to octopus straps, making a total of $1 435, which was required to be paid by the retailer. In another case, two notices were issued in relation to two varieties of sunglasses. In one instance the retailer was told that if the notices were not paid the retailer faced court action and substantial fines for each of 20 items which were found to be not labelled or inadequately labelled, not just the expiation fees.

Yesterday in the House of Assembly the member for Bright, Mr Matthew, asked a question relating to the changing of labels on T-shirts made in China, imported to Australia and subsequently distributed by Goodsports, a company in which the Grand Prix Board has a substantial interest. Labels indicating the T-shirts were made in China were alleged to have been replaced with labels indicating they were made in Australia. I, too, have received complaints about products marketed by Goodsports as official Grand Prix products both this year and last year. I am informed that last year Grand Prix jackets were imported from Hong Kong and the labels were changed as with T-shirts imported from China this year and last year.

From the activities this year of officers of the Office of Fair Trading in Mount Gambier and other places, proper labelling is obviously regarded, and I certainly regard it as very important. If products are labelled as having been made in Australia when they have not, I presume that would also be regarded as serious. In fact, the Fair Trading Act in section 58 provides that a person shall not, in trade or commerce, in connection with the supply and possible supply of goods and services 'make a false or misleading representation concerning the place of origin of goods.' There is an identical provision in the Federal Trade Practices Act. Under State legislation the penalty for a body corporate is $100 000 maximum fine and for an individual $20 000. My questions are:

1. Does the Minister agree that changing labels on products as to place of origin is a serious offence?

2. Has the Office of Fair Trading made any investigation into the place of origin of products marketed by Goodsports or the Grand Prix Board and, if so, with what result?

3. If not, will the Minister require the office to do so and to report back to the Council on the result of those investigations?

The Hon. BARBARA WIESE: I agree that the changing of labels on goods would be a serious matter. I am not aware of any allegations that have been made against Goodsports, and I am not aware of any inquiries that may have been made by officers in the Office of Fair Trading. However, I will make inquiries about the matter and ask that an investigation be undertaken on those issues.

GOLF RAIL SERVICE

The Hon. DIANA LAIDLAW: I seek leave to make an explanation before asking the Minister representing the Minister of Transport a question about the STA and tourism.

Leave granted.

The Hon. DIANA LAIDLAW: Last week the STA organised a temporary train station at the Royal Adelaide Golf Club, Seaton, for golf fans attending the Asahi Glass Four Tours Championships. This initiative offered people attending the golf a novel alternative to driving their car and finding a parking spot. Trains had not stopped at the golf club since the old station was removed from the Adelaide-Grange line about 30 years ago. However, it seems that the STA forgot to adjust its scheduled timetables for connecting train services between Woodville and Adelaide to accommodate the two minutes taken to stop at the gulf club.

Several visitors to Adelaide and the golf have expressed to me their disgust that last Sunday it took them one hour and 13 minutes to return from the golf club to the Adelaide station—a distance of only nine kilometres. In the same length of time they could have travelled to Victor Harbor or Kapunda.

At 4.12 on Sunday afternoon, the 4.06 service from Grange picked up 30 passengers at the golf club. At 4.25 p.m. they arrived at the Woodville station with no time to spare to cross the platform to catch the connecting 4.25 p.m. service to Adelaide. For 40 minutes they waited at Woodville to catch the next scheduled service at 5.09 p.m., finally arriving at the Adelaide station at 5.21 p.m.

Our Standing Orders in this place in relation to language that is deemed unacceptable does not allow me to repeat what these visitors to Adelaide said in respect of their experiences on the trip from Seaton to Adelaide. Certainly, they were not impressed about the 40 minutes that they spent at the Woodville station. Again, they were less than impressed—perhaps that is the most polite way of saying it—in terms of the hassles they experienced in trying to understand how to buy a ticket even to travel on a train, let alone where to buy it. Therefore, I ask the Minister:

1. Why were STA timetables not adjusted for connecting services between Grange, Woodville and Adelaide to accommodate the temporary station installed at Royal Adelaide Golf Club for four days last week?

2. Has the Minister made any assessment of the impact on visitors to Adelaide of his decision in June to remove the sale of tickets from trains yet not install ticket vending machines at stations, and, if not, will he undertake such an investigation in cooperation with the Minister of Tourism? I point out in that context that South Australia has the novel experience of having the only train service in the

world that does not sell tickets on trains and has only one outlet for the sale of tickets at a station.

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

POLICE ACTIONS

The Hon. J.C. IRWIN: I seek leave to make an explanation before asking the Attorney-General, representing the Minister of Emergency Services, a question concerning police actions.

Leave granted.

The Hon. J.C. IRWIN: There have been a number of complaints to my office recently regarding the issue of infringement notices by the police after the West Torrens council erected 'no left turn' signs in Mooringe Avenue, North Plympton, to stop left turns into Bransby Avenue and Speed Avenue in the mornings. I understand that this was caused by delays at the Marion Road traffic lights. The road signs were erected on 9 October 1991 and police have been booking unsuspecting motorists on a regular basis for some weeks following the erection of the signs. In fact, some mornings two police officers have been seen taking advantage of the uninformed motorists and blatantly raising revenue.

I am informed that the excessively long green light periods at Marion Road are seriously annoying drivers using Mooringe Avenue. The West Torrens council claims it has power to erect signs pursuant to its by-law 2 'streets and public places', which was confirmed on 14 February this year and published in the *Gazette* on the same day. The signs are clearly for the purpose of prohibiting traffic movement, but paragraph (1) of the by-law makes it an offence only to fail to obey the indication given by any sign lawfully erected for regulating the movement of traffic.

Where a council requires a by-law provision which is to apply only where required, that provision should be in accordance with section 679 of the Local Government Act. The by-law in question has no such provision, so apparently the council has no power to use the signs to prevent traffic. With the amendment made to the Local Government Act in 1986 to provide section 359, the power of a council to make a traffic prohibition by by-law was removed. Subparagraph (iii) of section 667 (7) of the Local Government Act was removed by section 31 *(b)* of Act No. 12 of 1986. It appears that the council not only has no power to ban the turn but also has no power to use such a power by an appropriate by-law. I believe that the infringement notices are being issued alleging offences under section 76 of the Road Traffic Act 1961.

That section provides that the Governor may make regulations specifying the words or symbols to be used on traffic signs and the instructions indicated thereby. As yet, no regulations have been made in respect of 'no left turn' and 'no right turn' and other signs. The signs in Mooringe Avenue are therefore clearly meaningless and should not have been erected. As section 76 only refers to regulating traffic, signs such as 'no left turn', 'no right turn', 'no U-turn', 'no turns' and 'no entry', it cannot legally apply to them. What steps is the Minister taking to ensure that all necessary signs for traffic control and parking are properly defined, with the instructions that they indicate being properly described, and that many of the infringement notices issued by the police are based on legal signage? Also, will the Minister indicate how much revenue has been collected since the signs were erected on 9 October 1991?

The Hon. C.J. SUMNER: I will refer these questions to my colleague and bring back a reply.

POWER STATION TAX INDEMNITY

The Hon. I. GILFILLAN: I seek leave to make an explanation before asking the Attorney-General, as Leader of the Government in this Council, a question regarding the tax indemnity offered in relation to overseas leasing of South Australia's power stations.

Leave granted.

The Hon. I. GILFILLAN: In 1987 I chaired the parliamentary Select Committee on Energy Needs in South Australia in which the issue of the leasing of South Australia's power stations was examined. In April 1987, the select committee took evidence from the then Deputy Under Treasurer, Mr Peter Emery, as to a tax indemnity being offered to a Japanese company in a leasing arrangement involving South Australia's power stations.

With hindsight, this has become particularly relevant, given that on Tuesday of this week the Royal Commission into the State Bank heard evidence that a memo from the bank's senior executive, Mr Graham Ottaway, to the then Managing Director of the State Bank in 1986, Mr Tim Marcus Clark, claimed the tax indemnity in the power station deal was a 'short-term scam'.

An article in this Wednesday's *Advertiser* stated that Mr Ottaway claimed, 'The Premier, Mr Bannon, approved a "short-term scam" using the State Bank as a vehicle for tax manipulation.' However, at the time of the 1987 select committee to which I refer, the then Deputy Under Treasurer, Mr Emery, could or would not provide details of the tax indemnity given in the power station deal, despite repeated questioning from me and other committee members.

In fact, in that question and answer it is of significance that he and Mr Ruse of SAFA (South Australian Financing Authority) both stated that SAFA gave guarantees of tax indemnities on a regular basis to all such transactions, and the committee questioned both those gentlemen for more details of what they meant by 'tax indemnities'. Mr Emery, studying the documentation on the select committee, gave what I now consider to be incomplete and evasive answers when examined on the issue.

At the time, I also questioned Mr Emery as to the name of the company involved in the deal. I asked him, 'What is the name of the company that is the financial owner?', to which he answered, 'I am not sure that we have the name with us.'

The Hon. Peter Dunn, who sits in this Chamber and who was also on the committee, asked Mr Emery 'Does it sound like Lashkar?' 'No', said Mr Emery in reply, 'that company has been referred to in Parliament here in debate, but it is quite unconnected with this transaction, and I do not think any of us remember the name of the Japanese company involved.' Yet strangely, just four months later, the State Government announced the power station deal, worth $350 million, which had been leased to an investment group, indeed named Lashkar.

It must stretch the credulity of members to be expected to believe that two principals such as the Deputy Under Treasurer and a leading figure in SAFA, when asked about the name of a company involved in a deal in which they were making these arrangements, could not remember the name and would not, as I believe, provide the details of the tax indemnities which SAFA was certainly giving in this circumstance and which they led us to believe applied in all such transactions. Given the current allegations of the tax scam involving the State Bank in this deal, will the Government release the details of tax indemnities which, according to evidence given to the select committee, SAFA

offers on a regular basis for all such deals, so that Parliament can judge for itself the integrity of such arrangements and whether they are indeed tax scams? If not, why not?

The Hon. C.J. SUMNER: I will refer the question to my colleague and bring back a reply.

SCRIMBER

The Hon. L.H. DAVIS: I seek leave to make an explanation before asking the the Minister representing the Minister of Forests a question on the subject of scrimber.

Leave granted.

The Hon. L.H. DAVIS: In September 1990, just over 14 months ago, a Mr Steve Gilmour, General Manager of a Victorian based company, Seymour Softwoods Limited, claimed that the scrimber project was 'a goldmine'. He said that his firm wanted to spend $2 million to $3 million on buying a franchise to set up a scrimber processing mill in the Eastern States. Mr Gilmour stated that his company had used the services of a chemist who had investigated the scrimber project for three months.

The Hon. R.J. Ritson: Was his name Mr Lassiter?

The Hon. L.H. DAVIS: I think he had Lassiter's fate, certainly. As a result of the chemist's investigation over a period of three months, Mr Gilmour said, 'We now have no doubt it [scrimber] is all that they say it is and more.' He said that the pieces of scrimber he had been shown would 'sell like hot cakes'. The Minister of Forests, Mr Klunder, welcomed Mr Gilmour's comments. Mr Gilmour and I subsequently had a telephone conversation about scrimber. I had just visited the scrimber plant in Mount Gambier and was aghast at the considerable technical difficulties still confronting the hard working scrimber management team. I asked Mr Gilmour whether he had visited the scrimber plant. He said he had not visited the scrimber plant. I expressed surprise that he was so confident about a project which he had never even seen.

During the course of the conversation it became clear that Mr Gilmour had no clear understanding of the technical processes involved in the scrimber process. Within a few weeks I went on a radio talkback program to discuss the scrimber project. I rang Mr Gilmour within an hour of that interview, as I recollect, and incredibly he already knew what I had said, even though he was resident in Victoria. I expressed surprise and asked him how he knew what I had said on air. He said he had received a Warburton Media Monitoring's account of what I had said. I have since ascertained that the South Australian Timber Corporation uses Warburton Media Monitoring.

After several public statements in recent weeks, Mr Gilmour has announced in a media release today that he has delivered a submission to SATCO to develop scrimber over the next five years by raising $50 million. SATCO, the Government and the Opposition will all be invited to have representatives on the board. Mr Gilmour's media release states that Mr Graham Higginson, the Chairman of SATCO, would be invited to play a major role. He has recently also suggested that the State Government could be an equity partner. Only in the past week, in the South-Eastern *Border Watch*, Mr Higginson, the Chairman of SATCO, said that the Gilmour option of a partnership involving the State Government was still a possibility.

Mr Gilmour this week has been telling the media that he has seen the H.L. Simons report which was the basis of the Government's decision to withdraw from the scrimber project. The Opposition has not had access to this report; it simply has not been made public. Mr Steve Gilmour has made enormous noise about scrimber and talks in millions of dollars. However, a perusal of the current prospectus of Seymour Softwoods reveals that shareholders' funds of Seymour Softwoods are less than $600 000, and there is an outstanding legal claim against that company of $523 000 plus interest and costs.

Members interjecting:

The PRESIDENT: Order!

The Hon. L.H. DAVIS: My questions to the Minister are:

1. Will the Government contemplate being an equity partner in the scrimber project if it is revived by Seymour Softwoods?
2. Will the Government be represented on any reconstituted board of the scrimber project?
3. Has the Government checked the financial strength of Seymour Softwoods in view of the Minister's and SATCO's apparent close links with that firm?
4. Did SATCO or any of its officers or agents directly or indirectly provide Mr Gilmour with a media monitoring service?
5. Did the Government or SATCO or any of its officers or agents, directly or indirectly, provide a copy of the previously confidential H.L. Simons report to Mr Gilmour and, if so, why has this report not been made public or at least available to the Opposition?

The Hon. BARBARA WIESE: I will refer the honourable member's questions to my colleague in another place and bring back a reply.

