HOUSE OF ASSEMBLY

Tuesday 12 November 1991

The SPEAKER (Hon. N.T. Peterson) took the Chair at 2 p.m. and read prayers.

ASSENT TO BILLS

Her Excellency the Governor, by message, intimated her assent to the following Bills:

Appropriation;

Criminal Law Consolidation (Abolition of Year-and-a-day Rule) Amendment,

Dried Fruits (Extension of Term of Office) Amendment,

Evidence Amendment,

Geographical Names,

Maralinga Tjarutja Land Rights (Additional Lands) Amendment,

Wrongs Amendment.

PETITION: ALLENBY GARDENS PRIMARY SCHOOL

A petition signed by 57 residents of South Australia requesting that the House urge the Government not to close the Allenby Gardens Primary School was presented by the Hon. G.J. Crafter.

Petition received.

PETITION: WATER RATING SYSTEM

A petition signed by 197 residents of South Australia requesting that the House urge the Government to revert to the previous water rating system was presented by Mr Becker.

Petition received.

PETITION: PROSTITUTION

A petition signed by 48 residents of South Australia requesting that the House urge the Government not to decriminalise prostitution was presented by Mr Becker.

Petition received.

PETITION: DOG TAILS

A petition signed by 13 residents of South Australia requesting that the House urge the Government not to ban the docking of dogs' tails was presented by Mr Becker.

Petition received.

PETITIONS: GAMING MACHINES

Petitions signed by 292 residents of South Australia requesting that the House urge the Government to provide for the administration of coin operated gaming machines in licensed clubs and hotels by the Liquor Licensing Commission and the Independent Gaming Corporation were presented by Mr Brindal and Mr M.J. Evans.

Petitions received.

QUESTIONS

The SPEAKER: I direct that written answers to the following questions on the Notice Paper, as detailed in the schedule that I now table, be distributed and printed in *Hansard*: Nos 25, 54, 126, 133, 149, 175, 177, 181, 182, 188, 189, 195, 200 and 207; and I direct that the following answers to questions without notice and a question asked during the Estimates Committees be distributed and printed in *Hansard*.

ESTCOURT HOUSE

(Estimates Committee B)

In reply to **Dr ARMITAGE (Adelaide)** 26 September.

The Hon. LYNN ARNOLD: The holding costs on Estcourt House to 30 April 1991 were $36 500. The estimated annual holding costs are $17 000 per annum. The current value of the property is $2.4 million.

GOVERNMENT FLEET

In reply to **Hon. B.C. EASTICK (Light)** 23 August.

The Hon. J.C. BANNON: State Fleet is currently leasing a number of vehicles. This arrangement was developed following detailed economic and financial analysis. A contract was prepared and the State Supply Board approved the leasing of a specified number of vehicles. State Fleet is currently examining other proposals as a result of a call for registration of interest by the State Supply Board earlier this year. These registrations are currently the subject of discussion between State Fleet, State Supply Board and Treasury representatives. While there is some advantage in selling existing vehicles and using these funds for other purposes, the Government will only undertake leasing if it can be shown to be financially attractive in the longer term.

MOTOR REGISTRATION DEPARTMENT DELAYS

In reply to **Mr SUCH (Fisher)** 29 August.

The Hon. FRANK BLEVINS: As the honourable member would be aware, as from 1 October 1991 the compulsory testing of aged drivers ended. However, it is still a requirement that medical conditions likely to affect a person's performance behind the wheel should be notified by doctors and other health professionals. The cessation of the testing for aged drivers will obviously overcome the difficulties expressed by your constituents.

MILLIPEDES

In reply to **Mr FERGUSON (Henley Beach)** 8 October.

The Hon. LYNN ARNOLD: Biological control of Portuguese millipedes in Adelaide is presently being achieved by a parasitic nematode which has been released in most Adelaide suburbs by the Department of Agriculture and more recently by a private operator, Mr Peter Stevens of Coromandel Valley (phone 278 4465). A second natural enemy, the parasitic fly imported from Portugal, apparently did not establish in Adelaide.

Research at two sites in South Australia has indicated a lasting reduction of millipede numbers subsequent to the introduction of nematodes. Compared with previous years,

the number of public inquiries received by the department in the past 12 months has been small and may be a consequence of the spread of nematodes throughout Adelaide. The nematodes cannot be expected to eradicate millipedes and some movement into households may occur during autumn and spring in areas treated by nematodes.

Reports of millipede activity from houses in the electorate of Henley Beach are probably the result of local, isolated populations which breed in garden beds, compost heaps and mulch near houses. Introduction of nematodes by these householders should result in reduced millipede numbers in two to three years. Reduction of mulch and litter around the house will aid control. Chemical control offers quick relief and the householder may use either Baysol blue pellets in the garden, or apply a barrier of carbaryl on the path around the house during periods of millipede activity.

The department has now ceased the nematode liberation program in the belief that the nematodes released in 1988 will spread naturally. By 1993 the nematodes will have had five years to establish and the department will review the situation at that time. Because Adelaide is the only city in the world where millipedes are reported as a chronic domestic nuisance, there are few leads from elsewhere on other biological control possibilities. Investigation of nematodes from millipedes in other parts of Australia may be worthwhile. The disappearance of Portuguese millipedes from Capetown, South Africa, after an outbreak in 1985 may indicate the presence that some form of biological control is operating there. However, both these suggestions are long shots.

AUSTRALIAN NATIONAL

In reply to **Mrs HUTCHISON (Stuart)** 29 October.

The Hon. FRANK BLEVINS: In 1984 the STA commenced a planned program of major work on the 'Redhen' railcars with the AN Islington workshops. The work involved 56 people and in the first year 20 railcars were overhauled. On reviewing the results of the first year of the program, the STA believed that the same work could be undertaken more cost effectively by its own work force. Efforts to negotiate a more competitive price with AN were unsuccessful, and the program at Islington was discontinued in October 1985.

Since that time AN has rationalised its workshops, and it no longer has the resources to carry out major mechanical repairs to railcars. However, some STA railcar work is carried out by the AN workshops, all its Westinghouse airbrake units are sent to AN's airbrake section for repair, and STA wheelsets are turned on the underfloor lathe at AN's Dry Creek facility.

The larger proportion of other STA railcar maintenance work is performed in its own workshops. The remainder is done through open tender and AN has either not responded or been uncompetitive. AN initially registered interest in the STA's new railcar contract, but it did not follow through with a submission.

STA OVERTIME

In reply to **Hon. JENNIFER CASHMORE (Coles)** 29 October.

The Hon. FRANK BLEVINS: The overtime report was issued by the State Transport Authority's Manager, Internal Audit, on 1 July 1991. Although overtime had increased in nominal terms (not adjusted for award increases) it actually decreased as a percentage of total salaries from 6.1 per cent in 1989-90 to 5.8 per cent in 1990-91. Even though the cost of overtime is reducing in real terms, the General Manager directed members of his Executive Committee on 20 August 1991 to significantly reduce the amount of overtime worked. Allowances for overtime were subsequently reduced in the 1991-92 budget.

In carrying out the task of providing a reliable service to the public within the hours of operation, the working of a certain amount of overtime is unavoidable. Overtime is monitored closely by supervisors and Internal Audit and the value of this control has been demonstrated clearly in this case. The key indicator of labour productivity in public transport is the measure, vehicle kilometres per employee. This shows the level of output (kilometres) per unit of input (employees) and therefore provides a picture on how efficiently labour is used.

This indicator has shown a positive trend with an improvement of 8.2 per cent from 1985-86 to 1990-91. Over the same period the STA's operating costs reduced by $19.7 million (1990-91) and the efficiency indicator, operating costs per vehicle kilometre, reduced from $3.69 in 1985-86 to $3.50 in 1990-91, an improvement over the period of 5.1 per cent in real terms. The STA is continuing to take the necessary action to ensure that the labour productivity of its employees continues to improve.

EXPIATION NOTICES

In reply to **Mrs KOTZ (Newland)** 31 October.

The Hon. J.H.C. KLUNDER: The offending vehicle was photographed by a speed camera unit located on South Road, Bedford Park, at 8.39 p.m. on 13 October 1991. As it was dark at the time, the make, model and colour of the vehicle was not discernible from the photograph produced. The registration number of the vehicle displayed in the photograph was visible and readable. The mistaken issue of the infringement notice was because of a keying error made by a new staff member in training. The letter 'D' was recorded as 'O'.

When receiving telephone inquiries from members of the public suggesting that an error has been made concerning the issue of infringement notices, it is established procedure to check the relevant photograph. It is also procedure to post copies of the relevant photograph to persons who may be inconvenienced by attending the traffic infringement section for viewing. Initially, the person receiving the infringement notice believed that it was his number plate on another vehicle. When making the appointment to attend, he did not state that an error had been made and consequently the photograph had not been checked prior to his attendance. He did not request that the photograph be sent to him. When the mistake was identified, he was advised that the matter would be withdrawn.

PAPERS TABLED

The following papers were laid on the table:

By the Minister of Health (Hon. D.J. Hopgood)—

Chiropractors Board of South Australia—Report, 1990-91.

Food Act 1985—Report on the Administration of 1990-91.

Occupational Therapists Registration Board of South Australia—Report, 1990-91.

South Australian Psychological Board—Report, 1990-91.

By the Minister of Agriculture (Hon. Lynn Arnold)—

Advisory Board of Agriculture—Report, 1990-91.
Soil Conservation Boards—Report, 1990-91.
Deer Keepers Act 1987—Regulations—Registration Fees.
Seeds Act 1979—Regulation—Noxious Seeds.

By the Minister of Fisheries (Hon. Lynn Arnold)—
Fisheries Act 1982—Regulations—General Fishery—Recreational Fishing Gear.

By the Minister of Education (Hon. G.J. Crafter)—
Commissioner for Consumer Affairs and Commissioner for Standards—Report, 1990-91.
Listening Devices Act 1972—Report, 1990-91.
Department of Public and Consumer Affairs—Report, 1990-91.
Coroners Act 1975—Rules—Examination Fees.
Legal Practitioners Act 1981—Regulations—
Indemnity Insurance.
Practising Certificate Fee.

By the Minister of Transport (Hon. Frank Blevins)—
Metropolitan Taxi-Cab Act 1956—Applications to Lease—23 October 1991.

By the Minister of Correctional Services (Hon. Frank Blevins)—
Correctional Services Advisory Council—Report, 1990-91.

By the Minister of Recreation and Sport (Hon. M.K. Mayes)—
Racing Act 1976—Rules—Bookmaker Licensing Board—Bookmaker Betting.

By the Minister for Environment and Planning (Hon. S.M. Lenehan)—
South-East Cultural Trust—Report, 1990-91.

By the Minister of Water Resources (Hon. S.M. Lenehan)—
South-East Drainage Board—Report, 1990-91.

By the Minister of Lands (Hon. S.M. Lenehan)—
Roads (Opening and Closing) Act 1991—Regulations—Public Utilities and Access.
Refunds and Fees.

By the Minister of Labour (Hon. R.J. Gregory)—
Department of Labour—Report, 1990-91.