MODBURY DOMICILIARY CARE OFFICE

The Hon. J.C. BURDETT: I seek leave to make a brief explanation before asking the Minister representing the Minister of Health a question about the closure of the Modbury domiciliary care office.

Leave granted.

The Hon. J.C. BURDETT: Recently, the domiciliary care office in Modbury, the only such office in the north eastern suburbs, was closed. An article in the *Leader Messenger* of 13 November, under the headlines 'Thousands join protest over care office closure' and 'Petitions call for office to be re-opened', states:

> Several thousand people have signed petitions demanding the reopening of Modbury's domiciliary care office. Newland MP Dorothy Kotz was handed the petitions last week outside the Smart Road office, as it closed.
>
> The domiciliary care service, which provides post-operative and domestic care, has moved back to the Lyell McEwin Health Service regional office at Elizabeth Vale.
>
> Spokesman Everard Altus said the move would pool resources, save money and create a more efficient service. But Kotz said the frail and elderly would be disadvantaged by being 20 minutes further from help.
>
> 'Fewer people will receive the assistance they need on discharge from hospital because of the extra travelling time involved yet 700 residents are listed with the domiciliary care unit,' she said. 'A Government of genuine concern and compassion would not take the bureaucratic way out by number crunching the Modbury service into Elizabeth with complete disregard for local knowledge.
>
> The Bannon Government only last year cut the domiciliary care service by 50 per cent and now it is transferring the unit from Modbury altogether.'
>
> Mrs Kotz said she believed Modbury-based staff are not happy about the move and had been offered some form of counselling. 'I believe it's because they are concerned about the change,' she said.
>
> Lyell McEwin chief executive officer David Reynolds would not comment on whether domiciliary care staff are happy about the move or had been offered counselling.
>
> Mrs Kotz said last week's protest had attracted two police cars 'to see whether we were inciting a riot'. 'We've hardly enough police cars to patrol the area but we've got two down there to check up on us,' she said.

There were four staff at the Modbury office: three professional staff and one clerical officer. Following the 50 per cent cut last year, which is referred to in the article, the work of the Modbury office had to be 'prioritised'. This meant that because of this cut only the very serious emergency cases could be dealt with. Now, this service is being removed from the area.

As I understand it, in order for the service to be placed in any home a professional staff person has to go to that home to view and assess the situation. I am not arguing about that but, if this office is relocated to Elizabeth, as Mrs Kotz said in the article, a further 20 minutes each way will be added to the travelling time involved and will mean that less service can be provided. My questions are:

1. What is the total number of staff at the Elizabeth office?

2. How many contacts were made by people with the Modbury office in the past 12 months?

3. What is the total number of services provided to clients by the Modbury office in the past 12 months?

4. Will the Minister review the decision to close the office?

The Hon. BARBARA WIESE: I will refer the honourable member's questions to my colleague in another place and bring back a reply.

SCHOOL CLOSURES

The Hon. R.I. LUCAS: I seek leave to make an explanation before asking the Minister representing the Minister of Education a question about school closures.

Leave granted.

The Hon. R.I. LUCAS: On 3 October this year, the Premier wrote the following letter to the students of Croydon Primary School:

> The Prime Minister has drawn to my attention your submission concerning a proposal to amalgamate Croyden and Kilkenny Primary Schools. As you are aware, the Government has undertaken a review of all Primary Schools in the western suburbs to ensure that the highest quality education continues to be offered to students. Local communities have been encouraged to be involved in the review and to develop proposals which best suit the local area.

The Hon. Anne Levy interjecting:

The Hon. R.I. LUCAS: Neither are interjections. The letter continues:

> From the outset of the review and at all times during the consultation process, my Government has clearly stated that there will be no school closures which do not have the support of the local community. If the closure of Croydon Primary School does not have community support, the school will not close at the end of 1992.

This letter has been greeted with wide-eyed astonishment by parents and teachers of many other schools, which have been closed or are facing closure. Some parents have, in fact, said they cannot believe Mr Bannon would keep a straight face and make such an outrageous claim. Parents from Payneham Primary School have contacted me again this week stating that their local community strongly supported their school but they were suddenly advised of closure by way of letter in August.

Parents of Pinnaroo school students reminded me that hundreds of people had protested against the closure of the secondary section of their school, and many of them had travelled to Adelaide to protest on the steps of Parliament House. There have been and continue to be many examples of local communities fighting for their local schools. My questions are:

1. If local school communities, in accord with the Premier's statement of policy, conduct local polls or petitions indicating opposition to a closure, will the Minister of Education guarantee support for those local views; if not, why not?

2. Does the Minister believe that the local Pinnaroo school community supported the closure of the secondary section of the Pinnaroo school?

3. Does the Minister believe that the local Payneham school community supported closure of the Payneham Primary School?

The Hon. ANNE LEVY: I will refer those questions to my colleague in another place. I think the honourable member has already raised this matter in questions, but if he has not received an answer already I will see that one is supplied.

DANGEROUS SUBSTANCE LICENCE FEES

The Hon. PETER DUNN: I seek leave to make a brief explanation before asking the Minister representing the Minister of Labour a question about licence fees for dangerous substances.

Leave granted.

The Hon. PETER DUNN: It has been brought to my attention that there is a requirement to licence dangerous substances. I cite the case of 3 000 litres of liquid petroleum gas, which is used as a heating agent for grain drying and which is very necessary when people are harvesting their crops under moist conditions, particularly near the sea.

When installed, the tank is inspected and then licensed. The licence is renewed annually, without further inspection. The fees for a three kilolitre liquid petroleum gasoline tank are as follows: in 1987 the fee was $33; 1988, $45, an increase of 36 per cent; 1989, $50, an increase of 11 per cent—which is about the inflation factor; 1990, $65, an increase of 30 per cent; and 1991, $85, a further increase of 30 per cent.

Since there is no requirement for inspection, the cost of administering or issuing a licence could not, in my opinion, be any more than about $6, bearing in mind that a person working in this field would receive approximately $12 an hour. If that amount is doubled for capital expenses, we can take it to $24 an hour. If four licences can be done in an hour (and I am being generous there), we finish up with a fee of about $6 an hour, and I will be generous and say $8 an hour. However, the department sees fit to charge $85 an hour to renew those licences. My questions are:

1. Is the department so inefficient that increases of the order I have stated are necessary to maintain its operations?

2. If not, can the Minister explain the reasons for these increases?

3. Is it anticipated that licence fees for storing dangerous substances such as liquid petroleum gasoline will increase at similar percentages, as they have in the past four years?

The Hon. C.J. SUMNER: I will refer the question to my colleague and bring back a reply.

TOURIST BANKING FACILITIES

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Minister of Tourism a question about banking facilities for tourists.

Leave granted.

The Hon. J.F. STEFANI: Recently I was approached by a number of business proprietors who operate tourist busi-

nesses at Hahndorf. Those business proprietors expressed great concern about the lack of automatic teller facilities being available from the State Bank. They advised me that many State, national and international tourists are totally dismayed to discover that no automatic teller facilities are available at this important tourist destination. I have been advised that, apart from providing a necessary tourist convenience, automatic teller machines would greatly benefit local businesses by supplying cash to visiting tourists. Will the Minister investigate this matter and seek the assistance of the State Bank to provide such a facility for this important tourist destination?

The Hon. BARBARA WIESE: I do not know whether the State Bank has a facility in the town of Hahndorf but, certainly, there would be facilities in townships close by and, as I understand it, some banks have reciprocal arrangements with other banks, so that cards from one bank can be used in the facilities of other banks. I do not know whether the State Bank has such a facility, but I will certainly take up the matter the honourable member has raised to see whether the needs of tourists are being adequately catered for in Hahndorf and, if not, investigate the possibilities of that taking place.

BRIGHTON-GLENELG COMMUNITY CENTRE

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister representing the Minister of Public Works a question about the Brighton-Glenelg Community Centre.

Leave granted.

The Hon. M.J. ELLIOTT: There is concern in the Brighton-Glenelg area about the future of the community centre at 20 Tarlton Street, Somerton Park. The concerns were expressed, in part, in a letter written to the Hon. Kym Mayes on 2 October 1991. That letter states:

On 11 September 1991, Mr Alistair McFarlane of the South Australian Department of Housing and Construction (SACON) called for and convened a committee to discuss the future of the site at 20 Tarlton Street, Somerton Park. Representatives were as follows:

Alistair McFarlane	SACON
Jim O'Brien	FACHS
Rosemary Clancy	Councillor, Brighton
Camilla Kinnane	Glenelg Council
Sue Pluck	Community Centre Coordinator
Christine Anketell	Artistic Director, Patch Theatre
Fiona Love	Chairperson, Patch Theatre
Mr John Chenoweth	District Clerk/Brighton
Ted Turner	Management Committee, Community Centre

At this meeting membership was considered and expanded to include two consumer representatives, a Montessori kindergarten representative, and a management committee representative. These people were originally omitted from the Joint Review Party. The motion for increased membership was accepted by all present, with the exception of Mr McFarlane.

A second meeting was held on 2 October 1991 at the Brighton-Glenelg Community Centre. Upon commencement of this meeting, Mr McFarlane informed the joint Review Party that he, as representative for SACON, would be withdrawing from the Joint Review Party and that SACON intended to form a second group indentified by Mr McFarlane as the 'consultative group'. This would comprise one representative from each of the following: SACON; FACHS; local government; and the Joint Review Party. Mr McFarlane informed the joint review meeting that it had been reclassified by SACON, as a 'user group'. He stated that SACON reserved the right to participate in this user group should SACON again choose to use the property. The Joint Review Party deeply regrets SACON's decision to withdraw and urgently seeks clarification from you regarding Mr McFarlane's position. We have unanimously rejected the proposal to establish a second committee. We therefore urgently request that you meet with a deputation from the Joint Review Paty to resolve the unsatisfactory process initiated by SACON.

That letter is signed by Rosemary Clancy, Chairperson, for and on behalf of the Joint Review Party. The concern that the people from the Brighton-Glenelg Community Centre have is that, in fact, it is SACON's intention to sell off the property and that, having looked at the composition of the first committee it set up, it realised it would not get a lot of support. Having done so (and it called for the setting up of that first committee), it has set up a much narrower committee in which it, and the Government generally, has a much stronger voice. I ask the Minister the following questions:

1. Is it the intention of the Government now or in the future to sell the property at 20 Tarlton Street, Somerton Park, or is the Government committed to continuing to provide facilities and accommodation on site for the groups currently located at this site?

2. Is the Government committed to true community consultation bearing in mind that the representative of SACON has informed the duly constituted Seaforth working party that a second consultative working party with decision making powers is to be formed to replace the original working party, and does the Minister believe that one representative on the consultative working party adequately represents the 60 user groups and 1 800 consumers who use the centre weekly?

3. Has the Minister costed the enormous value of the community work being conducted at 20 Tarlton Street? If so, on what basis has the Minister put a dollar value on the preventive health and social programs being conducted at the site in order to draw the conclusion that the site is considered economically unviable?

The Hon. BARBARA WIESE: I will refer the honourable member's questions to my colleague in another place and bring back a reply.

POLICE RESOURCES

The Hon. J.C. IRWIN: I seek leave to make a brief explanation before asking the Minister representing the Minister of Emergency Services a question about police resources.

Leave granted.

The Hon. J.C. IRWIN: Last night a constituent phoned regarding a concern about the lack of police resources in the Port Adelaide Police Station. Recently my informant put a house on the market for rental. A letting agent sent a prospective tenant early in the weekend, and that person accepted the tenancy and left some personal possessions in the house. The letting agent sent another prospective tenant (number two) on the following Monday, two days later. It is alleged that items belonging to the first tenant were stolen out of the house by the second visitor.

The number of the New South Wales registered car belonging to the second prospective tenant who looked at the house was taken. His name and contact phone number was known and passed on to the police. All this information was given to the Port Adelaide CIB and became report No. 92/Q27192. Some days later—this is only last week—the owner of the house rang the Port Adelaide CIB seeking progress in relation to the recovery of the goods and charging the suspect. Despite the information known to the police and the fact that it was a New South Wales registered car and there had to be quick action, there has been no follow-up because of under-staffing and a low priority as against other offences that are committed in the area covered by the Port Adelaide CIB. My questions are:

1. Will the Minister ascertain whether there are problems with the CIB staff numbers at Port Adelaide, and indeed at

other major CIB offices, which are not allowing police personnel to follow up offences that are reported to the police?

2. Will the Minister bring back a report on this matter?

The Hon. C.J. SUMNER: As the honourable member knows, there have been quite significant increases in police numbers in the past couple of years, including in operational areas. I am not aware of the situation at Port Adelaide. I will seek a report and bring back a reply.

STATE TRANSPORT AUTHORITY

The Hon. DIANA LAIDLAW: I seek leave to make an explanation before asking the Minister representing the Minister of Transport a question about the contracting out of STA services.

Leave granted.

The Hon. DIANA LAIDLAW: As most members would recall, Professor Fielding, who was commissioned by the Government to look at Adelaide metropolitan transport services in the 1990s, recommended limited contracting out of STA services by a competitive tendering process, involving private sector competition. Professor Fielding recommended that this practice would be appropriate for areas in which the STA no longer wished to operate, such as fringe areas and evening services. The Government has always indicated that it has no intention of implementing these recommendations in the Fielding report. Therefore, it was of great interest to me to realise that this is not the view of the STA.

In response to the futures report on the taxi and hire car industry, which the Minister released in July, the STA has indicated that it is in favour of a community transport Act and board, which would see the STA board and the Metropolitan Taxi-Cab Board eliminated and a contracting out of services. The STA's submission to the futures report, in part, states:

> Removal of legal impediments and new incentives are needed to encourage greater diversity of services with more targeting of specific market needs. Therefore the authority supports the removal of restrictions and the placing of all operators on a common basis, whether running two seat or 200 seat services, and whether privately or publicly owned. Common legislation should apply, irrespective of vehicle type or ownership.
>
> If STA scheduled services were to be subjected to extensive competition it would be necessary to resolve treatment of a number of detailed issues, including access to bus stops in the city centre and at interchanges, service and fares integration and industry stability. Whilst there would be advantages in peak-period supplementation of STA services, as well as provision of feeder services, by other operators, it would be necessary to ensure integration.

So, it is apparent that the STA board and senior management are favourably disposed to private sector participation in the conduct of public transport services in this State, in particular for peak period supplementation of STA services, feeder services and the like. My questions are:

1. As this publicly expressed view of the STA is at odds with statements that have been made from time to time by the Minister of Transport about how he and the Government wish to retain the STA as a monopoly operator of subsidised public transport services in this State, will he say whether he saw the STA's submission before it was forwarded to Dr Ian Radbone, the consultant to the futures report?

2. Did the Minister approve of the STA submission?

3. What are the Minister's current views in relation to the contracting out of STA services on a competitive tendering basis involving private sector operators?

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

COUNTRY RESOURCE CENTRES

The Hon. R.I. LUCAS: I seek leave to make an explanation before asking the Minister representing the Minister of Education a question about country resource centres.

Leave granted.

The Hon. R.I. LUCAS: Over the past year or so I have received a number of submissions from parents and staff of country school communities expressing concern at the continuing decisions by the Education Department to close country or regional resource centres that are used by country schools. In particular, concern has been expressed by school communities of small rural schools which do not have a vast amount of resources available to them. Last week I received a letter from the parents of the Karkoo rural school protesting at the impending closure of the resource centre in Port Lincoln. I will quote briefly from their letter of complaint or submission to the Minister of Education, a copy of which has been sent to me. It states:

> Not only is it [the impending closure] going to affect the learning programs of our children, but it will also affect every other school, both large and small, on lower Eyre Peninsula, who make good use of this facility. Our closest resource centre will be at Whyalla and because of the distance and the fact that the larger schools in Whyalla will absorb a large majority of the resources, teachers are going to find it hard to get the material they need. Once again the people in the country are being disadvantaged, while their city counterparts get everything, all in the name of cost cutting.

My questions are:

1. Will the Minister of Education investigate the decision to close resource centres, like the Port Lincoln Resource Centre, and indicate how schools like Karkoo can continue to receive an adequate service for their students?

2. Will the Minister indicate how much money is intended to be saved by the Education Department by this program of closures of resource centres in country areas?

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

POLICE CORRUPTION

The Hon. R.I. LUCAS: Has the Attorney-General an answer to my question of 10 September about police corruption?

The Hon. C.J. SUMNER: I seek leave to have it inserted in *Hansard* without my reading it.

Leave granted.

The Minister of Emergency Services has provided the following response to the honourable member's question:

> It would be most inappropriate at this time to specify the number of police officers under investigation under Operation Hygiene. While a number of allegations have been made against serving and former police officers, they are as yet untested, and some officers may well be entirely innocent. This precept of a presumption of innocence is a cornerstone in our democratic society which must never be overlooked.
>
> The Minister is confident that the multi-disciplinary task force is carrying out a most thorough investigation into every allegation made.
>
> Both the Minister of Emergency Services and the Commissioner of Police are mindful of their responsibilities in this sensitive matter and therefore will not disclose the number of police officers under investigation at this time.
>
> The Minister advises that he will be making a full statement about this matter at an appropriate time.

REPLIES TO QUESTIONS

ENTERTAINMENT CENTRE

In reply to **Hon. R.J. RITSON** (15 August).

The Hon. C.J. SUMNER: I seek leave to have the reply inserted in *Hansard.*

Leave granted.

The Premier has provided the following response to the honourable member's question:

Inquiries were made by the Adelaide Entertainment Centre to ascertain whether Her Excellency the Governor would be able to accept an invitation to the opening night performance of the Adelaide Entertainment Centre. Advice was received from Her Excellency's office that the Governor would not be in Adelaide on that occasion.

TAFE TAKEOVER

In reply to **Hon. R.I. LUCAS** (30 October).

The Hon. ANNE LEVY: I seek leave to have the reply inserted in *Hansard.*

Leave granted.

My colleague, the Minister of Employment and Further Education, has provided the following response:

1. The State Government has not indicated to the Federal Government any conditions under which it would accept a Federal takeover. On the contrary, it has been argued that Commonwealth financial support could be channelled to the States through any one of a range of options but that the preferred option is an appropriate adjustment to general financial assistance grants.

2. At present the only framework of agreed national standards under consideration is one on accreditation of courses. This is a genuinely national initiative agreed by all States and is acceptable. A national working party on TAFE goals and objectives has also been working in the context of present arrangements for Commonwealth financial assistance for TAFE. Naturally, there would be no objection to the inclusion of mutually agreed objectives in the present form of negotiated agreements. However, any agreement which sought to over-ride the State's responsibility to provide training opportunities relevant to the State's needs and the advice of South Australian industry would not be acceptable.

3. To date (13 November 1991), the Commonwealth has not formally proposed any level of increased funding for TAFE. However, in preparing an analysis of the Finn Report on behalf of Ministers of Education and of Employment, Vocational Education and Training, State officers have quantified 1992 funding needs to overcome unmet demand in that year. Such additional funding would have to come from the Commonwealth and would need to be substantial. While such further funding for TAFE is clearly highly desirable, it would be counterproductive if funds were withdrawn from other training programs or from assistance to schools and universities.

4. TAFE systems are always likely to experience a degree of unmet demand in that not all intending students can always be accommodated with the course, subject, location and time which suits them. In other cases, it is not desirable to produce an oversupply of trained personnel in certain industries, such as real estate. In South Australia the Government has managed to maximise real growth in expenditure on TAFE colleges despite sharp reductions in State revenue from the Commonwealth.

The Department of Employment and TAFE would be able to move more rapidly towards ensuring that a course place is available to all qualified applicants with only a relatively modest rise in Commonwealth funding, which currently provides only 9 per cent of course places. It is hoped that the Commonwealth will recognise that the national economic importance of supporting TAFE at an adequate level is of greater significance than its desire to control State TAFE systems.

CORPORATIONS (SOUTH AUSTRALIA) (MISCELLANEOUS) AMENDMENT BILL

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Corporations (South Australia) Act 1990; to repeal the National Companies and Securities Commission (State Provisions) Act 1981; and for other purposes. Read a first time.

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

That this Bill be now read a second time.

Object of the Bill

1. The purpose of the amendments to the Corporations (South Australia) Act 1990 by this Bill is to ensure that the various amendments to the Corporations Law and other ancillary legislation as contained in the Corporations Legislation Amendment Act 1991 of the Commonwealth can apply as law in South Australia.

2. The Bill forms part of a legislative scheme that involves the enactment of similar Bills in other States and the Northern Territory.

The Background

3. The Corporations (South Australia) Act 1990 ('the Act') was introduced into Parliament on 20 November 1990. As was indicated on that date, the Act is the result of an agreement reached at a meeting of Ministers at Alice Springs on 29 July 1990. Similar application legislation was enacted in the other States and in the Northern Territory.

4. The purpose of the Act was to apply the Corporations Law and the Australian Securities Commission Law ('the ASC Law') as the law of South Australia in such a way that ensures that any further amendments to the Corporations Law or the ASC Law would automatically apply in South Australia.

5. However, a few of the recent amendments to the Corporations Law and the ASC Law as contained in the Corporations Legislation Amendment Act 1991 of the Commonwealth cannot apply in South Australia without the amendments as contained in this Bill. Similar Bills have either been enacted by or introduced into the Parliaments of the other States and the Northern Territory.

The Result to be Achieved

6. The major amendments contained in the Corporations Legislation Amendment Act 1991 relate to:

- the winding up of the National Companies and Securities Commission;
- new consolidation of accounts provisions in respect of entities controlled by companies;
- reform of insider trading;
- conferment on the Family Court of Australia and the Family Court of Western Australia of jurisdiction in relation to civil matters arising under the Corporations Law and which these courts had prior to 1 January 1991 under the Co-operative Scheme;
- providing the Australian Securities Commission with a capacity to regulate compliance with trust deeds;
- requiring retiring directors to notify a changeover in ownership of a company; and
- provision of a statutory moratorium until 31 December 1991 in respect of a company's obligation to place its Australian Company Number ('ACN') or Australian Registrable Body Number ('ARBN') on its business documents and negotiable instruments.

The remaining provisions of this Act are concerned with various technical and clarifying amendments and drafting corrections to the Corporations Act 1989, the Corporations Law and the ASC Act.

7. The provisions of the Bill will involve an amendment to be made to the Corporations (South Australia) Act 1990 to extend the definition of 'Commonwealth administrative laws' to include the provisions of the regulations under the Acts presently encompassed in this definition. This is as a result of the inclusion of a similar amendment by the Corporations Legislation Amendment Act 1991.

8. The Bill will also reflect the amendments contained in the Corporations Legislation Amendment Act 1991 to restore to the Family Court of Australia and the Family Court of Western Australia the jurisdiction those courts had in companies and securities matters prior to the commencement of the Corporations Law. The Corporations Law had taken companies and securities matters from the Family Court's jurisdiction by excluding the general cross-vesting legislation and substituting a special regime for cross-vesting which did not include the Family Court. This situation will be reversed by the amendments and, although the Family Court will not have full and direct coordinate jurisdiction enjoyed by the State Supreme Courts and the Federal Court, it will be able to deal with Corporations Law matters when they arise in an ancillary way in relation to family law proceedings.

9. The Bill will reflect the Commonwealth's amendment to subsection 88 (1A) of the ASC Act. This amendment will widen the scope of the provision to include all national scheme laws of the particular jurisdiction rather than only the ASC Law. Further it will recognise, for the purposes of the national scheme law of one jurisdiction, that an offence under the Crimes Act as it applies in relation to an examination or hearing under the ASC Law of another jurisdiction is taken to be an offence under the ASC Law of that other jurisdiction.

10. The Bill contains a provision to amend section 91, so as to bring this provision in line with equivalent provisions of the application laws of other States and the Northern Territory. At present, section 91 of the Act does not give the Commonwealth Director of Public Prosecutions ('the DPP') the same enforcement powers in relation to the Co-operative Scheme Laws as the Crown Prosecutor for South Australia. This needs to be addressed so as to enable the DPP to have the powers of enforcement in relation to the Co-operative Scheme Laws.

11. The provisions of the Bill will also repeal the National Companies and Securities Commission (State Provisions) Act 1981 and require the Attorney-General of the day to lay before each House of the South Australian Parliament the following reports prepared by the Australian Securities Commission ('the ACM') and submitted to the Attorney-General:

(i) a report on the operations of the National Companies and Securities Commission ('NCSC') and the financial statements of the NCSC prepared by the ASC in accordance with subsections 15 (1), (7) or (8) of the Corporations Legislation Amendment Act 1991 of the Commonwealth; and

(ii) a copy of the report of the Auditor-General for the Commonwealth on those financial statements, within 15 sitting days of that House after its receipt by the Attorney-General.

12. The Australian Securities Commission has assumed the roles and functions of the NCSC and as the NCSC no longer has any operative role, the provisions of Part 6 of the Corporations Legislation Amendment Act 1991 abolish the NCSC by repealing the National Companies and Securities Commission Act 1979. Accordingly, the National Companies and Securities Commission (State Provisions) Act 1981 is no longer required and will need to be repealed. I seek leave to have the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal.

Clause 2 provides for commencement of the proposed Act. Some amendments of a technical nature are taken to have commenced on 1 January 1991. The transitional provisions relating to the reports and financial statements of the National Companies and Securities Commission are to commence on assent. The remaining provisions are to commence on a proclaimed day or days.

Clause 3 is a formal provision defining the expression 'principal Act' for the purposes of the Bill.

Part 2 of the Bill deals with amendments of the Corporations (South Australia) Act 199O.

Clause 4 amends the definition of 'Commonwealth administrative laws' to include the regulations made under the relevant Commonwealth Acts. This amendment is made for the avoidance of doubt and is intended to make explicit what was intended to be implicit in the operation of the present provisions. This amendment is consistent with the amendment made to section 4 of the Corporations Act by Schedule 1 to the Commonwealth Bill.

Clause 5 inserts definitions of 'Family Court' and 'State Family Court', which correspond to the definitions inserted into section 50 of the Corporations Act by Schedule 1 to the Commonwealth Bill. The clause also inserts a definition of 'Federal Court'.

Clause 6 amends section 30 to make it clear that the Commonwealth laws applying as laws of the State to offences against the applicable provisions of another jurisdiction apply as if they were not laws of that jurisdiction. This will bring section 30 into line with section 29, and complements amendments to section 42 of the Corporations Act made by Schedule 1 to the Commonwealth Bill.

Clause 7 amends the definition of 'Corporations Law of South Australia' in section 41 to include rules of court made by the Family Courts. This is consequential on the conferral of cross-vested jurisdiction on the Family Courts, and corresponds to an amendment to section 50 of the Corporations Act made by Schedule 1 to the Commonwealth Bill.

Clause 8 amends section 42 to omit words that become redundant as a consequence of the new definition of 'Federal Court'.

Clause 9 confers jurisdiction on the Family Court of Australia with respect to civil matters arising under the Corporations Law of this jurisdiction. Jurisdiction is also conferred on State Family Courts with respect to those matters. The conferral of this jurisdiction on a State Family Court is limited to the extent that a court of a State does not have jurisdiction to grant an injunction, a prerogative writ or a declaratory order in relation to certain decisions of an administrative character, in accordance with section 9 of the Administrative Decisions (Judicial Review) Act 1977. The clause corresponds to section 51A of the Corporations Act, as inserted by Schedule 1 to the Commonwealth Bill.