By the Minister of Marine (Hon. R.J. Gregory)—
Department of Marine and Harbors—Report, 1990-91.

By the Minister of Employment and Further Education (Hon. M.D. Rann)—
Libraries Board of South Australia—Report, 1990-91.
Local Government Advisory Commission—Report, 1990-91.
South Australian Local Government Grants Commission—Report, 1990-91.
Local Government Superannuation Board—Report, 1990-91.

By the Minister of Aboriginal Affairs (Hon. M.D. Rann)—
Maralinga Lands Parliamentary Committee—Report, 1991.
Minutes of Proceedings.
Pitjantjatjara Lands Parliamentary Committee—Report, 1991.
Minutes of Proceedings.

NO-CONFIDENCE MOTION: WATER RATING SYSTEM

The Hon. D.C. WOTTON (Heysen): I move:

That Standing Orders be so far suspended as to enable me to move a motion without notice forthwith.

Motion carried.

The Hon. D.J. HOPGOOD (Deputy Premier): I move:

That the time allotted for this debate be two hours.

Motion carried.

The Hon. D.C. WOTTON: I move:

That this House expresses its lack of confidence in the Minister of Water Resources by reason of her ministerial incompetence and failure to comply with an Act of this Parliament in the exercise of her ministerial responsibilities and, in particular, censures the Minister of Water Resources for:

1. Her new water rating system, which has retrospectively charged consumers twice for the same water, and which imposes an annual property tax for which consumers are given nothing in return; and

2. The Minister's gazettal of new water rates which was, in the opinion of the Full Supreme Court, mindlessly and sloppily drafted and illegally enforced, and which provides clear evidence of the Minister's arrogance towards taking advice and properly discharging the duties and responsibilities of her office.

The Full Bench of the Supreme Court, despite what this Government, this Minister and the Australian Democrats would have us believe, has totally vindicated the stand taken by the Opposition and the people of metropolitan Adelaide. The legislation putting in place this Government's new water rating policy is retrospective and there is no justification for charging consumers twice for the same water. The Bannon Government has for some time attempted to trample and run roughshod over this Parliament. Now it is attempting to trample and run roughshod over the courts.

A majority of the Full Bench of the Supreme Court found last week that a consumer who paid excess water rates in 1990-1991 may, to use the words of Acting Justice Zelling:

> ... find some of that water for which he has already been rated being brought into calculation in fixing his liability for this year.

Acting Justice Zelling also said:

> ... the sultans of Turkey were said to be addicted to levying the same tax or toll twice or more, and if the Parliament of this State sees fit to follow their example that is of no concern to the courts!

Well, it may not be the concern of the courts but it has certainly been and continues to be the concern of the Opposition, and the people of metropolitan Adelaide. The Liberal Party and the residents of Adelaide have expressed grave concerns about the retrospective elements of the legislation since it was introduced earlier this year. We have heard lots of huffing and puffing on the part of the Minister and the Australian Democrats over the past day or two about what they might do in regard to the retrospective elements of the legislation and the new system.

We are all familiar with the Government line that, by setting aside the annual adjustment to the price of water and the property surcharge, in successive financial years consumers will pay no more for a set usage of water. That is a blatant distortion of mathematical fact, and the Government and the Minister know it. The indisputable fact is that any consumer *(a)* whose 1991-92 consumption year commenced prior to April 1991 and *(b)* who uses anywhere near the amount of water previously allocated has been overcharged to the extent of the difference between the new quarterly access charge and the old quarterly rates, and I could supply the Minister with a heap of examples to prove that that is true.

The Liberal Party has publicly raised its concerns about the retrospectivity of the Government's legislation since the Government first introduced that legislation and the new system, and we are all aware of the considerable amount of debate that has taken place publicly through the media and through this Parliament. For some time—in fact since July, five months ago—we have been calling on the Government to bring down an independent legal opinion relating to the new system. The Minister has determined that that would not happen. She was determined that Crown Law should have the last say, even though we have expressed our concern that Crown Law was responsible for drawing up the legislation in the first place. However, as we know only too well, the Minister has stubbornly refused to bring down an

independent legal opinion and has repeatedly told Parliament and the public that such an opinion could not be justified.

It was the Minister and the Bannon Government's deliberate decision to ignore community protests regarding the retrospective elements and the unfairness of the property tax which forced the residents to take this issue to the court in the name of justice. I want publicly to commend those people who were totally committed—far more committed than the Minister and the Government, I might add—and who persisted in having this matter heard before the court. It was only as a result of those people sticking to their guns and being persistent that this matter has been sorted out once and for all.

The Minister showed her usual arrogance in refusing to concede that the public might be right. Repeatedly, the Minister has accused, and continues to accuse, the Opposition of seeking to mislead the public. We need only to look at the media debate to see who is misleading the public in this issue. The justices of the Supreme Court have acknowledged that double charging has occurred, but they have stated that it was not illegal as it was in line with legislation passed by this Parliament, with the support of the Government and the Australian Democrats. The Government and the Democrats have to accept total responsibility for the debacle in the present water rating system in this State. But the Minister has, as usual, refused to listen. That is one of the major problems with the Minister: she always refuses to listen. She does not listen to anybody. The Minister does not listen to her own departmental officers, and certainly not in this case.

The Minister was spellbound by her former colleague, the former Minister, Mr Hudson, who, at considerable expense to the community—$23 000 at a minimum—devised a socialistic property tax in the name of so-called social justice, and that was certainly against the better advice of some of her own departmental officers. If the Minister does not concede that that was the case, I challenge her to table all the advice tendered to her by her officers regarding the introduction of this new rating system.

The Minister refused to listen and to bring down an independent legal opinion. I now call on the Premier to reveal what the true consequences of the court's decision will be on the State budget. Of course, we now learn that the Minister has introduced what is in itself retrospective legislation. How much is it going to cost the taxpayers in this State in attempting to rectify the situation?

What do people do about paying their bills? Will another costly public relations exercise be introduced by the Minister at the expense of the taxpayer, in an attempt to have the community accept the Government's further mismanagement? Does the South Australian community know that for the first time the Bannon Government is ripping $11.6 million out of the E&WS this year to put into Treasury coffers to help pay for its financial failures in other areas? That, in turn, will further increase the burden on water consumers. Do people know that revenue from E&WS rates, according to forecasts, will this year rise by over 20 per cent compared with only two years ago in 1989-90? What action will the Government take to overcome problems arising out of the new system, which unfairly penalises many Housing Trust tenants, private tenants who are forced to maintain large gardens and owners of strata title houses and units who share only one meter with other owners, all of whom are now liable for excess water?

Furthermore, the Minister blindly continues to advise people to pay their water bills as though nothing has happened. She says, 'That's the responsible thing to do; I think it's being a good South Australian citizen.' I would suggest that the Minister of Water Resources is in no position to ask people to act responsibly. The Minister accuses the Opposition of behaving abominably in attempting to open up the water rates debate on the basis of what she describes as a technical hitch. We all realise that the Minister would give anything for this matter to be swept under the carpet, to disappear and to be regarded as something that was not of importance. The Minister and the Government have continued to refer to this nothing more than a technical hitch.

To brush off this situation as not being significant is totally irresponsible on the part of the Minister and this Government. Without access to departmental records, it would be impossible for me to quantify the number of people who have been overcharged, but I suggest that many thousands of families, elderly people and average households have been affected as a result of this debacle. I am particularly concerned about families and the elderly people, because they are the ones who are being disadvantaged as a result of the water rating system introduced by the Minister of Water Resources. The Minister would have us believe that this system affects only those to whom she refers as the wealthy. Let me remind the Minister that many families are being disadvantaged as a result of this policy, and many elderly people are concerned about the ramifications of this legislation.

So, let us talk not just about those people to whom the Minister refers as the wealthy but also about families, the elderly and the average households who are being affected by this system. Why should these people be made to pay for the mindless and sloppy administration under this Government? These people have been overcharged and have paid—many under protest—and they should be reimbursed. There is no doubt about that. If the Minister had her way, she would prefer that this whole matter be swept under the table. Of course, the Minister does not want the water rates debate opened up again—that is the last thing she wants. Cannot the Minister and the Government see that this is exactly what is being demanded of this Parliament, the people whom the Minister and the Government have continued to ignore and mislead? There is no doubt about that: the average person in the community who is affected as a result of this policy wants to see the debate on this subject opened up again, with the hope that we might be able to clarify or to replace the system with one which is acceptable and equitable for all people.

I do not know whether the Minister or members opposite have been advised of the concern and anger in the community. Certainly, my office has received hundreds of letters on this subject and I would suggest that, if the Minister and members opposite have not received correspondence and representation, it just shows how much out of touch they are with the concerns of the people at the present time.

The Full Court has also found that the access rate of the new system 'is in part at least a wealth tax'. This again vindicates the concerns of the Opposition, that consumers with property values over $117 000 are paying through their water rates a tax on their property that has no relevance to the cost of supplying water, a basic commodity, or to the amount of water used. Every major newspaper in this State through their editorial comment is demanding that the Government's new water rating system be scrapped. Let us just look at some of those.

The Hon. T.H. Hemmings interjecting:

The Hon. D.C. WOTTON: The member for Napier would not want this to be brought forward. The last thing the member for Napier wants is reference in this House to the

editorial comments of the three major newspapers in the State. What do they have to say? Going back to 4 August—

Members interjecting:

The Hon. D.C. WOTTON: Members opposite might not want to hear the editorial comments, but I can assure the Minister and members opposite that these editorial comments reflect the concern in the community. On 4 August the *Sunday Mail* said—

Members interjecting:

The SPEAKER: Order!

The Hon. D.C. WOTTON: Headed 'Hogwash, Susan—come clean' the *Sunday Mail* editorial states:

> The new water rates system is a hidden wealth tax and it's high time the Water Resources Minister, Ms Susan Lenehan, stopped quibbling.
>
> On Friday the Minister tried a typical bully-boy tactic with the public—accept the controversial new water rates system or pay for a new $200 million pipeline to the Murray.

It quotes the Minister as saying:

> If we had gone on without this system, we'd have been living in cloud cuckoo land.
>
> This system is inevitable. It's economic reality. Anything you use of the community's resources ought to be charged for in proportion to the use.

The editorial goes on to say:

> Well, if that is true, Minister, how come people in houses which cost more than a certain amount have to pay more to use less water than people in cheaper homes? How come people who drive, or walk or cycle to work have to pay for a bus, tram or train system used by so few?

It concludes by saying:

> If Ms Lenehan truly believes that 'anything you use of the community's resources ought to be charged for in proportion to the use', then what is wrong with charging for water using exactly the same method as that applied to other essential services such as gas and electricity?

That is the feeling of a majority of the people in the community. Let us look briefly at what the *Advertiser* had to say on Monday 22 July:

> The new water rating system is nothing more than a thinly disguised wealth tax essentially imposed on people living in areas which traditionally vote Liberal, not Labor.
>
> The system reinforces a growing view that the present Labor Government is more intent on raising extra revenue at any cost, fairly or unfairly, to pay for its financial indiscretions.

Let us see what the *News* had to say:

> An opportunity for a rethink on water.
>
> There is a wise saying which should be burned into the minds of everyone involved in the hurly-burly of decision making.
>
> Second thoughts are often wiser thoughts.

They implore the Minister and the Government to think twice about the situation that we currently have and make the following point:

> There is nothing wrong with a user-pays principle, especially when applied to water.
>
> The task, or the opportunity presented by the Supreme Court, for the Government today is to apply that principle in a fairer and politically more astute fashion. It is not the technicality which the Government should address but the larger issue of how tax gathering and the conservation incentives can be applied to ensure a finite supply of water is used to maximum efficiency.

We could go on. Again, in an editorial in the *Advertiser* on Wednesday 6—

Members interjecting:

The Hon. D.C. WOTTON: Well, as I said earlier, the Minister and members opposite would not want to hear this. I suspect that members opposite have not even read this. It might cause them some concern if they did so. The community has for a long time been calling for a true user-pays system to be introduced in this State for metropolitan households. I have already had discussions with officers of the board who successfully operate a user-pays rating system in Newcastle, and I have also sought relevant information on rating systems in Perth and Brisbane. What has the Minister done? What has the Government done? The State Labor Government, which has been in office for 20 of the past 25 years, still persists with a system which is inequitable and totally unacceptable to the majority of people.

People understandably were incensed when told that the Government would seek legal costs coming out of the Supreme Court hearings, just as they were incensed to learn that the Minister was enjoying herself at the Melbourne Cup on the very day that the court was delivering its findings. How can the Minister claim that this policy is attempting to conserve water? As I have already said, the Minister has made blatant threats about having to introduce another $200 million measure to cover the cost of a new pipeline from the Murray. The Minister has refused to consider providing appropriate incentives to encourage people to use rainwater, for example. Conservation of water is one of the most important issues in this State. However, this issue is not just about conservation—it is about fairness and equity. How dare the Minister suggest that a family struggling to make ends meet in Labor's home-grown recession is affluent just because that family's property is valued at over $117 000.

The court has expressed concern about the sloppy draftsmanship of the new rating amendments because people are entitled to be told, so the court said, with precision anything which affects their rights and with which they are expected to comply. Because of the defects in the notices, water rates collected from 1 July are invalid and the Government may have collected around $70 million without legal authority, not to mention the costs in having to reissue rate notices. On top of this, the Minister, through her arrogance, has misled the community and this Parliament. The Premier himself has indicated that the Minister must accept some responsibility. This entire fiasco is a disgrace for which the Minister must accept total responsibility, and I call on the Premier to sack her immediately as a result of this debacle.

The Hon. J.C BANNON (Premier and Treasurer): With all the existing great issues of the day, including economic recession and the crisis in Federal/State relations—matters that should be of concern to members on both sides of the Chamber and the community in general—what do we get served up here today, after a week's recess of Parliament? We get this mish-mash of opportunism, special pleading and misrepresentation relating to water rates. It is quite disgraceful to hear the inaccuracies uttered by the honourable member—misrepresentation of the court judgment and the situation which is to be corrected as a result of a technical finding—when there are so many other matters of weight and importance with which we should be dealing.

It is just as well that the Leader of the Opposition sits there silently in this debate. It is very interesting to see the abdication of responsibility that that represents. He gets the member for Heysen, whose record in this water rates area is absolutely deplorable and inconsistent—I will detail with that in a minute—to utter these absurdities, wasting the time of Parliament in this way while there are so many other important issues with which to deal. I suggest that it is an abdication of authority by the Leader, and the submission that he has just listened to from the honourable member must have been very embarrassing to him.

I suspect that there is only one person sitting on that side of the House who is more embarrassed, and that is the member for Chaffey, the former Minister of Water Resources in the Tonkin Government, who presided for three years over a system which the member for Heysen has announced as outrageous, deplorable and should have been fixed up. I make the point also that, although it is forgotten—well

forgotten—the member for Heysen occupied a place in that very Cabinet for three years as Minister for Environment and Planning. I cannot recall his speaking out about the user pays concept of water rates or about fundamental changes to water rates. Although I realise it is a few years out of date, if we are to have a no-confidence motion I suggest that a very good target is the honourable member whose vapourings have just wasted the time of this Chamber.

Let us get down to the issue that we are debating: a motion of no confidence in the Minister concerning water rates. The Opposition in this State has conducted a campaign of confusion and misinformation about a new, fairer, better system of water rating and, if it had any interest in the preservation of one of the most precious and rarest resources in this State, far from attacking the system and fomenting court challenges and other things against it, it would be getting right behind the system and the direction it is going. The campaign included press statements suggesting that people might riot in the streets—riot in the streets, Mr Speaker!—over a system of water rating that tries to get the user to pay for what he uses rather than the previous system where it did not matter. There was an invitation not to pay the bills. The Opposition is also suggesting that the Government has charged retrospectively, that it has charged twice for water. These are nonsensical allegations and are totally irresponsible.

Through the member for Heysen, its hapless spokesman, the Opposition has attempted to put its policy on this issue. He talked about introducing a system which he says ought to be based solely on a user pays concept. Of course, he will not tell the truth about that. He will not tell us that that will escalate the water bill of every household in this State. The bill of ordinary families, of the average householder, whose plight with his crocodile tears he pretends to be lamenting, would escalate monumentally. It would also have a severe effect on all those constituents of the members on his side who represent country electorates, including the Leader of the Opposition, whose water rates are subsidised under the present system. By all means let the honourable member introduce that concept. Let us see his Bill on user pays for water for everyone. Let us see the tables and figures that will cut out all the country subsidy and will lift the domestic water bill by a very large amount.

The Hon. D.C. Wotton interjecting:

The Hon. J.C. BANNON: The honourable member purports to forget his rights as a private member to move in this direction.

Members interjecting:

The Hon. J.C. BANNON: I am being a little unfair to him. He did exercise his private member's rights. I wonder whether members recall the Bill that he has introduced. Does it contain the provisions that he suggests? Is it a user pays system, as he is now advocating? Not a bit. The Bill introduced by the honourable member seeks to repeal the Waterworks (Rating) Amendment Act 1991. In other words, the Bill seeks to restore the old system that he has been busy denouncing.

I would like him and the Opposition to make up their minds. Are they in favour of user pays and the implications that it will have in the community? I am sure that it would have a salutory effect in conservation terms, and that might be pleasing, but what about the impact on households? If they are in favour, let them say so, but the member for Heysen, who purports to support that system, actually moves in this House to go back to the old system.

The genesis of the campaign of misinformation and the way in which it has been fermented is around this concept of a wealth tax. There has been no suggestion from the Opposition that the old system, which the honourable member has tried to reinstitute, was in fact almost solely based on property valuations. It discriminated against only those with higher property values. If we are talking about a wealth tax component, if that is how the honourable member wants to characterise property values—and I might say that I reject that concept totally—I think there is a very legitimate price that owners of more highly valued properties pay for access to community services. However, I will put that argument to one side for the moment. If, in fact, that is what we are about, the old system was indeed based almost entirely on that concept, yet the honourable member wants it restored. Why does he want it restored? It is not because he is against what he calls a wealth tax, but because he is against a wealth tax, as he would call it, on the more wealthy. In other words, he wants to ensure that that element of water charging is spread to those less able to afford it. It is time he came clean about that.

The Hon. Lynn Arnold interjecting:

The Hon. J. C. BANNON: Exactly. For the first time under this new system there is a very large component of user pays. The consumers, the owners of the high value properties that the honourable member is defending in this Chamber in this special pleading way have, for the first time, an opportunity to influence what they pay for water by looking carefully at their consumption. Most of them have not bothered in the past. It is about time they did so, and if they do there are very distinct financial rewards for them. What is wrong with that as a system? What has the Opposition got to criticise about that? The answer is a deafening silence, because it is moving in the direction in which it claims, philosophically, it should support. People should not be encouraged to waste water. The new system deals with that question, and deals with it far better than the old system.

Let us look at this court case and the judgment that is under consideration in this motion. On 5 November the Full Court delivered a judgment in an action brought by four members of a group calling itself the 'Water Rates Action Committee'. That group was formed to challenge the legal validity of the water rates fixed and charged under the new residential water rating system. Citizens have the right to do that, and I commend activist citizens who wish to assert their rights. I would rather like it to be citizens, of course, spontaneously asserting their rights than members of Parliament who have the opportunity in this place or in another place to have their say, to move their motions and make their debates. That is the appropriate place for members of Parliament to do this, but the Hon. Mr Stefani wants to join a water rates action committee and lead the charge in court. Fair enough: that is the cause of action that was before the courts.

The committee's first ground of attack was that, under the Act, the relevant amounts for setting water rates had to be fixed by notice in the *Gazette* no later than 1 July 1991. That was the first point of their application. The second ground was that, under section 65c, the notice was defective as a matter of form—the date of gazettal and the defect of the notice as a matter of form. It is very interesting that, in addressing this issue and the court's decision, I do not recall the honourable member really making any major point of those issues if, indeed, he made a passing reference to them. I heard him say that the court was dealing with things like retrospectivity, double charging and wealth taxes.

It is interesting to note, as I have just outlined, that the judgment of the court dealt with technicalities. It did not challenge the new system on any of the issues mentioned

by the honourable member—they were not issues before the court, and the court made no finding on those matters. It is true that the honourable member quoted some obiter from Mr Acting Justice Zelling which referred in passing to an aspect of them, but those issues were not before the court and were not dealt with by the court. However, this motion is about the decision that was made by the court. The Opposition should look very carefully at the action that was taken and what the court was asked to rule on.

The next point is that the court's decison was by a majority. I pause at that point. Would any honourable member or any member of the public reading *Hansard* who had not looked independently at the facts understand that it was by majority decision of the court? No, because it does not suit the purposes of the honourable member to mention that, while two judges found that there was a defect in gazettal time, one judge found that there was not. In fact, he made quite the opposite finding. It is only reasonable—

Members interjecting:

The SPEAKER: Order!

The Hon. J.C. BANNON: —in referring to a decision made by the courts and condemning those who took action based on their understanding of the law, that one examines what the judges said about the law. If the verdict had been unanimous, perhaps one could argue that public servants and others should have been more careful of the legal advice. However, the verdict was not unanimous—the question was arguable. The majority of the court found in favour of the committee—and that is the decision that stands, and we are not challenging that decision in any way—but one judge found for the Minister's position. So it is arguable not just in this Chamber, but in the court. Therefore, it is appropriate, if the honourable member is to put the court case on record, that he should mention that. He did not, because he wants to mislead us and to special plead his case.

The court's finding was that the gazettal was on 11 July and it was invalid because it should have been gazetted on or before 1 July. The other judge found that it should have been gazetted on or after 1 July, but that is another thing. Were the officials in the E&WS Department and those responsible for the gazettal grossly derelict in their duty in fixing the rates and gazetting them on 11 July? How can that be maintained? First, the rates have to be set in relation to the valuations made by the Valuer-General on 1 July, and they are not available theoretically before then.