Clause 10 repeals section 43 and inserts a new section that takes account of the inclusion of the Family Courts in the scheme. The section ensures that, despite the cross-vesting of jurisdiction, the normal hierarchy of appeals is to apply. The section corresponds to the new section 52 inserted in the Corporations Act by Schedule 1 to the Commonwealth Bill.

Clauses 11 and 12 omit three subsections of section 44 and replace them with new sections 44B, 44C and 44D, which apply for the purposes of transfer of proceedings under section 44 and proposed section 44A.

Clause 13 also inserts section 44A which establishes a regime for the transfer of proceedings in respect of civil matters arising under the Corporations Law instituted in a Family Court. It differs from the regime in section 44 that applies in relation to such proceedings instituted in other superior courts. The section 44A regime is similar to the provisions for the transfer of proceedings under the general cross-vesting arrangements established by the Jurisdiction of Courts (Cross-vesting) legislation. The provisions ensure that proceedings begun inappropriately in a Family Court, or related proceedings begun in separate courts, will be transferred to an appropriate court. The amendment made to section 44 corresponds to the amendment made to section 53 of the Corporations Act by Schedule 1 to the Commonwealth Bill. The new sections 44A-44D correspond to sections 53A-53D of the Corporations Act as inserted by that Schedule.

Clauses 14 and 15 amend sections 45 and 50 in consequence of the inclusion of the Family Courts in the civil cross-vesting arrangements. These amendments correspond to the amendments to sections 54 and 59 of the Corporations Act by Schedule 1 to the Commonwealth Bill.

Clause 16 inserts a new section 52A relating to the rules of court that a Family Court should apply with respect to matters arising under the Corporations Law of this jurisdiction. The section corresponds to subsections (2) to (4) of section 61A inserted in the Corporations Act by Schedule 1 to the Commonwealth Bill.

Clause 17 replaces section 74 (3). The new subsection widens the scope of the provisions to include all national scheme laws of the particular jurisdiction rather than only the ASC Law, and recognises for the purposes of the national scheme law of one jurisdiction that an offence under the Crimes Act 1914 of the Commonwealth as it applies in relation to an examination or hearing under the ASC Law of another jurisdiction is taken to be an offence under the ASC Law of that other jurisdiction. The purpose of the provision is to ensure that offences under Part III of the Crimes Act 1914 of the Commonwealth are 'cross-federalised' for the purposes of enforcement of the ASC Law. The subsection corresponds to section 88 (1A) of the Australian Securities Commission Act 1989 of the Commonwealth, as amended by Schedule 7 to the Commonwealth Bill.

Clause 18 replaces the definition of 'instrument' in section 90. The effect of the new definition is to exclude the national scheme laws and regulations of this jurisdiction from the expression, so that the provisions construing references to cooperative scheme laws, etc., will not apply to them. It is assumed that if a national scheme law refers to a cooperative scheme law it does so deliberately and the reference is not meant to be updated. The new definition corresponds to the definition inserted in section 80 of the Corporations Act by Schedule 1 to the Commonwealth Bill.

Part 3 of the Bill relates to the abolition of the National Companies and Securities Commission.

Clause 19 repeals the National Companies and Securities Commission (State Provisions) Act 1981. This complements the repeal of the National Companies and Securities Commission Act 1979 of the Commonwealth by section 14 of the Commonwealth Bill.

Clause 20 requires the Minister to table in Parliament a copy of each report of the operations of the NCSC and the financial statements of the NCSC prepared by the ASC under section 15 of the Commonwealth Bill, together with a copy of the report of the Auditor-General of the Commonwealth on those financial statements.

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

PERSONAL EXPLANATION: MEMBER'S REMARKS

The Hon. R.J. RITSON: I seek leave to make a brief personal explanation.

Leave granted.

The Hon. R.J. RITSON: Yesterday during the debate on Mr Elliott's motion for a licensing board in relation to pathology, I may have seemed to be a little critical of Mr Elliott. In the first minute or so of my remarks an interjection came from the Hon. Ms Levy. What she actually said in relation to the practice of bringing unresearched material into the Chamber was that the Hon. Diana Laidlaw does it all the time. It is difficult when one is speaking to catch interjections precisely. I actually thought that Ms Levy was referring to Mr Elliott and saying that he does it all the time.

In response to that interjection, and in partial defence of Mr Elliott, who does not in fact do it all the time—after all, he is not totally damnable; he has good points as well—I made the remarks that I did, and I wanted to keep my criticism concentrated on the issue at hand. However, when I looked at the *Hansard* pulls, what was intended as a partial defence of Mr Elliott in fact reads as though I have damned with faint praise the Hon. Diana Laidlaw. I wish to make it clear how the remark resulted from a mishearing of an interjection, and that I have the utmost confidence and respect for Ms Laidlaw. She is my colleague and I would never place a critical remark like that on the record.

SOUTH AUSTRALIAN LOCAL GOVERNMENT GRANTS COMMISSION BILL

The Hon. ANNE LEVY (Minister for Local Government Relations) obtained leave and introduced a Bill for an Act to provide for the continued existence of the South Australian Local Government Grants Commission; to provide for the exercise and performance by it of its powers and functions; to repeal the South Australian Local Government Grants Commission Act, 1976; and for other purposes. Read a first time.

The Hon. ANNE LEVY: I move:

That this Bill be now read a second time.

It relates to the South Australian Local Government Grants Commission and has the following main objectives:

(*a*) to repeal the South Australian Local Government Grants Commission Act 1976;

(*b*) to provide for the continuation of the Local Government Grants Commission and the exercise by it of its powers and functions;

(*c*) to reflect the provisions of the Commonwealth Local Government (Financial Assistance) Act 1986 as amended relating to the distribution of Commonwealth financial assistance grants to local government; and

(*d*) to reflect the agreement reached between the State and the Local Government Association of South Australia about the Grants Commission in respect of membership and referral to the commission of matters relating to local government finance.

The Bill also provides for other minor changes to administrative arrangements for the Grants Commission account and provides for the indemnity of commission members. Cabinet approval to amend the South Australian Local Government Grants Commission Act 1976 was obtained in September 1991. During the drafting process, on the advice of Parliamentary Counsel, a request was made for the prep-

aration of a Bill for a new Act due to the number and scope of amendments required.

The Bill provides for the continuation of the Grants Commission as an independent statutory body whose primary function is to make recommendations to the appropriate Minister on allocations of Commonwealth financial assistance grants to local governing authorities. The commission continues to have the power to do all things necessary or expedient for the performance of its functions, including making such inquiries and investigations as it sees fit, and in so doing will continue to have the powers of a commission as defined in the Royal Commissions Act 1917.

The third objective of the Bill is to provide for consistency between the Commonwealth Local Government (Financial Assistance) Act 1986 and the State Grants Commission Act in the method and principles used for the distribution of grants. The Commonwealth Act was proclaimed in 1986 and provided for the formulation of new distribution principles by each State, to be approved by 1 July 1987 and in place for the 1987-88 grant assessments. The Bill replaces references to distribution methods that became obsolete following the introduction of these new principles with a more general provision that recommendations of the commission must accord with the principles and comply with the Commonwealth Act. Finally, the Bill provides for changes to certain administrative arrangements in accordance with the agreement negotiated between State and local government about the Grants Commission, and signed in April 1991 by the Premier and the LGA President.

In the area of commission membership, one member will be nominated by the LGA, one by the Minister, and the Chairperson will be agreed between the two parties. This replaces the current provision that all three members are nominated by the Minister, one after consultation with the LGA. Existing members of the commission will continue to hold office for the balance of their respective terms under a transitional provision. The Bill also provides for the referral to the Grants Commission by the Minister of other matters relating to local government finance on either his or her own initiative, or at the request of the Local Government Association. These arrangements are consistent with the spirit of the new relationship between the two spheres of Government in this State. I seek leave to have the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal.

Clause 2 provides for the commencement of the measure.

Clause 3 repeals the current Act.

Clause 4 sets out various definitions required for the purposes of the Act. Specific reference is made to the definition of 'Commonwealth funds', being any amount received under the Local Government (Financial Assistance) Act 1986 of the Commonwealth in respect of allocations approved under this Act.

Clause 5 provides for the continued existence of the South Australian Local Government Grants Commission Account. The account will include income and accretions from the investment of money from the account. The account will be applied towards payments to councils under the Act, and administrative and other expenses related to the administration of the Act.

Clause 6 requires the Minister to publish on an annual basis, by notice in the *Gazette*, the total amount that will be available from the account for payment of grants under the Act.

Clause 7 provides for the payment of Commonwealth funds.

Clause 8 provides for the continued existence of the South Australian Local Government Grants Commission.

Clause 9 sets out the conditions of membership of the commission.

Clause 10 provides for the determination of remuneration and expenses.

Clause 11 sets out the procedures of the commission.

Clause 12 provides for the validity of acts of members of the commission and the immunity of members.

Clause 13 makes it an offence for a member of the commission to use confidential information gained by virtue of official duties for the purpose of obtaining any private benefit.

Clause 14 provides for the staff of the commission and the use of facilities.

Clause 15 sets out the functions of the commission. The principal function will be to make recommendations to the Minister as to the amounts that should be paid to councils by way of grants under the Act.

Clause 16 empowers the commission to hold inquiries and carry out investigations. The commission will continue to be able to exercise the powers of a commission under the Royal Commissions Act 1917.

Clause 17 requires the commission to take into account certain principles when formulating a recommendation to the Minister as to the amounts that should be paid as grants under the Act.

Clause 18 sets out a procedure for the consideration of recommendations of the commission by the Minister.

Clause 19 relates to the supply of information by councils to the commission.

Clause 20 allows the Minister to refer matters relating to local government finance to the commission for inquiry and report.

Clause 21 relates to the provision of an annual report.

Clause 22 provides for the provision of certain information to the Treasurer of the Commonwealth, as required under the Commonwealth Act.

Clause 23 provides for the making of regulations.

Clause 24 is a transitional provision that will allow the present members of the commission to hold office for the balance of their respective terms.

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

PRIVACY BILL

Second reading.

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

That this Bill be now read a second time.

It seeks to give effect to what this Government regards as a significant and highly desirable reform.

Background

This Bill originally arose as a private member's Bill on motion of the Member for Hartley, Mr Terry Groom. The Bill is based on legislation which was first proposed in 1973-74 but was unsuccessful at that time. This Bill is similar to the earlier Bill insofar as it creates a right of privacy and specifies the circumstances in which that right is infringed. The 1974 Bill foundered because it did not detail necessary exemptions for certain bodies. Under the current Bill, clear exemptions are provided for members of the Police Force

and any other person vested by statute with powers of investigation or inquiry. The Bill also clearly exempts action taken to detect insurance fraud and reasonable enquiries into the creditworthiness of a customer. The Police Force, financial institutions and credit providers should not be required to rely on defences and, accordingly, have been made exempt from the provisions of the Bill.

In November 1990 the Bill was referred to a select committee of the House of Assembly ('the committee') for consideration. The terms of reference of the Committee were as follows:

That a select committee be established to consider deficiencies or otherwise in the laws relating to privacy and in particular—

(a) to consider the terms of a draft Bill prepared by the Parliamentary Counsel on the instructions of the member for Hartley entitled 'an Act to create a right of privacy and to provide a right of action for an infringement of that right; and for other purposes';

(b) to examine and make recommendations about specific areas where citizens need protection against invasions of privacy;

and

(c) to propose practical means of providing protection against invasions of privacy.

The committee took oral and written submissions from interested parties in the course of its deliberations. Although mindful of the views of some organisations that the Bill may impose restrictions on the exchange of information for commercial purposes, the committee considered that the Bill should be adopted, with modifications. I should say that that was the unanimous view of the committee. The recommendations of the committee are as follows:

1. that a general right of privacy and a right of action for an infringement of that right be created;

2. that the draft Privacy Bill 1990 be adopted in a modified form;

3. that 'person' should be clearly defined to include bodies corporate;

4. that the proper detection and prevention of insurance fraud should not be impeded by the draft Bill and that an exemption for the insurance industry, such as that provided for police, bodies with certain statutory powers, financial institutions and credit providers, should be included in the draft Bill;

5. that a person who engages an agent should be vicariously liable for the authorised acts of that agent in the event that an action for invasion of privacy is proceeded with under the draft Bill;

6. that the exemption provided to police, bodies with certain statutory powers, financial institutions and credit providers acting in the ordinary course of business be widened to provide similar recognition to credit reporting agencies.

7. that privacy standards, similar to the Australian Journalists' Association's code of ethics, be incorporated into regulations to assist in determining whether a breach of privacy has occurred in matters involving both the electronic and print media;

8. that private nuisance should be included in the general concept of invasion of privacy;

9. that all courts should be vested with the power to grant injunctive relief in cases of private nuisance;

10. that an exemption should be included in the draft Bill in respect of sections 10 and 11 of the Noise Control Act 1976;

11. that the draft Bill should be limited to intrusions of privacy as defined in the draft Bill but that in the future it may be appropriate to broaden the legislation;

12. that the Privacy Committee of South Australia continue to operate and help individuals who claim that Government agencies have violated their privacy;

13. that the draft Bill should provide for regulations that would detail standards for the appropriate handling and storage of information;

14. that the defence of public interest in the draft Bill be amended to require a court to have regard to the views of relevant bodies, that is, the Privacy Commissioner and policy statements of the Minister, in making an assessment of what the public interest requires in the circumstances of the case;

15. that the definition section in the draft Bill be extended to define invasion of privacy by electronic data processing and information technology;

16. that the matters raised by the Disability Complaints Service be referred to a joint meeting of Commonwealth and State Ministers to arrive at a set of standards to ensure the protection of aged, infirm or disabled individuals and that if this resolution is not forthcoming further consideration be given to amending the draft Bill.

The Bill

The Bill was duly amended in accordance with the recommendations of the Committee.