Secondly, under the previous Act there was explicit reference to the gazettal time being on or after 1 July. That was the implication of it. There was silence in the present Act. That section had been dropped out. Perhaps it should have been in there, and, indeed, corrective action can be taken on that matter. The point is that the normal way in which these matters had been gazetted, the pattern that had been followed forever, *ad infinitum*, was a gazettal on or after 1 July. So how is it reasonable to condemn those who followed the previous practice when the Act was silent on the matter?

I make the point that if we look through all those gazettals we will find that that is the situation. This year it was 11 July certainly. I will go back a little further to the time when the member for Chaffey was Minister of Water Resources. Not only did he not change the rating system of the day, not only did he and his colleagues, including the member for Heysen, find it acceptable, but, in terms of gazettal, in 1982 it was on 8 July, in 1981 it was on 9 July and in 1980 it was on 3 July—all of them after that operative date. That was appropriate and correct.

Indeed, we can go right back to 1964, the last occasion that the Playford Government set the water rates under the Hon. Mr Pearson. There has been talk about how dreadful it is to delay these declarations, but the rates set by the Playford Government in 1964 were gazetted on 4 August 1964. It is true that the Playford Government lost office some months after that, but one would be drawing a very long bow to suggest that it was because a laughable no confidence motion such as this was moved by whoever the member for Heysen could cobble up to support him. Mr Speaker, I should like to table those dates from 1964-65 to 1991-92 with regard to water rates.

The SPEAKER: Are they purely statistical?

The Hon. J.C. BANNON: I am just tabling them, Mr Speaker. Having dealt with the time of gazettal, let me get down to the basic issue of water which is what this ought to be about and which is why the Opposition's conduct in this area has been so disgraceful. South Australia is the driest State in the driest continent—almost a cliché—but it carries with it particular responsibilities in terms of our use of water and particular costs in our access to water. As South Australians we all must understand that, and it is something we have to cope with. It is all very well to talk about user pays, but in that context the way in which we have managed our water resources becomes very important indeed. There are those in the community—those who took this court action and others—who are complaining vociferously about the cost of water in this State. Indeed, they are very lucky to have access to water resources at the price they pay—in fact all of us are lucky.

Let me remind the House that last year, and on a number of occasions in previous years, the residents of the City of Melbourne have had to cope with extremely stringent water restrictions; they have had to use hand-held hoses, and they have had to neglect their gardens and let them die because water could not be delivered to their households. To some extent or another, water restrictions apply in most of the capital cities of this country, with the exception of Adelaide, which is in the driest State of the driest continent. The last time water restrictions were levied was in 1954—37 years ago. We got very close to it in 1967-68 but, by a massive, cooperative community effort, we were able to save water (and members might recall the water watchers campaign that was waged then) and avoid restrictions. We have done so every year since. First, that is a tribute to our community's water consciousness. If the sort of people who are profligately using water and complaining about the cost that the honourable member defends had their way, we would have had restrictions every summer. We have not, because we are responsible.

The second reason is that we have been able to pump water from the Murray River. Successive Governments have ensured that that is done, and that has maintained our supplies. We do not get that for nothing. A pipeline cannot just miraculously be conjured up out of nothing. In fact, the pipeline must be installed and we have to pay for the cost of pumping water. Last year, we paid $12.9 million to pump water from the Murray. I suspect we have paid more in other years: we have paid less in years where there has been better rainfall. There is always that ongoing cost, and we all have to pay for it. We must not grizzle about paying for it because it avoids water restrictions.

Then there is the question of quality. If water is being pumped in from the Murray, does it not have to be cleaned up? The answer is 'Yes'. In the metropolitan area we have spent $178 million on filtration plants, increasing to $211 million with money spent in country areas such as Morgan and Stockwell—a very large amount of money—to clean

up that water. Again, those who complain about the price of water should remember that. Those with high value properties who are high value water users should not grizzle: I would suggest that they should be volunteering to pay more.

Regarding the user-pays system, the country subsidy for water in 1990-91 was $36 million and for sewerage $9.4 million. I hope that the Leader of the Opposition will speak shortly, because he might be able to articulate the Opposition's policy. However, the policy as articulated by the member for Heysen is that that $36 million, plus $9 million, should be put slap bang onto the bills of country water users tomorrow. That is what he wants to do. I hope he has sent them a circular telling them that; I hope he has fermented a bit of public support around that issue. No; he has been conspicuously silent.

In relation to the valuation system brought in under the Hudson report, we are talking about properties the valuation of which is $116 000 plus. We are talking about some 84 per cent of properties which are unaffected by the new system. Were our ears hearing correctly when we heard the member for Heysen say a moment ago that he was not interested in the wealthy households and large value properties and that he was standing up for the ordinary households—he used the words 'for the average household'.

An honourable member: For Mr and Mrs South Australia.

The Hon. J.C. BANNON: He was standing up for Mr and Mrs South Australia and their family and for elderly people living in units and Housing Trust places and so on. These elderly people are obviously consuming vast amounts of water, according to the honourable member. What a laughable nonsense! In fact, he is talking about 16 per cent of ratepaying properties. Is that the average? Eighty-four per cent are unaffected. He is talking about properties valued in excess of $116 000.

I know that perhaps where the honourable member and many of his colleagues live that that is not regarded as a particularly valuable property. There are lots of places in Adelaide (and I suggest that he get out and see), where that is a high rateable value for a property, and it is about time he understood the structure of home ownership in this State and the values in lots of our areas, and did not just stick around in those rather well heeled suburbs that he claims are average in the scheme of things. It is a lot of nonsense.

I would like to conclude by looking at the impact of this system for which we are supposed to condemn the Minister. The best way of doing that is to look at the water consumption records that are in public, that is, they were filed in the courts—the records of the four plaintiffs who decided to declare themselves and take their case. This is an interesting exercise because this is what the honourable member is defending. He is defending these examples.

He is defending the example of plaintiff Jacobsen who has a property of relatively modest value ($120 000) and who, for the first six months of the 1991-92 consumption year, used 186 kilolitres of water. If the plaintiff used the same quantity of water during 1991-92 as he had used in the previous year, under the new system his account would increase by exactly $16.13. Is that some kind of iniquitous wealth tax being imposed? What absolute nonsense! One wonders why plaintiff Jacobsen felt so strongly about the matter.

The Hon. D.C. Wotton: There is no such thing as principle—

The SPEAKER: Order!

The Hon. J.C. BANNON: I concede that. In other words, what the honourable member is saying is that, in the case of plaintiff Jacobsen, he was acting on principle, which suggests that those who had something to gain from the system by their complaint were not acting on principle but were acting in self-interest. That is the logic of what he is saying, and I will come to that in a minute. I will accept that interjection and I thank the honourable member for pointing out that plaintiff Jacobsen is indeed standing on a principle, because he is no great loser under this system.

Indeed, even more principled is plaintiff Gilbert who has a property valued at $344 000. True, that is a high value property. For the first six months of the 1991-92 consumption year, he used 199 kilolitres. If that plaintiff used the same quantity of water during 1991-92 as he had used the previous year, under the new system his account would decrease from $577.92 to $469, a saving of $108. That indeed is a principle, and I accept what the honourable member is saying.

Let me now deal with the other two plaintiffs, both of whom, as it happens, are known to me. Plaintiff Beard, for instance, I would regard as an old friend of mine, having played cricket with him and having been involved with him in numerous events. He is a highly respected member of our community, and I must admit that I was rather surprised when I found him taking this action. Still, he wanted to make his point, and he has every right to do so. Plaintiff Beard's property is valued at $653 000. In the first six months of the 1991-92 consumption year (and these figures are on the court record, so I am not breaching confidence as far as the plaintiff is concerned) he used a staggering amount of 1 432 kilolitres. The previous full year's consumption was 2 444 kilolitres. This equates to 6 695 litres of filtered water every day—about eight times the average.

Let me turn now to the final plaintiff. I have already suggested that members of Parliament have recourse to this House; we are elected here, and that means that we have a forum in which we can express community and other concerns. I would be very interested if the member for Heysen's test of principle as opposed to self-interest applies in this case. But, of course, the example is plaintiff Stefani, a member of another place. Plaintiff Stefani's property is valued at $784 000. In the first six months of the consumption year he used 779 kilolitres. His previous full year's consumption was 1 862 kilolitres. If we want to get some perspective on this plaintiff, who is complaining about the size of his water bill, let me point out that this equates—

Members interjecting:

The Hon. J.C. BANNON: Success is not judged by the profligate way in which one uses water. On the contrary, where I come from, as one who is involved in conservation matters and native vegetation, and so on, success is judged by how well one conserves water. I will have enough of that from the honourable member, thank you, Mr Speaker. Let me put the Hon. Mr Stefani's—

Members interjecting:

The SPEAKER: Order!

The Hon. J.C. BANNON: They do not want this; they do not like to hear this.

Members interjecting:

The SPEAKER: Order!

The Hon. J.C. BANNON: Let me put the Hon. Mr Stefani's water consumption into perspective: it represents 5 101 litres, or 5.1 tonnes of filtered water used every day of the year. The member for Heysen is talking about the average consumer, about whom he is concerned. That consumption represents six times the average.

Members interjecting:

The SPEAKER: Order! The Premier will resume his seat. If the Government will not pay due regard to the Premier,

it cannot expect the other side to do the same. The Honourable Premier.

The Hon. J.C. BANNON: I thank my colleagues for their support. They understand the outrage that would be expressed by ordinary members of the community if they knew what was being said and done in this place by the member for Heysen, who is purporting to represent them. He ought to be ashamed of himself and, indeed, so should people using that many tonnes of water every day of the year. It is our most precious resource that we have to pump, filter and subsidise into country areas. I suggest that using amounts like that is profligate. The people concerned should be paying, not complaining. Indeed, I advise anyone like the Hon. Mr Stefani, as a matter of urgency, to stop trying to get up a principled opposition to water bills but to go into the E&WS and consult with its water conservation experts about what might be done to reduce consumption. I know that the member for Coles will agree, because at least she is consistent—

Members interjecting:

The Hon. J.C. BANNON: Well, she is justifying five tonnes a day: is that right?

Members interjecting:

The Hon. J.C. BANNON: I cannot believe it, Mr Speaker.

Members interjecting:

The SPEAKER: Order! The Chair cannot hear the Premier.

The Hon. J.C. BANNON: As well as a swimming pool and a tennis court, one would need a cricket pitch to use that amount of water. Be that as it may—

Members interjecting:

The SPEAKER: Order!

The Hon. J.C. BANNON: —there are ways and means of conserving water and the important thing for the member who interjects 'scum bag' is that, far from the new rating system's disadvantaging the Stefanis of this world, it allows them, by controlling their water consumption, substantially to reduce their bill below what it was before. It provides a positive commercial incentive, and it is about time that the people concerned exercised it. I suggest we reject totally this motion, founded on misinformation, misrepresented to this House and, in fact, part of a campaign of which the Opposition should be totally ashamed.

Members interjecting:

The SPEAKER: Order!