Since the report of the committee, a number of individuals and organisations have made comments concerning the Bill, including representatives of various media organisations. While continuing to support the principle of a right of privacy, the Government made it clear at all times that constructive comment about the Bill was welcomed. However, many of the fears expressed, particularly by the media, were grossly exaggerated and often founded on misconceptions and misunderstandings about how the Bill would work. Some of these misconceptions and misunderstandings need to be examined, and shown to be incorrect, so that members of the community are accurately informed as to the intent and purpose of the Bill.

First, the media claimed that the Bill would stifle legitimate investigative journalism and that the public would not have been informed about bodies like the State Bank, SGIC and Beneficial Finance. This assertion was continuously made through the media despite the committee report, which specifically recognised the role of investigative journalism and affirmed that the legitimate activity of journalists should not be affected by it. Further, under the unamended Bill, a defence of public interest was provided to avoid the suppression of such investigation.

Other incorrect assertions about the Bill have included claims that it will encourage litigation in a wide variety of circumstances, will have a chilling effect on the media as a result of self-censorship and is an attempt to gag the media and impede freedom of speech. I should say that I do not believe this legislation will give rise to a flood of claims, nor has it ever attempted to override the importance of free speech and a free press in a democratic society. On the contrary, the Government believes the maintenance of a free press is essential. However, it also recognises that this freedom must be balanced by the right of an individual to have his or her privacy protected.

Despite the fact that the Bill was amended to remove a corporation's right to privacy, it has been continuously asserted that large corporations would be able to prevent information about their activities being made public on the ground that it is a breach of privacy. I repeat that a corporation can infringe an individual's right of privacy but

cannot bring an action for infringement. The Bill has been amended a second time to make this point quite clear. However, the Government did say that it welcomes constructive criticism about the Bill and it has carefully considered all of the submissions which have been put before it. As a result, a number of amendments have been made to deal with many of the issues canvassed.

As previously stated, the Bill provides a right of action for infringement of a right of privacy. The Bill provides that a right of privacy is a tort actionable (without proof of special damage) by the person whose right is infringed. The main features of the amended Bill are as follows:

- the matter of public interest has been removed as a defence and made a part of the cause of action. This means that a complainant will have to show that the intrusion was not only substantial and unreasonable but also that it was not justified in the public interest. This will make it impossible for tricksters or criminals to gain an injunction and prevent the public becoming aware of their activities.
- exemptions are provided for members of the Police Force or any other person vested with powers of investigation or inquiry. Exemptions are also provided for insurance agencies in the detection of fraud and commercial organisations carrying out reasonable enquiries into the creditworthiness of a customer and in passing that information on to other commercial organisations. As a result of comment received, a number of other exemptions have been added. These concern action lawfully taken to recover a debt, matters relating to medical research and the making of any investigation, report, record or publication, in accordance with a requirement imposed or authorised by statute.
- the right of privacy created by the Bill does not extend to a body corporate.
- an action for infringement of a right of privacy must be commenced within two years from the date on which the infringement occurred.
- it is a defence to an action for infringement of a right of privacy to prove that the infringement was necessary for or reasonably incidental to the protection of the lawful interests of the defendant or the conduct of actual, contemplated or apprehended litigation. An important amendment has been made to this clause so that a media organisation or a person who acted on behalf of a medial organisation has a defence if their acts have been in accordance with reasonable codes, standards or guidelines prepared or adopted by the AJA or the Australian Press Council. This means that the media has nothing to fear from this Bill if they act, as they should and say they do, in accordance with their own guidelines and standards.
- another important amendment to the Bill is the recognition of the importance in a democratic society of free inquiry and the free dissemination of information and opinions. There is also a recognition of the importance of the media in eliciting information and disseminating information and opinions and the importance of safeguarding the freedom of the media to continue to do so. These amendments work to provide a balance against the right of privacy granted to the individual.
- in determining the matter of public interest, the court may have regard to any material relevant to that issue published by responsible international organisations or Australian State or Federal authorities.
- the court may award damages for injury, loss, distress, annoyance or embarrasment arising from the infringement. The Bill has been amended to allow for injunctive relief but not against a media organisation, or an agent or employee of a media organisation. This latter amendment will further protect the right of freedom of speech and a free press.

In addition to covering personal and business affairs, the Bill covers actions for private nuisance at common law. The common law of private nuisance deals mainly with actions arising from the prevention of use and enjoyment of land. The Bill will grant individuals wider rights in this area.

Previously the Bill contained a clause which granted all courts the power to grant injunctions to prevent an invasion of privacy. This provision has been removed and included in the courts legislation which has recently been considered and passed in this place. Under this Bill and the new courts legislation an individual will be able to avoid the high cost of litigation and seek injunctive relief in the local courts. This provision has been particularly supported by the Legal Services Commission which sees many individuals with small neighbourhood disputes who have previously only had recourse to the Supreme Court, at great expense. Under these amendments, small claims dealing with private nuisance will be dealt with expeditiously and at minimal cost, utilising existing structures.

The Bill also provides a regulation-making power to lay down standards for the protection of privacy to be observed by organisations (in both the private and public sectors) that keep records of information relevant to the personal or business affairs of others. It should be emphasised that the Bill establishes a general right of privacy; it is not specifically about the media, nor is it confined to the media. Contrary to statements made, it does specifically cover public and private databanks. The committee took submissions from bodies about the vast number of files kept on individuals. It was quite clear that there was a vast potential for misuse and exchange between various bodies. This is not just a possibility. In New South Wales, the Independent Commission Against Corruption (ICAC) exposed 'the information exchange club'. The common interest of this club, which included State and Federal public servants, private agents, banks and solicitors, was trading in personal, confidential information provided in good faith by citizens in New South Wales. Currently, draft legislation is being prepared in New South Wales in relation to information protection.

The issue is also receiving attention in Europe and the United Kingdom at the present time. The European Commission has issued a proposal for a directive to be adopted by the Council of European Communities concerning individual protection in relation to processing of personal data. The directive provides for a prohibition on transborder data to States which cannot guarantee an appropriate level of data protection. The United Kingdom has also had the Data Protection Act which came into operation in 1984. I seek leave to have the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal.

Clause 2 is an interpretation provision:

'commercial organisation' is defined to mean a person or body of persons carrying on a profession, trade or business.

'media' is defined to mean the press, radio or television.

'media organisation' is defined to mean an organisation that publishes by means of the press, radio or television.

'Non-domestic premises' has the same meaning as in the Noise Control Act 1976.

'Records' is defined to include records in electronic form.

Clause 3 creates a right of privacy.

Subclause (1) provides that a person has a right of privacy.

Subclause (2) provides that a person infringes the right of privacy of another if (and only if)—

(a) that person, without the express or implied permission of the other person—

(i) intentionally intrudes on the other's personal or business affairs in any of the following ways:

- by keeping the other person under observation (either clandestinely or openly);
- by listening (either clandestinely or openly) to conversations to which the other person is a party;
- by intercepting communications to which the other person is a party;
- by recording acts, images or words of the other person;
- by examining or making copies of private correspondence or records, or confidential business correspondence or records, of the other person;
- by obtaining confidential information as to the other person's personal or business affairs;
- by keeping records of the other person's personal or business affairs;
- by publishing information about the other person's personal or business affairs;
- by publishing visual images of the other person;
- by publishing words spoken by or sounds produced by the other person;
- by publishing private correspondence to which the other person is a party, or extracts from such correspondence;

(ii) the intrusion is, in the circumstances of the case, substantial and unreasonable;

and

(iii) the intrusion is not justified in the public interest;

or

(b) that person harasses the other person, or interferes to a substantial and unreasonable extent in the personal or business affairs, or with the property, of the other person so as to cause distress, annoyance or embarrassment and the harassment or interference is not justified in the public interest.

Subclause (3) provides that if a person intrudes on another's personal or business affairs in a manner described in subclause (2) *(a)*, and the circumstances are such that it would be reasonable to suppose that the other permitted the intrusion, the permission will be presumed.

Subclause (4) provides that a right of privacy is not infringed—

- by anything done by a member of the police force in the course of his or her duties or by any other person vested by statute with powers of investigation or inquiry in the course of exercising those powers;
- by anything reasonably done by an insurer or other commercial organisation, or a person acting on behalf of an insurer or other commercial organisation, for the detection of fraud;
- by a commercial organisation or a person (including a credit reporting agency) acting on behalf of a commercial organisation in carrying out reasonable inquiries into the creditworthiness of a customer or potential customer or in passing on information relevant to that subject, on request, to other commercial organisations;
- by any action lawfully taken for the recovery of a debt;
- by anything done in the course of medical research approved by an institutional ethics committee in accordance with guidelines for the protection of privacy in the conduct of medical research approved under the Privacy Act 1988 of the Commonwealth;

or

- by the making of any investigation, report, record or publication in accordance with a requirement imposed or authorisation conferred by or under statute.

Subclause (5) provides that the right of privacy created by the measure can be infringed either by a natural person or a body corporate.

Subclause (6) provides that the right of privacy created by the measure does not extend to a body corporate.

Clause 4 makes an infringement of a right of privacy an actionable tort.

Subclause (1) provides that the infringement of a right of privacy is a tort actionable (without proof of special damage) by the person whose right is infringed.

Subclause (2) requires an action for infringement of a right of privacy to be commenced within two years from the date on which the infringement occurred.

Subclause (3) makes it a defence to an action for infringement of a right of privacy to prove—

- that the infringement was necessary for, or reasonably incidental to—

  (i) the protection of the lawful interests of the defendant or a person on whose behalf the defendant was acting;

  or

  (ii) the conduct of actual, contemplated or apprehended litigation;

- where the defendant is a media organisation or a person who acted on behalf of a media organisation—that the defendant acted in accordance with reasonable codes, standards or guidelines dealing with the protection of privacy prepared or adopted by the Australian Journalists' Association or the Australian Press Council;

or

- where the infringement arose from the publication of material—that the defendant could, if the action had been for defamation, have successfully raised a defence of absolute or qualified privilege.

Subclause (4) provides that in determining whether an infringement of a right of privacy was justified in the public interest, the court—

- must have due regard to the importance in a democratic society of free inquiry and the free dissemination of information and opinions and, if the defendant is a media organisation or a person who acted on behalf of a media organisation—

- the importance of the media in eliciting information and disseminating information and opinions;

  and
- the importance of safeguarding the freedom of the media to continue to do so;
- may have regard to any material relevant to that issue published by responsible international organisations or Australian State or federal authorities.

Subclause (5) empowers a court, in an action for infringement of a right of privacy—
- to award damages for injury, loss, distress, annoyance or embarrassment arising from the infringement;
- grant injunctive relief (but such relief may not be granted against a media organisation, or an agent or employee of a media organisation).

Subclause (6) requires a court, in determining the nature and extent of any remedy to be granted for an infringement of a right of privacy, to have regard to—
- the effect of likely effect of the infringement on the health, welfare and social, business or financial position of the plaintiff;
- the conduct of the plaintiff and the defendant both before and after the infringement, including any apology or offer of amends made by the defendant, or anything done by the defendant to mitigate the consequences of the infringement;

and
- any other relevant factor.

Clause 5 deals with the application of the measure.

Subclause (1) provides that the measure does not apply in relation to noise from non-domestic premises.

Subclause (2) provides that the measure binds the Crown.

Subclause (3) provides that the measure does not take away from any right of action or remedy existing under any other measure or law.

Clause 6 deals with privacy standards.

Subclause (1) empowers the Governor to make regulations laying down standards for the protection of privacy to be observed by organisations (in both the public and private sectors) that keep records of information relevant to the personal or business affairs of others.

Subclause (2) provides that breach of a standard laid down under subclause (1) is evidence, but not conclusive evidence, of the infringement of a right of privacy created by the measure.

Subclause (3) provides that a regulation under the clause cannot take effect unless it has been laid before both Houses of Parliament and—
- no motion for disallowance is moved within the time for such a motion;

or
- every motion for disallowance of the regulation has been defeated or withdrawn, or has lapsed.

The Hon. C.J. SUMNER: This matter has been in the public arena for almost 18 months. The Bill was introduced over 12 months ago in the House of Assembly and the select committee then heard evidence on the Bill.

Since August of this year, the report of the select committee has been tabled in the Parliament, and the matter has been the subject of significant debate. The revised Bill has been available since its introduction into the House of Assembly about two months ago.

The Government believes that there has been a significant amount of debate and discussion on this issue. It is not as though it is a new or unfamiliar issue to members. Accordingly, the Government would appreciate attention being given to this matter next week, and possibly in the following week, if necessary. If it is possible for there to be substantial debate early next week beginning on Tuesday, at least at the second reading stage, that would be appreciated by the Government.

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

POLLUTION OF WATERS BY OIL AND NOXIOUS SUBSTANCES (MISCELLANEOUS) AMENDMENT BILL

In Committee.

(Continued from 13 November. Page 1846.)

Clause 2—'Commencement.'

The Hon. C.J. SUMNER: We were going to take the opportunity on clause 2 to answer some questions raised in relation to this matter. If there were further questions on the Bill, we would attempt to answer them. Questions were raised by the Hon. Mr Elliott, some of which I think I dealt with yesterday, but I now have a more comprehensive reply. First, he asked what would be the South Australian response to a marine pollution incident?

South Australia has a State committee of the national plan comprising members from various Government agencies, industry, the Australian Maritime Safety Authority and the police. These members bring together various operational and technical expertise required to combat oil spills. The initial response to an oil spill in Port Lincoln, for example, would be by the local harbormaster who has oil spill equipment capable of dealing with small spills such as oil booms, skimmers, clean-up equipment, absorbent material and low toxicity dispersant. This officer would contact the State committee who would appoint an on-scene coordinator to take charge of the incident. Dependent on the size of the spill, assistance and equipment can be requested through the national plan and the oil industry plan. Both plans have large depots containing oil spill equipment and dispersant that is available within 24 hours. South Australia has administrative arrangements with the Australian Maritime Safety Authority to combine resources in combating any larger spill in State waters.