Mr D.S. BAKER (Leader of the Opposition): I draw the House back to the motion:

> That this House expresses its lack of confidence in the Minister of Water Resources by reason of her ministerial incompetence . . .

The exhibition from the Premier in the last 30 minutes really shows that he is not prepared to face up to the issue. This is the man whom the Speaker had to pull up saying that Government members would not pay due regard to his contribution. This is the man who the IPA says today has produced the budget that is the lemon of the year in Australia. This is the man who has presided over the greatest financial disaster in South Australia's history, telling the people that the Opposition does not have the right to move this no-confidence motion. It is hypocritical nonsense, as is his defence of the Minister, which we did not hear much of because, quite frankly, there is a long line of mishap, deceit and deception by this Minister.

The Premier said that, of the court ruling, only two of the three judges found in favour of the people who brought that action, but one found against them. Here is the man who is supposed to have been educated at the best private school in Australia, but he cannot work that out. It is an indictment of his leadership and, I might say—

Members interjecting:

The SPEAKER: Order!

Mr D.S. BAKER: I was not going to say anything against the University of Adelaide. This is the start of protecting one's position. To have the Premier replying to the shadow Minister indicates that the Minister does not have the guts to front up to this Parliament, and it also shows that the Premier is trying to protect her. I know that she will give a brilliant response if she speaks in this debate, and I know that it might help your leadership responsibilities, but here you are to protect her back.

The SPEAKER: Order! I ask the Leader to direct his remarks through the Chair.

Mr D.S. BAKER: Thank you, Mr Speaker. The Premier told us how much it costs for water to be distributed around South Australia. The Premier is sucking $11.6 million out of the E&WS, out of water consumers in South Australia, and putting it into general revenue. What is the morality of that? Yet he talks about the principle of ministerial efficiency. It is absolutely unbelievable! I will go back over the past few years and show how this incompetent Minister has deceived this House and the public. I will also show the conflicting things that have occurred during her time as Minister.

The Opposition has moved this motion of no confidence because the Premier does not have the spine or the numbers to dump her from his Cabinet. That is what it is all about. So, the Opposition has had to move this motion today and I implore you, Mr Speaker, to listen carefully to this debate because it is up to you to get this incompetent Minister out of Cabinet. I refer to a press report in the *News* in 1988 when the Minister made the first of her long list of gaffes. The headline reads, 'Water supply not a worry' and the article states:

> Water supply will be no problem for South Australia until well into the 21st century, the Water Resources Minister, Ms Lenehan, said today. She said a major report, *Water South Australia*, showed major works . . . would not be needed for at least 30 years. Ms Lenehan also announced a twice daily flushing of the Patawalonga . . .

The only person who will be flushing twice a day is the Premier, when he works out that things are not quite as rosy as the Minister told us three years ago. In contrast, only recently a headline read, 'New water rates for pipeline'. That is the blackmail that is being used three years later. The next of her gigantic bungles was reported in the *Advertiser* under the headline, 'Minister should quit over seawall'. One of Adelaide's most respected journalists, Randall Ashbourne, writing a couple of days later, said:

> Ms Lenehan is lucky that this weekend she is not merely the backbench member for Mawson. There is no doubt, regardless of what the Minister thinks, she misled Parliament.

That was in response to the following question from Graham Ingerson:

> Will the Minister advise this House why last year she authorised the suppression of bungled negotiations for the financing of a seawall associated with the proposed Zhen Yun development?

Randall Ashbourne wrote:

> A simple answer would have been: 'I ordered no suppression and I know of no bungling.'

But the Minister said:

> I have no knowledge of any such proposal . . . I am not aware of any seawall proposal . . .

Randall Ashbourne then continued:

> The Minister had either misled the Parliament deliberately—or she simply didn't remember. If it were the latter, and she indicates it is, it still raises the question of ministerial competence.

That article is dated February 1990, but still the Treasurer did not act: he is still carting along this lead weight in his Cabinet. We then go to an article in the *Advertiser* dated 1 February 1990, headed 'Marineland plan hits legal block', which states:

The State Government's controversial plan to redevelop the Marineland site . . .

The SPEAKER: Order! There is a point of order.

The Hon. J.P. TRAINER: On a point of order, Mr Speaker, my understanding is that the no-confidence motion relates to the Minister of Water Resources, and the honourable member obviously seems to be dragging in a lot of material relating to other portfolios that have no relevance.

Members interjecting:

The SPEAKER: Order! The motion is very specific in that it relates to 'water resources', although its wording also includes 'by reason of her ministerial incompetence'. It is a censure motion, and this is a broad-ranging debate. I accept the point of order as far as it goes, and I would ask the Leader to relate his remarks to the particular ministerial responsibility. However, all contributors to this debate so far have ranged fairly widely.

Members interjecting:

The SPEAKER: Order! The honourable member's point of order has some validity.

Mr D.S. BAKER: I am referring to the Minister's incompetence, which is quite specific in the motion, and it is about the Premier of this State sacking that Minister for her incompetence. As he refuses to do so, this motion is moved accordingly. I will stick very specifically to the Minister's incompetencies and bungles.

An honourable member interjecting:

Mr D.S. BAKER: Well, we will go on because, if the honourable member did not like to hear that one, there is a file full of them here that we can go on with, and it involves not only water. The Minister has been incompetent on many other things, and that is what this House will decide on. An article in the *Advertiser* on 19 March 1990, headed 'Alter the East End plan—Lenehan', states:

The Environment and Planning Minister, Ms Lenehan, has advised the Adelaide City Council to approve the $300 million East End Market proposal, subject to changes which resolve the heritage concerns.

She has even had a finger in that. I do not know what has happened to that development.

The SPEAKER: Order! There is a point of order.

The Hon. D.J. HOPGOOD: I take a point of order with some reluctance, but I point out, Mr Speaker, that you have already indicated to the Leader of the Opposition that this is about water and water resources. Now we have planning; we have the East End Market. How far does it go?

Members interjecting:

The SPEAKER: Order! As the Chair indicated before, the debate has been fairly wide-ranging, but I would ask the Leader to bring his remarks back specifically to the particular ministerial responsibility, in which I think the motion refers to the Minister of Water Resources 'by reason of her ministerial incompetence'. I advise the Leader that other references are allowed but to debate them is, I think, out of order in this particular motion.

Mr D.S. BAKER: Well, is Marineland not close enough to water, Mr Speaker?

The SPEAKER: Order! I would caution the Leader about his attitude towards the Chair. The Chair is trying to guide the debate so that we can get through it and so that everybody gets the opportunity to make a valid point. However, I inform the Leader that the Chair will take umbrage if direct flouting takes place.

Mr S.G. EVANS: I rise on a point of order. The motion is in two parts. The first part talks about ministerial responsibilities in total, and it then talks more particularly about water resources. First, it covers all the Minister's responsibilities and then deals with water resources, and it is quite clear that it refers to her ministerial responsibilities.

Members interjecting:

The SPEAKER: Order! The two parts are very specific, if we are going to get down to defining them. It specifically states:

. . . censures the Minister of Water Resources for:
1. Her new water rating system—

that is very specific—

2. The Minister's gazettal of new water rates . . .

Mr LEWIS: On a point of order on this very matter, Mr Speaker.

Members interjecting:

The SPEAKER: Order! The Chair cannot hear the member for Murray-Mallee.

Mr LEWIS: In the Estimates Committees, just completed, the Minister said that she did not distinguish between her portfolios and accepted that the Lands Department provided the finance for them.

The SPEAKER: Order! I hear what the honourable member is saying. This is not the Estimates Committees: this is a censure motion before the full House of Assembly very clearly defined. I would ask all members to read the two clauses which I believe are specific in this motion. The Leader of the Opposition.

Mr D.S. BAKER: This motion is about the incompetence of the Minister and the way that she has deceived the House. As I am going to wind up now, the last one that I will deal with is that the Minister, on a recent trip to Dalhousie Springs, posed by a great pool of water. I do not know whether that is what the Premier was referring to: someone using five tonnes a day. I do not know whether the Minister swimming in that would constitute a swimming pool or whatever. However, the Minister denied that it was a property tax and a wealth tax. In fact, she said it was social justice.

What we are on about today is the Minister deceiving this House and the public and we are on about the Premier of this State not accepting the ruling of the Full Court and trying to hoodwink the House that it meant something other than what it did mean. I hope that the Premier will read the statement and take it very carefully. What has happened is that the Minister has deceived this House and the public. If the truth be known, she might even have deceived some of her Cabinet colleagues. I urge you, Mr Speaker, to support this motion.

The Hon. S.M. LENEHAN (Minister of Water Resources): I think that we have just been subjected to some of the most hypocritical, hysterical and dishonest speeches that I have ever heard in my nine years in this Parliament. Not only do I totally reject the two parts of the motion, but, as the Premier has pointed out, they are based completely on lack of fact and on misrepresentation. Indeed, it seems to me that the hypocrisy has been shown particularly by the member for Heysen, and the level of debate has been shown by the Leader of the Opposition who could do nothing better than attack me personally on a number of things that I have done over the years. All I can say is that, if I leave this Parliament with only those few mistakes to my credit and the fact that I have had the courage to stand up in this Parliament and admit to any mistakes that I have made, I will be very proud of my record as a Minister and as a member of the Bannon Government.

I should like to take the debate back to the topic. I am sure that the Opposition will be very distressed and disturbed because we are going back to some facts and figures. It is interesting to look at what precipitated this no-confidence debate today. It is a fact that the Full Court delivered a judgment on 5 November with respect to the action taken by four plaintiffs calling themselves the Water Rates Action Committee. I should clearly point out that there was a series of challenges, including an approach to the Advertising Council of Australia trying to suggest that there had been some form of illegal advertising. That claim was completely dishonoured, and I remind members that we saw very little in the media about the fact that they lost on that particular point.

We then saw a number of other misrepresentations in the media. When all of those failed, we saw the court challenge. However, I remind members that the plaintiffs did not challenge the new system on any of the issues that the Opposition has canvassed in the public arena. Indeed, the Opposition's claims about retrospectivity, double charging and wealth taxes were not the issues. I remind the Opposition that counsel for the plaintiffs, in putting their case to the court, were at pains to dissociate themselves from any claim that there was double charging for the same water. That is clearly in the transcript. If any member wants to challenge me, let them look at the transcript. That is what happened. The plaintiffs themselves said, 'We are not here to look at double charging for the same water.'

It is important to recognise that part of this challenge was nothing more than a legal stunt by the Opposition. Why else would one of the wealthiest members of this Parliament be part of such action? As the Premier said, if the other two plaintiffs were there for motives of principle, two of the plaintiffs were there to protect themselves and their personal interests. Indeed, the Premier has clearly highlighted the fact that they have done that. It is important to note, as we have heard, that one of the plaintiffs used over 5 000 tonnes of water per day. I ask members, are these—

Members interjecting:

The SPEAKER: Order! The member for Adelaide is out of order.

The Hon. S.M. LENEHAN: Five tonnes of water per day or 5 000 kilolitres.

Mr Lewis: Five thousand litres.

The Hon. S.M. LENEHAN: Five thousand litres per day. That is an enormous amount.

The SPEAKER: Order! I ask the Minister to direct her remarks through the Chair.

The Hon. S.M. LENEHAN: Yes, Mr Speaker. I point out to the House that the decision of the court does not in any way reflect on the fairness of the new residential rating system or, indeed, on the user pays component; nor did the court rule that the legislation introducing this system had any invalid retrospective operation. The Opposition has chosen either not to understand the findings of the court or deliberately to misrepresent them. The issue revolved around a technicality in the introducing of the new system, which, of course, was approved by this Parliament. The court found that the *Gazette* notice, which was published on 11 July, should have been published on or before 1 July. As a result of this decision, amending legislation, as I have indicated, will be necessary to validate the gazettal notice.

However, let us consider why the gazettal notice was in the first 11 days of July. As the Premier pointed out in tabling the gazettal dates from 1964 through to this year, all gazettals have been in July; they have not been before 1 July. It seems to me that we have a precedent here that has been followed by successive Governments for generations of this Parliament. In this process I want to emphasise that the Engineering and Water Supply Department acted in good faith. Nobody, including myself as Minister, was aware that the legislation required the details of the rates to be fixed by notice in the *Gazette* on the precise day—1 July.

Members interjecting:

The SPEAKER: Order!

The Hon. S.M. LENEHAN: In response to the howls of the Opposition, I believe it would be quite correct and fair to state that nobody in this Parliament was aware of such a requirement, and certainly it was not a matter that was ever raised by the Opposition. No member of the Opposition raised this point in the Committee stage of the Bill.

Members interjecting:

The SPEAKER: Order! The member for Adelaide is out of order.

The Hon. S.M. LENEHAN: In fact, as has been pointed out by the Premier, the same practice for gazetting rates after 1 July was followed by the Liberal Party and members of this current Parliament. What hypocrisy that members opposite should sit there and accuse me, saying, 'You should have known', when the practice that they ask the House to find me guilty of was a practice which they perpetrated. That is total hypocrisy. This is not a case of any illegal action or any deliberate avoidance of the provisions of the Act. I totally reject any claims by the Opposition that there was some kind of deliberate avoidance or of trying to get around any provisions of the Act. It is a practice that has gone back for many, many years—right back to the 1950s, 1960s and forward from there.

However, it was an interpretation and a need to comply with the judgment of the court. Indeed, this Government is prepared to comply willingly with the findings of the court and, as I indicated earlier today, I will introduce a validating piece of legislation that will be so simple that even the Opposition will be able to understand its contents. I think that is vitally important.

A number of points have been made about the new system. According to the Opposition, the new system is a wealth tax. In terms of the Opposition's amazing stance on the whole matter, the member for Heysen calls for a complete move to a user-pays system. He then rushes into this Parliament with a Bill to go back to the old system. If the community are confused about this system, what level of total chaos and confusion would the Opposition reek upon our society by moving, after only a short period, to abandon the new system? The Opposition does not even have the integrity and the decency to allow the new system to be put into place to see whether it operates. Members of the Opposition are not prepared to do that: they want to rush back to the old system which was based totally on property value.

If the new system has, as the Opposition claims, an element of wealth tax, I ask the Parliament what was the old system based on? It was obviously almost totally a system based on wealth. Indeed, as the Premier pointed out when analysing the water situation in terms of property value and the water consumption of some of the plaintiffs, this system, for the first time in this State, allows people who have very expensive properties to reduce the amount of their water rates, whereas under the old system they paid for water they did not use, and they paid for water based entirely on the value of their property.

For the first time, the constituents which the Opposition purports to represent will have the benefit and the advantage of being able to reduce their consumption—not dramatically—by 100 kilolitres. In fact, they could reduce their consumption by the amount the average family in this State uses, by 300 kilolitres, and they would not even notice a

change in the quality of their lifestyle. We are talking about ordinary citizens. The member for Heysen talks about families and the elderly. The very basis of this new system is to give advantage to families and to the elderly because, as my colleagues the members for Norwood and Unley would attest under the old system their constituents paid for water they did not use. Often, it was older women who were left, when their husband passed away, in properties they had lived in all their lives.

Many people's property valuation increased, and they never used the water for which they paid. However, they are now in a position where, for the first time, they will be able to pay a realistic amount for their water. Many of those people wrote to me initially because of the fear and scare campaign of the member for Heysen. When I wrote back to them and said, 'You'll be saving an enormous amount off your bill,' and I delineated what that would be, elderly people wrote back and asked me, 'Why did the member for Heysen tell such lies?' Indeed, that has happened.

Members interjecting:

The Hon. S.M. LENEHAN: Members opposite do not like to hear the facts of the matter: they do not like to hear the fact that 84 per cent of the 350 000 households in this State that are on the domestic water service will be better off or the same. They do not want to hear that: they only want to trumpet from the rafters of this Parliament the cause of the privileged and of the wealthy, notwithstanding that the privileged and the wealthy can reduce their water bills for the first time; they can actually pay only for the water they use. I totally support the point the Premier has made: is it a responsible position for any member of this Parliament to say that to use 2 444 kilolitres of water a year is something which we should support? Of course we should not. Of course, those people will pay for that water, and no-one is denying them the right to pay for the water that they use.

What we are saying is that in the driest State in the driest continent the major catchment for Adelaide has had 95 per cent of its native vegetation removed, there has been multiple use horticulture and agriculture, and up to 40 per cent of our water has had to be pumped from the Murray River, which has reasonably high salinity and turbidity levels, and we have to put that water through a process of disinfection and filtration before we provide it to the consumer. We then have the Opposition calling out, in interjection to the Premier, that we should support these people and that somehow we are being churlish because we are not suggesting that that should be the norm. I totally reject that position. If I have been irresponsible in what I have done because for the first time in the living memory of this community the water rating system has been changed from one that was grossly iniquitous and unfair to one that is much fairer and, indeed, does not disadvantage the poor of this community, I stand here proudly to be judged by this Parliament.

Let me remind this Parliament that we have continued to increase the amount of water we use year by year. We have done that because the water rating system has not provided any incentive to reduce consumption. In 1980-81, 10 years ago, the annual water demand was 189 200 megalitres, and in 1990-91 it was over 200 100 megalitres. The amount of water we are using has risen—with the exception of two years when it went down slightly, that is, 1983-84 and 1986-87. I believe that any Government that has the responsibility for being the caretaker of the most precious resource in a State which, as I have said, has the lowest rainfall and the most polluted catchment area of any city in this country and which introduces a system that, for the first time, has a major component of conservation—that is, a user-pays system—and has a component based on an access charge that includes property valuation, should stand up proudly.

If members of the Opposition suggest that it does not cost any more to provide water at the rate of 2 444 kilolitres a year to single households, they are deluding themselves. Of course, the responsibility given to the E&WS by this Parliament is to keep the mains fully charged at all times, to provide a firefighting facility and to provide water to those who pay for it. It is a nonsense to expect that it will not cost more to provide water to these huge properties that are enormous consumers of water. I want to raise the matter of the cross-subsidy of city water users to the country, to which the Premier has already alluded. If members opposite do as they say they are going to do and talk about a total user-pays system, let them explain to the 80 per cent of Adelaide people, for example, what it will cost them. Let the Opposition also have the courage and the honesty—

The Hon. Lynn Arnold interjecting:

The Hon. S.M. LENEHAN: Four out of five households—to go to their country constituents and tell them that no longer will the people of Port Adelaide, Elizabeth and Hackham support and subsidise these people because this Government—

Members interjecting:

The SPEAKER: Order!

The Hon. S.M. LENEHAN: They don't like this because they know that this Government—

Members interjecting:

The SPEAKER: Order!

The Hon. S.M. LENEHAN: —was not prepared to do that to the minority country users. In fact, many Opposition members write to me almost weekly seeking extensions of services. They want more services in terms of water and sewerage in their country electorates and every member knows that wherever possible I have bent over backwards to try to ensure that those services are provided. Every member of the Opposition knows that my door is always open and, rather than being arrogant and hypocritical, and all the things I have been accused of, I have, more than anyone I can think of, been prepared to bend over backwards to try to find solutions to the problems relating to the provision of water in this State. It is an absolute nonsense—

Members interjecting:

The Hon. S.M. LENEHAN: I can assure the honourable member that I am not asking him to burst into tears. We know what a memory he has and we know what a hypocrite he is. We know that he is into double standards, giving the community absolute misinformation (I have to be careful, Mr Speaker), and deliberately choosing to cause confusion.

With respect to the decision that has been brought down, it is true that two out of the three judges found that only on one legal technicality—that the notice should have been gazetted on 1 July rather than on 11 July—was the system somehow wanting. The integrity of the Act was never challenged and was certainly not found wanting, and anyone who says otherwise has not read or understood the judgment. I would like to close by letting the Opposition know what even Mr Justice Zelling made quite plain.

The SPEAKER: Order! The Minister's time has expired.

Mr INGERSON (Bragg): I support the motion. I wish to refer to comments made by the Minister of Water Resources and the Premier. One aspect that I found abhorrent about today's debate is that people who are successful and willing to pay tax to the State, people who are prepared

to work hard and to live in buildings in which they are happy, are being criticised. The wealth producers of this State are criticised by the Government. Four individuals were willing to have their case tested. As I say, it has reached a scum bag level when we get down to that sort of thing.

Members interjecting:

The SPEAKER: Order! Part of my duty is to uphold the standard and decorum of the House. I know that the term 'scum bag' has been used fairly extensively in other Parliaments. However, I do not think it is appropriate in this Parliament, and I ask the honourable member not to use it.

Mr INGERSON: Thank you, Mr Speaker. In her reply the Minister admitted that all she had done was to make mistakes as a Minister, but that is what this motion is all about—the Minister's incompetence and mistakes. The Minister has the gall to say that, if these are her only mistakes, she will leave this Parliament in a great way. That is what the motion is all about—the Minister's incompetence and mistakes. The Minister also said that Justice Zelling did not comment at all on double dipping. Let me quote exactly what Justice Zelling said, as follows:

> So a ratepayer who has paid rates and *a fortiori* excess water rates, in relation to water used in the financial year 1990-91—

listen to this—

> may find some of that water for which he has already been rated brought into calculation in fixing his liability for this year.

He then goes on to say:

> The sultans of Turkey were said to be addicted to levying the same tax or toll twice or more, and if the Parliament of this State sees fit to follow their example, that is no concern of the courts. As has been said many times, there is no equity in taxing legislation.

In reading that quote, I left out one sentence, but not to cover up the point: the sentence is as follows:

> I cannot see that that affects the validity of the legislation.

I agree, but the point that is made clearly is that Acting Justice Zelling said that there was double dipping, and that is what the Liberal Party and the constituents are saying. Acting Justice Zelling said that clearly: there is no question about that. Secondly, the Minister asked how she could have known about the situation, but under our system of Government it is the responsibility of the Minister, when something is to be gazetted or when it is gazetted on behalf of the Minister, to ensure that the publication it is correct. To pick up that statement, I quote again from what Justice Zelling said:

> Again, I am not impressed by the sloppy draughtsmanship because the subject is entitled to be told with precision anything which affects his rights and with which he is expected to comply.