The second issue raised by the honourable member was the discharge of dirty bilge water or used engine oil. The reported practice of large ships visiting Port Lincoln discharging dirty engine oil or bilges into the sea is an illegal practice under the Act, and any reports are followed up with the view to possible prosecution if the offending vessel is located.

In relation to Government incentive for re-use of used oil, in South Australia reception facilities are available at tanker terminals in Port Adelaide and Port Stanvac to receive oil wastes from tankers. In smaller South Australian ports there are private firms with road tankers that can be utilised to pick up oil waste from vessels. In Port Lincoln there is a private contractor, 'F.M. Wastes', which collects used oil from vessels. Larger ships have holding tanks for the stowage of used or waste oil, and there is also the requirement to pump all bilge water through an oily/waste separator. Modern large cargo vessels are now constructed to return the oil separated from the bilges to the bunker tanks to be burnt as fuel.

Although I understand it is probably in relation to another clause, it may be convenient to respond to the questions asked by the Hon. Dr Pfitzner. First, the question was raised about section 24f, periodical survey of ships. Generally,

vessels calling at South Australian ports that require construction certificates and international oil pollution prevention certificates are engaged in interstate or international trade and therefore are surveyed by the Commonwealth or marine authorities of the country where the vessel is registered. Any South Australian vessel to which these provisions apply will require annual survey, the cost of which will be borne by the ship owner. These surveys can be carried out by departmental surveyors in conjuction with the survey of such vessels required under the Marine Act.

Some clarification of clause 21 was sought relating to inspection and inspectors. Clause 21 of the Bill amends section 33 of the Act by increasing penalties for persons convicted of offences for either hindering or obstructing inspectors or failing to answer lawful questions concerning pollution incidents. This clause amends section 33 of the principal Act which provides inspectors with the powers necessary to administer and enforce the Act. Inspectors have the power to go on board any vessel at any time for the purpose of ascertaining whether there has been a discharge into State waters in contravention of this Act. Inspectors include: *(a)* any person who is appointed in writing by the Minister; *(b)* a harbormaster; or *(c)* a member of the Police Force. Qualifications of inspectors therefore vary considerably between people with investigative and marine experience. Harbormasters and persons appointed in writing by the Minister will be provided with identity cards as authorised inspectors under the Act.

Clause passed.

Remaining clauses (3 to 25) and title passed.

Bill read a third time and passed.

ENVIRONMENT PROTECTION (SEA DUMPING) (COASTAL WATERS AND RADIOACTIVE MATERIAL) AMENDMENT BILL

In Committee.

Clause 1 passed.

Clause 2—'Commencement.'

The Hon. C.J. SUMNER: With the indulgence of the Committee, I will use this clause to respond to certain questions raised in the second reading debate. First, the Hon. Dr Pfitzner questioned the definition of radioactive material. The criterion of 35 becquerels per gram activity, used to define 'radioactive material' in this Bill, was the level agreed upon by the contracting parties to the London dumping convention. As the Commonwealth is a signatory to this convention, radioactive material is similarly defined in Commonwealth legislation. The contracting parties at the time of making the deliberation had access to expert technical advice. It should be noted at this time, however, that there is a moratorium by the contracting parties to the convention not to dump any radioactive material at sea.

The second issue raised by the honourable member was in relation to qualifications of inspectors. Inspectors are persons appointed by instrument in writing by the Minister and every member of the Police Force. Inspectors are yet to be appointed by the Minister but will be such persons that have expertise in maritime operations and technical expertise on the marine environment where an applicant may request a permit to dump wastes. Prior to any permit being issued the scientific resources of the appropriate Government agencies (that is, fisheries) will be used to ensure minimal marine environmental impact.

In relation to the question asked by the Hon. Mr Elliott about marine pollution owing to tailing dams at Port Pirie, land-sourced marine pollution is not provided for in this Bill but is covered by the Marine Environment Protection Act. With regard to radioactive wastes that may be washed or leached into the marine environment, such activity is controlled by the Radiation Protection and Control Act which is administered by the Health Commission. I trust that those responses to questions asked by members are adequate. If not, I will attempt to address them at the appropriate clauses.

The Hon. M.J. ELLIOTT: To take a little further the question about radioactive wastes, what is about to happen in Port Pirie in relation to SX Holdings? It has constructed ponds in an area that is subject to tidal inundation if it were not for the fact that embankments have been built. I imagine that technically those ponds fall within coastal areas. Whether or not any platform that carries pipes out into that area conforms with the definition of 'platform' in the Bill. I do not know. Does this provision pick it up incidentally?

The Hon. C.J. SUMNER: The advice we have received, and the advice that the officers have received from the Crown Solicitor, is that that situation does not come within the purview of the Act.

The Hon. BERNICE PFITZNER: I would like to clarify that 'radioactive material' is 35 becquerels. I understand it was agreed to as a result of expert advice, but I would like a little more background as to what criterion was used. Why is it not 15 or 50 becquerels? What criterion was used in coming to 35 becquerels?

The Hon. C.J. SUMNER: I am afraid it is not possible to answer that question, at least not by me or the officers who are here today. It is a scientific and/or health question which goes back to the London Dumping Convention. I am afraid that I am not aware, and neither are the officers as they are not scientists who are familiar with the history of that convention, why 35 becquerels was chosen as the appropriate level. However, it has been internationally accepted and adopted in Commonwealth legislation. Therefore, it is adopted in our State legislation so that there is a common standard.

As it is really a scientific or perhaps a health question, I will undertake to try to find out the basis of the 35 becquerels per gram and why it was arrived at. However, it is interesting to note that there is currently a total moratorium by the contracting parties to the London Dumping Convention not to dump any radioactive material at sea. So that perhaps may call into question the level that was established. We do not have the expertise here today to respond to the honourable member's question. I do not have it; I am just a simple lawyer. Captain Bergland says that he is a master mariner, and he does not know, either. All I can do is undertake to try to get the information for the honourable member, and I will ask the Minister responsible for this legislation to respond by letter.

Clause passed.

Remaining clauses (3 to 19) and title passed.

Bill read a third time and passed.

The Hon. K.T. GRIFFIN: Mr President, I draw your attention to the state of the Council.

A quorum having been formed:

GOODS SECURITIES (HIGHWAYS FUND) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 30 October Page 1523.)

The Hon. DIANA LAIDLAW: The Liberal Party supports this Bill. In 1986 the Act was established to set up a vehicles security register, which was to be and has been a public records system maintained by the Motor Registration Division. Credit providers place vehicles over which they have a financial interest in this register. It is also used by intending purchasers of vehicles to obtain information, in the form of a certificate, about the financial status of a vehicle. The register has been acclaimed by members of the finance and credit industry in this State and the Motor Trades Association, with which I have had contact in relation to this Bill.

It is something that they applaud because it has helped them maintain control in many senses by access to information on vehicles over which there are credit commitments. If a person suffers loss or damage as a result of an inaccurate certificate issued by the Registrar, that person has been entitled to apply to the Commercial Tribunal for an order for payment of compensation. The compensation fund maintained under the Goods Securities Act is self funding and comes from these payments by the credit providers and others seeking information on credit commitments in relation to these vehicles.

In his second reading explanation, the Minister noted that there have been no successful claims made against the Goods Securities Compensation Fund to date. As at 30 June 1990 a total of $723 000 was in this fund. I have not seen an annual report for the year ended 30 June 1991, but I am advised that nearly $1 million is in this fund. It is this sum of possibly $1 million that is the subject of such intense interest in relation to this Bill.

The Bill abolishes the Goods Securities Compensation Fund and transfers the current balance to the Highways Fund. I understand that, in other States where there are similar registers and compensation funds, those funds are maintained in Consolidated Revenue. There is not a separate fund as has applied so successfully in South Australia. The Government claims that there is no longer reason to maintain this separate fund on the basis that the Motor Registration Division no longer exists as such following the creation of the Department of Road Transport.

It is a valid argument to suggest that these funds should be used, particularly in these times of financial difficulty in this State, but probably at all times we should be ensuring that all funds generate the maximum return so there is a maximum benefit for the community. I have no difficulty with the Government's seeking to fully utilise these funds. If we were to get rid of this separate fund, there has been some debate whether it should go into Consolidated Revenue, as in other States, and be used for general purposes, or whether it should be directed to the Highways Fund.

The Government has opted for the Highways Fund, and the Liberal Party has decided that it is prepared to support that initiative. There is no doubt that the Highways Fund is in desperate need of additional resources for road construction and maintenance purposes in this State. I seek leave to have inserted in *Hansard* a table indicating fuel franchise receipts collected between 1982-83 and 1991-92, and showing the percentage of those receipts that has been directed towards the Highways Fund.

Leave granted.

Year	Fuel Franchise Receipts $m	Highways Dept. share of Fuel Franchise Receipts $m	%
1982-83	25.792	25.726	99.70
1983-84	38.569	25.726	66.70
1984-85	48.487	25.726	53.05
1985-86	46.448	25.726	53.38
1986-87	47.285	25.726	54.40
1987-88	67.470	25.726	38.10
1988-89	76.425	25.726	33.70
1989-90	77.881	25.726	33.00
1990-91	70.133	25.726	36.68
1991-92 (est.)	85.900	25.726	29.94

The Hon. DIANA LAIDLAW: It may seem odd to be addressing this subject of fuel franchise receipts in a debate like this, but it is important that members appreciate how this Government, by an act of deliberate policy, has restricted the flow of funds from fuel franchise receipts to the Highways Department during its nine years in office. In 1982-83, $25.7 million was collected in fuel franchise receipts, of which almost 100 per cent was directed to the Highways Fund. This financial year it is estimated that $85.9 million will be collected, but with only $25.72 million directed to the Highways Fund, representing only 29.9 per cent of fuel franchise receipts. So, by deliberate policy, the Government has cut back fuel franchise receipts to the Highways Fund, and it is not surprising that it is seeking measures such as this Bill to seek to prop up funds for road construction and maintenance purposes in this State.

That is one reason why the RAA supports this Bill. I have consulted with that association in this regard. I have also consulted with the Australian Finance Conference Credit Union Association of South Australia and the Motor Trades Association of South Australia. They do not have great difficulty with this Bill, other than the fact that they do not want to lose sight of the funds altogether. As I stated earlier, it is a fact that this is a self supporting fund. The credit providers in this State are very anxious to see improvements in services that they can provide in relation to not only motor vehicles but, hopefully, in time, a whole range of other matters such as mobile homes, boats, trailers and off road vehicles. They would like all those matters to be the subject of placement and identification on this register. Therefore, they want to ensure that the register can be upgraded, especially with computer facilities. They also want to make sure that they can participate in a national database which will be the subject of discussion in Perth next month following an assessment of this matter by Ernst and Young.

For its part, the Motor Trades Association is very concerned to see that sufficient funding is available to ensure that the register is open during extended shopping hours, and also that the database becomes an on-line facility. At the present time, if they seek information upon the sale or purchase of a vehicle, they use the telephone. Interstate, Motor Trades members have access to a computer terminal at their own premises and South Australian operators would like the same facility, and so they should. When they do, there will not be this dilemma of whether or not the register office should remain open or staffed at all the hours that correspond with extended trading hours in this State. It seems incredible to me that the Registrar recently sought advice from members of the Motor Trades Association to determine their preference as to whether or not the register stayed open on Thursday or Friday evenings, or Saturday afternoons.

It is my view that, as this is a self-funding register, essentially set up at the instigation of the industry itself, it should be open at all times that the motor trades are operating. So, there are a number of competing claims from the Australian Finance Conference, the Credit Union Association and the Motor Trades Association for improvements to facilities and services so that they in turn can improve

services to the public. They are very keen therefore that a proportion of this $1 million fund to which I have referred earlier is not lost within the Highways Fund, that it is readily identified in the annual reporting of this fund and that these associations have ready access to those funds, with the goodwill of the Government, to improve facilities and services.

The second reading speech of the Minister did not mention that, in amending the Bill, the Government is deleting the reference to section 17 relating to the annual report. The annual report for the year ended 1990 is a most informative document and it is one that has been appreciated by all who are associated with this register. There is no doubt that this service, including the access to the annual report, has ensured that South Australia has excelled in the operation of this fund compared with other States. Having had discussions with the Federal body of the Australian Finance Conference, I understand that it would be its wish that all other States come up to the standard that is currently established in South Australia. It is unlikely that that will ever be achieved; therefore, we must ensure that the fund in South Australia at least maintains some of the positive features that have been provided for over some years. One of them is the annual reporting provision.

I have an amendment on file to achieve such an objective. This same amendment was moved in the other place where, after some discussion between the mover (the member for Heysen) and the Minister, it did not pass, because it was believed that there was some technical hitch with it. There is no technical hitch with the amendment. It is a fact that the Executive Director of the Department of Road Transport is still formally (in terms of the Act) the Commissioner of Highways under the Highways Act 1926. The Government has had the Highways Act under review for some four years now. We still have not seen the final outcome of that review before this place and, until that time, the Commissioner of Highways is the normal title for the Executive Director of the Department of Road Transport.

Therefore, under that heading of Commissioner of Highways, the Liberal Party would be seeking to ensure that provision was made in the Commissioner's annual report to the Department of Road Transport for the separate identification of a number of financial provisions for the operation of this fund—for instance, the total of the amounts accredited; the total of the amounts paid out of the fund during the year for the payment of compensation payable; and the total of the amounts credited to the fund up to that current financial year, less various amounts paid out to meet the costs of administration and payments of compensation.

I understand that this amendment is acceptable to the Government and I shall move it during the Committee stage of this Bill. At that time, I will also ask a number of questions in relation to the further operation of this measure.