In other words, Acting Justice Zelling said it was sloppy, and that comes back to the Minister. No-one else is responsible but the Minister, and that is what today's motion is all about. Certainly, I want to add a little bit of local perspective to the debate. About 500 residents from the eastern suburbs, predominantly from my electorate, including pensioners, superannuants, low and middle income people and some successful high income people, attended a meeting some months ago. Let me point out to the House that the District of Bragg has the largest ratio of old people of any district in this State. It also has the largest number of pensioners and superannuants. That is interesting, because Government members are slagging the District of Bragg for purely and simply being representative of the so-called wealthy.

I now refer to an interesting social justice comment made by Minister Lenehan in her bathing suit at Dalhousie. An article states:

> Water Resources Minister Lenehan has denied the new water rating system is a wealth tax but has claimed it is 'just' to make the affluent pay more for their water than those living in moderately-priced homes. Commenting . . . she said the Government's new system was not a wealth tax but 'social justice'. 'I happen to believe it is not an injustice for somebody in a $500 000 house to pay $5 to $6 for their water than somebody in a $100 000 house' she said yesterday. You have to be fairly affluent to maintain a $500 000 house.

Let me again point out to members opposite that the average price house in my electorate is $135 000. There are few homes in my electorate of that order. There are some, but those people just happen to be taxpayers and wealth producers. They have worked to get their wealth, and that is something that members opposite do not seem to understand. Those people have worked and earned what they have and they pay their taxes.

The Minister's final comment is 'It's not a tax—it's a payment for a service that is provided.' What a lot of nonsense. It is not payment for service. It is a straight wealth tax. It is no more or less than that. Perhaps Minister Lenehan and Premier Bannon can explain to those people who have suffered increases in the wealth or asset component of this tax why they do not pay such taxes in terms of telephone, gas or electricity charges. Why is it that none of those commodities delivered by the Government is charged in the same way? It makes no difference where people live or what is the value of their property in respect of electricity, gas or telephone charges but, if water is provided in a pipe next to the cable that runs alongside the pipe, the cost depends on the value of the property.

Let me say clearly to this House that there are many people in this community who live in low value homes and who have high incomes. This Government does not care about that. If one happens to be a high income earner living in a low value property, this Government is prepared to call that social justice. I can give plenty of examples of that in the area of Salisbury. High income earners are living in low value properties and they are ripping off the system. What is the Government doing about that? Absolutely nothing. Why is it that families who live in—

Members interjecting:

Mr INGERSON: The Minister of Industry, Trade and Technology knows that many people who work at DSTO, which is in his electorate, are living in low rental housing but have high incomes. He knows that full well. Why is it that the families who have lived in the district for 30 to 50 years are being penalised by this Labor Government?

Members interjecting:

The SPEAKER: Order!

Mr INGERSON: Let me cite the example of an old age pensioner couple who are being charged on the difference between $117 000 and $209 000, which is the valuation of their home for rating purposes, and the change is levied in the name of social justice. Their letter states:

> Unfortunately, we are ourselves in the category of requiring social justice and are not in a position of dispensing it to other unfortunate people.

This couple purchased their property, which is in my electorate, for 2 000 pounds in 1941; it is a modest home. The letter goes on to state:

> . . . we are the unfortunate victims of having lived too long, and now have to pay for astronomical inflation of house values without the corresponding astronomical improvements in pensions.

This is an example of people in my electorate who are being poorly treated just because they have lived there for 50 years and the property values have gone up. However, pensions are going down while property values are going up, and this Government does not care. I support the motion that the Minister be dismissed.

The Hon. P.B. ARNOLD (Chaffey): The arrogance of this Minister has landed her in trouble once again. One could say that she has been too smart, in fact, too smart by half inasmuch as, when the opportunity was available to continue and to complete the water rating system that was initiated by the Hon. Des Corcoran, halfway through the process the Minister backed off because of some theory put forward by Mr Hudson. That is where the trouble started; the Minister believed that she was so smart that she could break away from a well-founded system that was introduced in the 1970s by the Hon. Des Corcoran. The system was based on a user-pays principle; we were to move steadily towards that end. That is exactly what was happening.

The Minister talks about social justice. Social justice for whom? What she is applying is an out and out wealth tax. What so-called social justice (and I hope the Minister is listening) has the Minister ever applied to the country people? The only water filtration plant in South Australia to service the people of Whyalla, Port Augusta and Port Pirie was commenced by the Liberal Party, and if it were not for the Tonkin Government the people of Whyalla still would not have filtered water today. Where is the Minister's social justice? In the Minister's view, social justice means that some people are entitled to it and others are not.

The Premier made great play of the $37 million subsidy for country water supplies. Let me remind the Premier that there are many cross-subsidies in South Australia, one being the cross-subsidy of people living in country areas towards the STA, which runs at an annual loss of $130 million, for which they do not even get a ticket to ride on a bus—there is no public transport system in the country. That is a direct cross-subsidy to country people, and we are talking about—

Members interjecting:

The SPEAKER: Order!

The Hon. P.B. ARNOLD: We are talking about $130 million. Let me remind the Premier and the Minister that the people living along the Murray River in South Australia could have filtered water for 40c a kilolitre if it were supplied on a user-pays basis. If the Minister cannot provide that, she ought to go to Victoria and New South Wales to see what private enterprise is doing in those two States: it is supplying filtered water to people along the Murray-Darling system for less than 40c a kilolitre. There is a further subsidy of 100 per cent by people in the country areas to those living in the metropolitan area. The Minister talks about social justice.

Adelaide's water supply is one of the most secure in Australia. The Minister and the Premier still harp on the old hackneyed phrase that South Australia is the driest State in the driest continent. From a rainfall point of view, that is true, but most other countries in the world with a rainfall equivalent to that in South Australia do not have the Murray River flowing through them.

In fact, we in this State use, on average, 1.85 million megalitres a year and, on average, 5 million megalitres a year flows through South Australia, at least three million megalitres flowing out to sea and being wasted. What the Minister fails to recognise is that water is not a finite resource: it is a renewable resource and, if the Government of this State does not want to make use of that resource, then it is high time it thought seriously about it. The Minister has made statements in this place about bringing water down from the Ord River. Of course, that is absolutely absurd when just 75 to 80 kilometres away from Adelaide there is a spare three million megalitres a year.

If the Minister cannot follow this, I will explain it in a little more detail. When the Minister is currently pumping water to metropolitan Adelaide, she is pumping the worst of the Murray River water in the summer months. If she had any commonsense at all, she would water harvest from the Murray River in the high-flow periods and store it in the Adelaide Hills, and that would be far better quality water than the natural run-off from the Adelaide Hills. Quite obviously, the Minister is unaware of what water harvesting is all about, as she talks about bringing water down from the Ord River in northern Western Australia. How absurd can one get? The water is available, and the people to whom the Minister has referred as using considerable quantities of water in metropolitan Adelaide should be able to use that water. It is there and they are paying for it.

What is more, we should be encouraging people in South Australia and in metropolitan Adelaide to use as much water as is available on the basis that, if we are serious about the greening of South Australia and Adelaide and making it a beautiful place—even more beautiful than it is and we have one of the most beautiful cities in the world—we should not be limiting people in relation to the amount of water they can use when three million megalitres of water a year flows out to sea. Quite obviously, it is time for a change of Government. The Minister of Transport also is not prepared to accept the issue of cross-subsidisation.

The Hon. Frank Blevins interjecting:

The Hon. P.B. ARNOLD: It is about time the honourable member spoke to the Premier, because he obviously does not understand it at all. I have referred to the $37 million compared with the massive cross subsidies. Let me also remind the noisy Minister of Transport that—

Members interjecting:

The Hon. P.B. ARNOLD: Oh, be quiet for a moment, will you?

The SPEAKER: Order!

The Hon. P.B. ARNOLD: Only 30 per cent of the population of South Australia lives in the country areas. It is acknowledged that that 30 per cent generates 50 per cent of the State's economy, which is exactly double the productivity per head of every person living in the metropolitan area. Who is subsidising whom? Who is cross subsidising? For goodness sake, get off that old red herring—

Members interjecting:

The SPEAKER: Order!

The Hon. P.B. ARNOLD: —that you are doing anything for the country people of South Australia or that metropolitan Adelaide is subsidising country people. That is blatantly untrue, and one has only to read the article written by Malcolm Newell a few months ago on this issue to realise that. He did his own research but he echoed what I have been saying for the past 10 years: that 50 per cent of the State's economy is generated by 30 per cent of the population and it is about time that message got through to this Government.

The Hon. J.C. Bannon interjecting:

The Hon. P.B. ARNOLD: You just take on board what I have said and get rid of the fallacy that the people of metropolitan Adelaide are subsidising the country people. If it were not for the wealth that is earnt in the country, very little would happen in the metropolitan area, because it is certainly not being generated here.

I strongly support the motion that has been moved by the member for Heysen. The Minister is totally incompetent, for the reasons that I have given. If the Minister is prepared to listen to some of the points that have been put forward today, she will see where she has gone wrong.

Mr HOLLOWAY (Mitchell): I rise to reject this grubby, opportunistic motion that has been moved by the Liberal

Opposition. One of the things that members opposite have referred to is the Sultan of Turkey, and the famous quotation by Justice Zelling. There are plenty of examples opposite of the Sultan of Turkey's court. I am not sure whether they are most like belly dancers because there has been plenty of display and enticement over there but not much action, or perhaps they resemble the harem because there has been plenty of prostitution by members opposite as far as their values are concerned.

What a grubby exercise this has been. What members opposite resent is that the Minister of Water Resources has had the courage to reform the water rating system in this State, which has been untouched, essentially, since the 1880s. It was necessary to change the system for the soundest of environmental reasons. If we do not change to a system which discourages the overuse of water—the people who use six tonnes a day—in the near future we will have to spend a lot more on capital investment in our water delivery system. It is essential for this State that we move to a new water rating system.

This Minister has had the courage to do it and members opposite resent that. They have had no guts to introduce a user pays system. When they had the opportunity in private members' time, what did they come up with? A simple return to the old system. It was all they could think of, the best they could do. They are unwilling to introduce a user pays system because they know what will happen if they reveal to the people of this State what such a system means. Members opposite want the richest people in the community to pay a lot less for water and they want the poorest people to pay a lot more. It is as simple as that as far as Opposition members are concerned.

I will comment now on the essential element of the argument, which is what upsets members opposite, that is, the property component. That component has been a feature of the water rating system since the 1880s, when the system was entirely property based. What is proposed under the new system is that there be two elements: the user pays element and the property charge. There are very sound reasons for a property component, and that is what members opposite are trying to run away from. It was set out clearly in the Hudson report but, of course, Opposition members do not quote it, they do not look at it, they steer right away from it, because it is embarrassing to their arguments. What they want is to make cheap political points.