The Hon. K.T. GRIFFIN: I want to make a few observations on the Goods Securities Act and the Bill. As my colleague, the Hon. Diana Laidlaw, has said, the Act was enacted in 1986. Initially it was intended to deal only with motor vehicles, but there was provision for goods of other classes to be prescribed by regulation with the intention of making it available to record securities in relation to other goods and in particular those to which she has referred, particularly caravans and trailers. However, since 1986, there seems to have been stagnation in the development of the system and its extension, notwithstanding that in that period of time the Goods Securities Compensation Fund has grown to a very large amount.

I would have expected that, if the industry had been requesting an extension of the goods covered by the legislation, some of the moneys in the fund would have been used for that purpose but, whether or not the finance industry and the motor trade industry had been requesting it, I would have expected the Government to give some substance to its indication back in 1986 that there was the prospect for the extension of the operation of this legislation.

I suppose what the Bill means is that, with the moneys now being paid to the Highways Fund, not just the amount which has accumulated but future fees which are collected under the legislation, there will be less likelihood that the system will be expanded and further developed. Although, as my colleague the Hon. Diana Laidlaw has indicated, the finance industry in particular wants some upgrading of the system, I would suspect (although I hope I am wrong in my suspicion) that there will be no incentive for the Government to do that.

I also want to say that although these moneys are being transferred to the Highways Fund and the fees will be paid into that fund on a continuing basis, it is appropriate to have some annual report to Parliament on the way in which the funds have been expended. Certainly, with the variety of funds under the responsibility of the Minister of Consumer Affairs, I have always been anxious to obtain particulars about how the administration charges have been calculated. That anxiety has been reflected in questions by some of my colleagues in the House of Assembly during the budget Estimates Committees, because it is all very well for the Government to say that a certain percentage is administration costs; I think it is more important for some clear basis for the calculation of those costs to be given publicly so that we can be assured that the various funds are not just being milked to make up the budget deficit.

I suppose one could assert that, with the fund having grown to such an extent and no claims having been made successfully against it, perhaps it is an opportune time for the Government to look at the fees that are being charged for the services rendered in the administration of the Goods Securities Act. That, in itself, will also have an advantage for ordinary consumers who ultimately have to pay all the costs, whether they be registration fees, search fees, costs and charges of securities, or otherwise. So, I suggest that area needs to be focused upon.

The only other point I want to make is that I think some caution ought to be exercised in the way in which accumulated funds are handled. I do not raise any objection in the present instance. I understand that the Australian Finance Conference has raised no objection to the transfer, but I think we have to be cautious about the way in which other accumulated funds are treated. I refer to the Agents Indemnity Fund under the Land Agents, Brokers and Valuers Act. Hopefully, the day will come when fewer claims will result from the defalcation of brokers, the liabilities of whom are generally being met by the Agents Indemnity Fund. In those circumstances, the fund should increase. Rather than moneys being paid into general revenue, one must be cautious about appropriating funds for any purpose other than that directly related to the interests of consumers and of improving the educational standards of agents, brokers and valuers.

I suppose a similarity can be drawn with the Real Property Act where indefeasibility of title is assured by the legislation. I remember that for many years a fee of, I think, $1 per document was collected by the Lands Titles Office, and that went into a fund to meet any claims resulting from

a title being found to be incorrect. I think when I was Attorney-General we actually stopped the collection of that fee by legislation because the fund had accumulated and we did not believe it was appropriate to allow it to continue to accumulate for no good purpose.

Those sorts of examples ought to be noted by the Government. I do not believe that the way in which we treat the Goods Securities Compensation Fund as proposed by this legislation ought to be applied to other funds that have been accumulated under other specific legislation for purposes designed essentially to protect consumers. I support the second reading.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—'Commencement.'

The Hon. DIANA LAIDLAW: When is it proposed that this Bill will be proclaimed? During my second reading speech, I mentioned a most important meeting to be held in Perth next month comprising the Registrars of the States with representatives of the finance and credit industry from this State and nationally. They will discuss the establishment of a national system that will require considerable expenditure by this State to upgrade its register to a national database. Is it proposed that this Bill will be proclaimed immediately, or does the Minister intend to wait until after this important conference is held in December so that she can determine its outcome and any commitments that may be needed from the fund for this national database and national register of interests system?

The Hon. ANNE LEVY: I understand that this matter in no way depends on whether or not a national database is established. If that should occur, it can certainly be accommodated, but the existence of such a database is not related in any way to this matter. I understand also that there is no suggestion that the proclamation will be held up in any way. It is intended that the legislation come into operation as soon as possible, and that could well be before the conference to which the honourable member alludes.

The Hon. DIANA LAIDLAW: I appreciate that there is not a direct relationship between this Bill, the national database and the conference in Perth. I was anxious, particularly on behalf of credit providers in this State, to ensure that the money that they might need as an outcome of this conference in Perth was readily available, because some credit providers have suggested surprise to me that this Bill has been introduced at this time and have suggested that it is presumptuous, when such major changes are proposed in terms of the national database. I was anxious to ensure that this Act would not in any way compromise South Australia's full participation in that national database system, and that it would not in any way compromise the qualities of the equipment to which credit providers would wish to ensure they had access if the conference in Perth in December determined that the national system should proceed.

The Hon. ANNE LEVY: The Bill is merely changing the responsibility of the administration of the fund. There is no way in which it could compromise any national negotiations or agreements. There is no physical movement of people or machines; it is merely the administration of the fund that is being changed, and there is no compromise whatsoever to any negotiations which may be occurring.

Clause passed.

Clause 3—'Interpretation.'

The Hon. DIANA LAIDLAW: My question to the Minister in relation to this clause, which clarifies that these funds are to be redirected to the Highways Fund in future, is designed to ascertain the nature of discussions that led to this conclusion. As I indicated during my second reading speech, all other self-funding security registers in other States have funds in consolidated revenue. I understand that matter was considered by the Minister in another place in addressing this Bill. I know that a number of people believe that the Consolidated Fund is the most appropriate in this instance because, if the register is to be expanded for a variety of uses such as to cover credit provisions in terms of boats, mobile homes and the like, it is thought that none of those additional items has anything to do with the Department of Road Transport or the Highways Fund. Therefore, it may not be appropriate that the funds generated from an expanded register should go to the Highways Fund. I would like to know the background to this decision and, in particular, whether the transfer of these funds to consolidated revenue was ever considered and, if so, why it was dismissed.

The Hon. ANNE LEVY: As I understand it, there is a system whereby each agency is responsible for its own funds and, hence, consideration was not given to incorporating the fund into consolidated revenue. It was felt that it was better that it remain in a motor vehicle area, hence the suggestion in the Bill.

The Hon. DIANA LAIDLAW: Does the Minister's reply suggest that the Government has no intention of acting in what I understand is the interest of the creditor providers, namely, that this register be established to mobile homes, boats, trailers and the like? Is the Minister trying to suggest that there will be no such extension?

The Hon. ANNE LEVY: I understand that the system already covers any vehicles which were registered pursuant to the Motor Vehicles Act, which are now not registered, but which are registrable under that Act. Trailers are registrable items, so they are covered; four wheel drive vehicles are certainly registrable, and are also covered; mobile homes, if registered, would be covered but, if they are not registered and not registrable under the Motor Vehicles Act, it is considered that it would be better to extend the system relating to such goods and chattels through the Department of Public and Consumer Affairs rather than through the Motor Vehicles Act.

The Hon. DIANA LAIDLAW: There was a quiet interjection from the Hon. Ian Gilfillan. Perhaps I will voice it more loudly on his behalf. Does this mean that caravans are covered?

The Hon. ANNE LEVY: As I understand it, they are presently covered.

The Hon. DIANA LAIDLAW: The off-road vehicle is another item that has been suggested to me by the credit providers. In terms of what the Minister said, because such vehicles would not be registrable, could they not be accommodated by this register, and would the credit providers have to pursue that through the Department of Public and Consumer Affairs?

The Hon. ANNE LEVY: I understand that this is covered in clause 3, in which the term 'prescribed goods' is defined to mean a motor vehicle registered under the Motor Vehicles Act or a motor vehicle that has been so registered but is not currently registered under that Act or under the law of another State or Territory of the Commonwealth. It can also be extended by Part B of the definition 'goods of a class prescribed by regulation for the purposes of this definition'.

Clause passed.

Clause 4—'Application of fees and payment of compensation and administrative costs.'

The Hon. DIANA LAIDLAW: I move:

Page 1, after line 31—Insert subclause as follows—

(3) The Commissioner of Highways must include in each annual report under the Highways Act 1926 to the Minister responsible for the administration of that Act statements of—

(a) the total of the amounts credited to the Highways Fund pursuant to this Act during the financial year to which the report relates;

(b) the total of the amounts paid out of that fund during that year to meet the costs of administration of this Act;

(c) the total of the amounts paid out of that fund during that year for the payment of compensation payable under orders of the tribunal;

and

(d) the total of the amounts credited to that fund pursuant to this Act at any time up to the end of that year less the total of the amounts paid out of that fund at any time up to the end of that year to meet the costs of administration of this Act and for the payment of compensation payable under orders of the tribunal.

A similar amendment was moved in the other place, and at that time the Minister indicated that, while he may not have sought this form of accountability in the Act, he had been prepared to do so by administrative decision. He appreciated that the amendment had been moved with goodwill in an attempt to seek to accommodate the concerns of credit providers so that they knew, what amount was in the fund and what transactions were undertaken in that year, information contained in the notes to the financial statements of each annual report of the Department of Road Transport.

While I have not spoken directly with the Minister, I understand that this amendment is acceptable to the Government, as I hope it is to the Australian Democrats. It is an amendment that credit providers, the Australian Finance Conference, the Credit Union Association and the Motor Trades Association are anxious to see introduced, as this Bill repeals the annual reporting provisions in the Act, and the annual report has been a valuable source of information to the industry in the past. In that regard, when does the Minister expect the annual report for the year ended 30 June 1991 to be tabled? According to the Act, it has to be with the Minister by the end of October and tabled in both Houses 14 sitting days thereafter, although those 14 sitting days are not yet up.

The Hon. ANNE LEVY: I am not sure what stage the report has reached. I am given to understand that it has been presented, so its tabling in the Council should not be too far delayed. I will check with the Minister on that point, as my information may not be 100 per cent accurate. With regard to the amendment, the Minister has indicated that it was always intended that there would be this separate accounting, and there was no question of its not being done. It had been thought that it was not necessary to enshrine this separate accounting in legislation, and we have no objection to that occurring. However, I would ask that the honourable member agree to amend her amendment by including the word 'financial' before the word 'year' in paragraphs *(b)*, *(c)* and *(d)*, so that there is no suggestion of a calendar year being involved.

The Hon. DIANA LAIDLAW: I think it is clear what is meant. Perhaps the Democrats can say whether or not they are happy to accept the amendment as it stands.

The Hon. I. GILFILLAN: Yes.

The Hon. ANNE LEVY: I have just received an indication that the Minister in the other place is not fussed about inserting the word 'financial', and therefore I am happy to accept the amendment.

Suggested amendment carried; clause as suggested to be amended passed.

Clause 5 and title passed.

Bill read a third time and passed.

WHEAT MARKETING (TRUST FUND) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 31 October. Page 1655.)

The Hon. PETER DUNN: This is a very short but important Bill, with a rather interesting history attached to it. The Bill has the effect of setting up a deed and trustees to administer a fund which now stands at $4 066 000. The fund was built up some years ago when it was decided within this State to raise the research levies so that more research into wheat breeding and plant pathology could take place, to increase our yields. It was seen that one or two varieties about 10 or 15 years ago were quite outstanding, and I refer to one such variety called halberd which was bred here in South Australia and which became universally accepted across Australia; it was a very good variety of wheat. Nobody could work out why it was such a good variety, but later research has determined that it was very tolerant to boron.

As a result, it was agreed about 10 years ago that research funds should be increased. So, a levy of about 10 cents per tonne, I think, was introduced, and the money collected was placed into a fund. Because the Australian Wheat Board was responsible for the levy, the fund was administered in Canberra and then returned to this State. The fund grew quite considerably and allowed research to be carried out at the Waite Research Centre. Subsequently, quite a deal of research has been done into plant root diseases, which have caused a great problem throughout southern Australia particularly because of the Mediterranean-type climate that we experience, with very distinct summers and winters. We were not experiencing wet summers which broke down the plant material and the spores in the soil that caused many of these plant diseases.

However, the levy of 10 cents per tonne was collected on both wheat and barley. The only way a grower could get out of paying it was if he wrote and stated that he did not wish to contribute. Everyone I knew contributed to it. The levy increased and it was put into this Wheat Research Trust Fund. When the Wheat Board lost some of its powers and the industry was freed up, the Commonwealth passed the Primary Industries and Energy Research Development Act, but no one knew what to do with this money, so they returned it to South Australia because it was collected here. It was put under the control of the Department of Agriculture until the passage of this Bill.

As I pointed out, the Bill comprises money from both the Wheat Board and the Barley Board, with fairly equal contributions. I do not know the exact amounts of money but, with a total of $4 066 000 in the fund, the interest alone would allow a reasonable amount of research without cutting into the capital base. I understand that the amount of 10 cents per tonne will still be taken from wheat and barley grown this year throughout the State. South Australia is currently having a very good year, so it is reasonable to assume that quite a considerable amount of money, esti-

mated at about $400 000, will be put into the fund, because the State will grow about 2.4 million tonnes of wheat. That is considerable, when it is remembered that Australia will grow only about 9 million tonnes of wheat, with Western Australia contributing about 4.2 million tonnes and South Australia about 2.4 million tonnes.

South Australia's Eyre Peninsula, which has been given such a hiding in recent years because of droughts and frosts, will grow probably about 12 per cent of Australia's wheat (or about 1.2 million tonnes). That will do great things for the economy of this State. Just for a change, it is great to see the rural economy pulling its weight and being able to contribute to the State coffers. When all the costs involved in an industry such as wheat growing are taken into account, it will give quite a fillip next year to our economy.

As a result of this, the wheat breeding program has increased in recent years. We have two components to it: the Gil Hollamby component (Mr Hollamby is a wheat breeder based at the Roseworthy Agricultural College), and the Tony Rathjen component (he is based at the Waite Research Centre). Both are brilliant wheat breeders—two of the leading wheat breeders in Australia. That can be demonstrated by the number of their wheat varieties now being grown interstate and particularly in South Australia.

There appears to be a rather large jump in the productivity of some of the new cross-bred varieties that have been developed. Only last week I was looking at a graph and some results, and I noticed that, of the varieties commonly used now, if the variety spear was used and it grew 100 bushels, there are now varieties being bred which grow 140 bushels—an increase of approximately 40 per cent. That is quite remarkable. If it can be developed in the long term, and if they are good baking wheats that are fairly saleable overseas, that will produce a good return on the money invested from the research levies imposed both by the Department of Agriculture and the United Farmers and Stockowners, which has been instrumental in obtaining some of this money.

The research funds come not only from that fund, but great contributions are also made by the State Government, the Federal Government, the CSIRO and other research areas such as plant pathology, root diseases and so on. This Bill really deals with just the allocation of the $4 066 000 that is now held by the Department of Agriculture. We hope that it can be used by having a group of three people from the United Farmers and Stockowners (I am not sure who the representatives will be) and one representative, Mr Rip Van Velsen, from the Department of Agriculture to administer this money correctly and properly.

Although this Bill is small, it is very important to this State because it can have some long term economic advantages. In the light of the debacles which have occurred in this city recently (it seems like a black hole: we tend to pour money into it but nothing comes out), it is rather nice to be able to say that there is a small pool of money that will help those people who bring in export dollars to the State. For all those reasons, I support the Bill.

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

STATE EMERGENCY SERVICE (IMMUNITY FOR MEMBERS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 12 November. Page 1736.)

The Hon. J.C. IRWIN: The Opposition supports the second reading of the Bill. It has been introduced to provide the State Emergency Service (SES) with sufficient authority when dealing with emergency situations and to provide accompanying immunity from civil and criminal liability in the exercise of its duties. The Bill also repeals section 18, now obsolete, in view of the replacement provisions relating to volunteer workers under the Workers Compensation and Rehabilitation Act 1986. Section 18 of the Act was suspended when the Act was proclaimed due to the proclamation of the Workers Compensation and Rehabilitation Act. State Emergency Service workers presently receive full WorkCover benefits by arrangement with the Government and this appears to be working well, even in the case of a paraplegic.

The Government is considering formalising this arrangement by making a regulation under section 103a of the Workers Compensation and Rehabilitation Act, declaring SES volunteers to be a prescribed class of volunteers performing work of a prescribed class that is of benefit to the State and therefore whose presumptive employee is the Crown. This has occurred in relation to Country Fire Service volunteers. Whatevever the arrangements are, I hope there is absolutely no question that volunteer SES members are well and truly covered for any insurance possibility.

I take this opportunity to make some general comments regarding the State Emergency Service which have come to my attention over the past few months and which will therefore be related to this Bill. I noted in the debate in the other place that four members, two of whom were Government members and two of whom were Opposition members, were voicing bipartisan support for the volunteers of the State Emergency Service, and I have no problem adding my voice to those of my colleagues on this side of the House in supporting the volunteers of the SES.

I am alarmed at times when I hear reports from around the State that there is some concern from SES volunteers that there is a conflict between them and some of the other emergency services, particularly the Country Fire Service and the Metropolitan Fire Service. Of course, the Metropolitan Fire Service is not now a voluntary service; I just make that distinction at this point, and do not seek to make any other point of it. That alarm is heightened when I find evidence of the other emergency services seeking to equip themselves with various items of expensive rescue equipment, such as the jaws of life.

I suppose it can be argued that we can never have too much rescue equipment, but when the various services are competing against each other in relatively small communities for funding resources, some commonsense must prevail. I believe it does prevail in most cases but I believe it is the responsibility of the Minister of Emergency Services to declare once and for all time that, where there is an active SES unit in metropolitan or rural South Australia, that unit or those units have absolute priority to deliver the emergency services for which they were set up.

It was only last Sunday that I found at Glenelg a Hills CFS unit selling tickets in a car lottery to raise funds for jaws of life equipment. I purchased tickets and applauded their dedication, but I must say that I have a big query about the crazy duplication this purchase will provide. These dedicated CFS people should confine their commendable efforts to raising funds for much needed CFS equipment and not seek to compete with the SES. Money for the CFS is tight enough now and will tighten in the future and, despite the oft-used phrase from CFS officials that the trading table days of the CFS are over, clearly they are not. There is evidence from all around the State that CFS vol-

unteers are still fundraising to provide much needed equipment for their units or their brigades. I have such a high regard for volunteers and their insatiable desire to give service that I would do nothing to stop them raising money, but I do plead with them to stick to the service to which they are dedicated.

The State Emergency Service currently may be conveniently divided into three groups. The first group comprises the officers and staff paid by the Federal and State Governments, and includes headquarters staff and staff employed in the ten divisions throughout the State. The second group are those volunteer members located in the country areas of South Australia, and the third and last group comprises the volunteer members of the ten metropolitan units.

Under the provisions of the State Disaster Act 1980 as amended by the Act of 1985 the service has quite clear responsibilities, being one of the functional services specified in the State Disaster Plan which has been prepared pursuant to that Act. In the event of a disaster being declared, the service would be the principle rescue service. As disaster relief proceeds that would be joined by other services, the main ones being the fire service, but under most foreseeable situations those services should be held back initially to ensure they are instantly available to combat any outbreaks of fire, only being released for rescue work as the danger of fire outbreak is seen to have passed. In addition, the service, with the police, has a responsibility for reconnaissance, that is, discovering what has happened, precisely, and reporting back on the effectiveness of the relief efforts. Finally, there is a substantial welfare requirement placed on the service.

It is at all other times—that is, other than during a state of declared disaster—that major problems are being experienced by the metropolitan volunteer members. Paid officers and staff have a clear on-going duty, in that they coordinate counter-disaster planning within police divisions, care for the Emergency Operations Centre, administer and support the volunteer units throughout the State, and train functional service members—particularly Government employees in their roles, in the event of a disaster being declared.

Some of us, perhaps all of us, become fairly complacent at times, because it is not very often that there is a major State-wide disaster. In fact, I do not remember any in my life-time. There have certainly been the Ash Wednesday bushfires, the earthquake back in 1954 and some other disasters that were regionalised. Perhaps that is all they will ever be but, because we do not see terrorist attacks or State disasters of floods and fires sweeping vast areas of the State very often, we tend to get complacent and ask what the SES is doing when it is just, in a sense, sitting around and waiting for these major disasters.

I put to the Council that they have a very strong role to play in preparation, because we cannot be complacent, for we never know what may happen just around the corner. Volunteer members of the service living in country towns also have a day-to-day role in many cases. They provide a vehicle accident rescue service to the local community, although quite often there is a local dispute as to who should undertake this role.

They provide cliff or cave rescue teams in those areas where this may be of concern, and they support the Police Department when a missing person search is necessary. In addition, they are involved actively in the local counter-disaster planning process for their area. Metropolitan volunteer members have no specific role in such normal times, and many years ago they perceived that they could assist the police more in cliff rescue work and with missing person searches. Numbers of these volunteers undertook quite intensive and expensive training in these subjects. However, just as they had achieved a fairly high standard of competence—and many would remember this—the Police Department, having also perceived a need, set up a full time search and rescue force that is now known as the Star Force. So, the requirement for highly trained volunteers or for the SES metropolitan units virtually vanished in the near Adelaide areas.

Most metropolitan members then began to concentrate on storm and salvage work, first, because it was seen that there was no other body providing an efficient, practical service to the community, and secondly, because without some practical operational work it was proving impossible to retain members. The service began to gain some recognition (although at first with little State headquarters assistance); and equipment carried in vehicles, training given to the members, and the internal administrative arrangements were all honed up to provide the best service possible. Had there been any real encouragement from Government, police, or State SES headquarters, a great deal more could have been done to perfect this service, but perhaps that is another story.

In 1987, a State Emergency Service Act was passed by State Parliament, thus finally giving official recognition to a service that until then, I believe, had existed solely as a result of a Cabinet minute. Under the provisions of section 8 of this Act the functions of the service are:

(*a*) to assist the Commissioner (of Police) in dealing with any emergency;
(*b*) to assist the State Co-ordinator, in accordance with the State Disaster Plan, in carrying out counter-disaster operations or post-disaster operations under the State Disaster Act 1980;
(*c*) to assist the South Australian Metropolitan Fire Service and the Country Fire Services Board in dealing with emergencies in accordance with the Acts under which those authorities are established;
(*d*) to deal with an emergency where no other body or person has lawful authority to assume command of operations for dealing with the emergency;
(*e*) to deal with an emergency until such time as any other body or person that has lawful authority to assume command of operations for dealing with the emergency has assumed command; and
(*f*) to carry out such other functions as may be assigned to the service by this Act or any other Act by the Minister.

The service, particularly in the metropolitan area, should be allocated a definite non-disaster role. I would submit that in the event of a major disaster occurring in metropolitan Adelaide, the regular full-time services would experience serious difficulty in coping with all the many tasks that would be demanded of them. However, volunteers, particularly young volunteers, will not spend their spare time attending courses, studying, and continually training, on the chance that they may, one day, have an opportunity to put that training into operation. Similarly, operations and administration volunteers cannot maintain a high standard of efficiency or interest solely through the use of exercise scenarios.

I go back to what I said previously, that if the role of the SES were only to be ready for a major State disaster, from what I have just said it is clear that it would be very difficult for volunteers to maintain an interest if they were not actually doing anything other than training exercises. They started off doing cliff rescue work, and that was taken away from them. They then moved to storm damage and other minor type disasters that can happen around the suburbs of Adelaide and sometimes in isolated areas and sometimes at the seafront—in fact, all over the place. If they honed their experience that would give them a reason to attend some of the training exercises while they prepared themselves for a major disaster.

I believe that if the metropolitan units of the service are to survive it is vital for the Minister to assign to the State Emergency Service at least the responsibility for storm and salvage work. I also believe that the authorities—and where the responsibility actually lies, I do not know—should state publicly that the service should be the first to be called by the police to assist in the event of missing-person searches, etc. Over recent years, the Metropolitan Fire Service has been responding more and more to storm and salvage calls, thus effectively cutting out SES units. They invariably respond using lights and sirens to arrive in the shortest possible time, whereas the attitude of this service (and, in my view, very much the correct attitude) is that unless human life is in danger there is no requirement for such a high-level response.

I cite two examples of unnecessary involvement by the Metropolitan Fire Service given to my colleague, Mr Stephen Baker, the member for Mitcham, that illustrate the point I just made. In the first example:

> A Metropolitan Fire Service Unit, with lights blazing and siren blaring, arrived at the scene of a fallen tree in the Unley area at the same time as a Mitcham SES rescue vehicle was passing. The incident could have been simply dealt with by the SES thus freeing the fire appliance to deal with its prime purpose of fire fighting.

In the second example:

> An MFS unit attended a house which had suffered storm damage, leaving a tarpaulin to cover the damaged portion. Within 24 hours the MFS returned and retrieved their tarpaulin. To rub salt into the wound, they advised the householder that he should ask the SES for a replacement.

Finally, I would like to briefly mention the plight of the Northern Districts State Emergency Service. Members may be aware of the frenetic efforts of Mr Andrew Tennant to relocate this very active SES unit that services the northern districts and covers at least four metropolitan council areas—Salisbury, Elizabeth, Munno Para and Gawler. It is the most active unit in the metropolitan area. The unit is now housed in the centre of the Salisbury council district in a building owned by the police. That building will be demolished to make way for a major police development. That is understandable. No-one can criticise that, and no-one does, but it means that the Northern Districts SES that has been housed on that site for some time suddenly has to find a new site. It is clear from Mr Tennant that, in his opinion, the Police Department does not have a prime responsibility for SES accommodation—that it is a council responsibility. In fact, in this case it is the joint responsibility of four or five councils.

I acknowledge that until now the present accommodation has not been a problem. I acknowledge also that Salisbury council, which is the only one of the four or five councils for which I have the figures, has made contributions to this SES unit of $34 689 between 1986-87 and 1991-92, thus demonstrating that it recognises that it has a responsibility in this area. It has been generous the extent of providing that amount of money. I am sure that the contributions are matched by the other councils on a pro rata basis, but I do not have their running expenses to be able to work that out. In a recent letter, the Director of the SES, Mr Lancaster, stated:

> As local government sponsors SES units, it is generally accepted that appropriate facilities to accommodate a unit are provided by the local government body or bodies. In the wider context, the Commissioner of Police is responsible to the Minister for administration of the SES Act; and therefore the provision of such assistance—

such as rehousing the northern suburbs unit—

> is not outside the scope of that responsibility.

This matter has been raised in the other place with the Minister of Emergency Services, and I sincerely hope that the local government, the local people and the members—one of whom is a Minister in the State Parliament—have also strongly raised the matter with the Minister.

I am pleased to note a *News* article of 31 October 1991 which stated that the Minister of Emergency Services was examining the problem of accommodation. I sincerely hope that he and the northern district councils and their communities can provide a satisfactory solution for Mr Tennant and his crew. With those words, I support the second reading.

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

PARLIAMENTARY COMMITTEES BILL

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

ROAD TRAFFIC (SAFETY HELMET EXEMPTION) AMENDMENT BILL

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

ADJOURNMENT

At 5.32 p.m. the Council adjourned until Tuesday 19 November at 2.15 p.m.