The reason there should be a capital recovery charge as well as a recurrent cost is quite simple. There is higher consumption in higher valued areas. We have heard about it today, about the six tonnes per day that are consumed by people who live in houses worth $600 000 or $700 000. The pipelines and the headworks—all the capital works that are required in a water delivery system—must be paid for and the people in the wealthier suburbs are taking the most.

The other element that comes into the cost of water is the terrain. If we take the member for Heysen's electorate, for example, that is a pampered area if ever there was one, as I mentioned the other day. His electors are cross subsidised for a whole range of commodities because of the terrain. Take electricity: because of the fire risk, there must be undergrounding and bundling of cables. Who pays for that? The people of the western suburbs. Take the bus services in that scattered electorate. Who pays for the STA bus services? It is the people of the western suburbs of Adelaide. In this case, where there is justification for paying more, where there is a genuine, economic case for saying that people in higher valued areas should pay a capital component, members opposite resent it and they are fighting tooth and nail to make sure that it does not become part of the system.

Water is a basic commodity. It is most important for our future that we get a water rating system that sends the right signals to our consumers. If we do not do that, we will be faced with much higher costs in the future. It is most important that we adopt a water rating system that is fair and equitable. The Minister of Water Resources has come up with that. What has happened is that some of the people opposite, representing vested interests—the most self-interested groups in the community—have fought to throw it out because they bitterly resent any system that makes the wealthiest people in our community pay for their fair share of water costs.

The arguments for a capital charge are set out clearly in the Hudson report, which is the basis of the new water rating system. There are about four or five pages of sound economic arguments contained in it, but not once have members opposite tried to address those arguments or refute them. The sound reason for that property charge so irritates them that they cannot do it. During this debate members opposite have spoken about almost everything other than a water rating system. Amazingly, the member for Chaffey spoke about cross-subsidisation. Heavens above! One would have thought that the honourable member would be quiet. In so many areas the electors of members opposite are cross subsidised by others; yet he had the gall to use that as an argument against this new system.

Members opposite have nothing to put forward other than pure, unadulterated self-interest. It is time we dispatched this cheap and shoddy motion and dealt with the real issues of the day. I ask members to reject this cynical and cheap political stunt.

The Hon. D.C. WOTTON (Heysen): The Premier has failed dismally this afternoon in his difficult job to support his Minister of Water Resources. This afternoon we have seen the Premier promote the politics of envy. He was more content or more interested to condemn those who have worked hard in this State and have gained for themselves, rather than to get down to his responsibility to support the Minister of Water Resources. The Premier has talked about water conservation. Nobody in this debate has denied that water conservation is important, but this particular debate is not about water conservation: it is about fairness; it is about equity; and it is about confidence that this House and this State should have—but which it does not have—in the Minister of Water Resources.

The Minister has accused the Opposition of misrepresentation when even today in this House she has misrepresented the findings of the court. How can she stand up publicly in this place or anywhere else and accuse the Opposition of misrepresenting the case we have brought before this House today? We have seen the Minister make weak excuses and worm her way out of ministerial responsibility in any way she can. The fact is that the Minister has been and continues to be too arrogant to listen even to her own department, and we have been able to prove that this afternoon.

The Full Bench of the Supreme Court has totally vindicated the stand taken by the Opposition and the people of metropolitan Adelaide. The legislation putting in place this Government's new water rating policy is retrospective, despite what members opposite might say—it is retrospective—and there is no justification for charging consumers twice for the same water.

The Minister, through her arrogance, has misled the community and this Parliament. This House—and this State—

totally lacks confidence in the Minister of Water Resources because of her ministerial incompetence, and that has been proven this afternoon. We are also concerned about the Minister's failure to comply with a specific Act of Parliament in the exercise of her ministerial responsibilities. As I mentioned earlier, the Premier indicated previously that the Minister must accept responsibility for the debacle that we have with this new water rating policy. This entire fiasco is a disgrace for which the Minister must accept total responsibility. The Premier has no alternative but to sack her, and I call on him to do just that. The Minister lacks the confidence of this State and this Parliament. The Premier has no alternative but to sack her and to do so immediately.

The House divided on the motion:

Ayes (23)—Messrs Allison, Armitage, P.B. Arnold, D.S. Baker, S.J. Baker, Becker, Blacker and Brindal, Ms Cashmore, Messrs Chapman, Eastick, S.G. Evans, Goldsworthy, Gunn and Ingerson, Mrs Kotz, Messrs Lewis, Matthew, Meier, Oswald, Such, Venning and Wotton (teller).

Noes (23)—Messrs L.M.F. Arnold, Atkinson, Bannon, Blevins, Crafter, De Laine, M.J. Evans, Ferguson, Gregory, Groom, Hamilton, Hemmings, Heron, Holloway and Hopgood, Mrs Hutchison, Mr Klunder, Ms Lenehan (teller), Messrs McKee, Mayes, Quirke, Rann and Trainer.

The SPEAKER: There being 23 Ayes and 23 Noes, I cast my vote for the Noes.

Motion thus negatived.

PARLIAMENTARY COMMITTEES BILL

Returned from the Legislative Council with amendments.

LAND TAX (MISCELLANEOUS) AMENDMENT BILL

Returned from the Legislative Council without amendment.

GRIEVANCE DEBATE

The SPEAKER: I put the question that the House note grievances.

Mr McKEE (Gilles): I was intrigued last week to watch media reports and debates borne out of the appearance of Mr Kerry Packer before a Federal parliamentary joint committee on media ownership in this country, and in particular to look into the bid by Mr Packer and his partner, Canadian publisher, Conrad Black, for 15 per cent ownership of the troubled Fairfax publishing group. The two important points in this matter are the contracting and shrinking ownership of the media into too few hands in this country and the backdoor method by which parts of the media of this country can be owned by overseas investors. Given these two important points, the Government has acted responsibly on behalf of the Australian people by setting up a committee to examine this process.

I think that it is just too bad for Mr Packer if he felt reluctant to appear before the committee. If we are to have an inquiry into media ownership and conduct it properly, then a person who heads a company that owns not only a national television network, but also the following print publications, which I will list in a moment, should be commanded to appear before such a committee.

According to the circulation department of Consolidated Press, the holding investment company of which Kerry Packer is a director, he has approximately 30 magazine and print publications, including *Adventure Australia, Australian Business Monthly, Australian Design Series, Australian Gourmet Traveller, Australian House and Garden, Australian Women's Weekly, Belle, Bulletin, Cleo, Corporate and Office Design, Cosmopolitan, Dolly, Elle, HQ, Handmaid, Menu Planner, Mode, Mode Bride, Modern Motor, People, Project and Kit Homes, Race Track, Rugby League Week, Sires, Street Machine, Picture, Wheels, Woman's Day*, and *Four Wheeler.*

I should have thought that people have the right to ask a person who owns a television station in every State—I include the Northern Territory because of his ownership of Channel 8 in Darwin—and 30 publications across the country what his intentions are in making this bid with a foreign partner to take over another publishing empire.

The media, not surprisingly I thought, all supported Mr Kerry Packer as giving a superb performance. Indeed, I thought they were going to give him a Logie. For my part, I saw a man who has inherited his media ownership and wealth from his father, Sir Frank, a man who thumbed his nose at the Australian people and a man who was arrogance personified. With the companies and the publications which are owned already by Consolidated Press Holdings, if Kerry Packer is successful in his bid, along with Conrad Black, he will own 15 per cent of the troubled Fairfax organisation which includes among its main newspaper publications the *Sydney Morning Herald*, the *Age* and the *Australian Financial Review.* The other operations owned by the Fairfax organisation include the *Canberra Times*, the *Illawarra Mercury*, the *Newcastle Herald* and the *Sunday Press*, along with numerous other national magazine publications, television and radio interests.

The people are concerned about the shrinking ownership of the media in this country, and I believe it is only correct that the Federal Government constitute a committee to investigate that ownership on behalf of the Australian people. If we are to disseminate information to people, it must come from the broadest possible sources, rather than a confined, small ownership in the hands of only a few people in the country. People make up their minds on how this country is run, with political opinions being expressed through the media, and if we do not have diversification of ownership and a number of players in that area, the people will be receiving information that a certain few people want them to hear. If Mr Packer was worried about his performance—

The DEPUTY SPEAKER: Order! The member for Light.

The Hon. B.C. EASTICK (Light): This afternoon I want to speak about the rapacious attitude of the present Government. I use that term in the full sense of grasping, extortionate, predatory—

Mr Atkinson: The full sense?

The Hon. B.C. EASTICK: Yes, and I warn all South Australians that they need to watch the activities of the Government at present, particularly when it comes to charging taxes or rates of any kind. Following the debate earlier this afternoon, I draw attention to the fact that in an area close to Gawler the E&WS Department was charging people sewer rates for an area that had not even been proclaimed. It took sewer rates from a large new development area for the quarters beginning 1 January 1991 and 1 April 1991. It

did not get around to proclaiming the fact that the area was a sewer area until late in April 1991 and that it would be effective from 1 July 1991.

Quite by chance, one of the people who had a parcel of land adjacent to this area which became a sewer area contacted me because of a large bill he received for the provision of a sewer for which he did not even ask. It was not for connection to the sewer but for a pipe that went past his property, and he then became responsible for the provision of funds towards the building of that sewer. While we were dealing with that issue and looking at the rates he was being charged, I noticed in the *Gazette* that the action was to take effect from 1 July; yet I had evidence of the fact that he had been charged sewer rates for two quarters before it was even legal. We have heard this afternoon of the illegality of the actions in relation to water rates; that is another matter, but it has created a great deal of concern and is now out in the open. The matter involving the sewer area is also out in the open, and the Minister, to her credit, had the matter very quickly adjusted and credits were made available to the people who had been illegally charged sewer rates. How many other people—

The Hon. D.J. Hopgood: So, she was not rapacious?

The Hon. B.C. EASTICK: It is the activity of the Government which is rapacious. If we were to look into the affairs of the Government taxing authorities, I think we would find many other examples of people being charged taxes or rates which do not apply to their property. I believe it is essential to warn the people of South Australia that when they go on to a new taxing measure they check deliberately with their local member, with their council, or whoever, to make sure that they are being legitimately charged, because there are a number of cases where they are not being legitimately charged. I give the example of yet another area within the E&WS Department where a person paid for half the provision of a sewer line when in 1985 a subdivision had been sought. That person was advised at that time that only half would have to pay because eventually the people on the opposite side would have to pay for the other half.

They accepted that. Now, because the rules have changed and they want to take off another block alongside the pipe for which they have already paid about $7 000, they are being asked for $4 000 to pay for their own section of pipe. That type of attitude, which is being formulated by this Government, caused me to use the terms that I did. People are being attacked quite unmercifully by the Government to raise funds for the Government's excesses. I do not mind paying for a service provided, but not double.

The DEPUTY SPEAKER: Order! The member for Stuart.

Mrs HUTCHISON (Stuart): I would like to place on the public record my congratulations to the Lions Club of Port Augusta for 25 years of service in Lionism in Port Augusta. That is indeed an achievement for a local Lions group, and its service in terms of dollars and cents would amount to an enormous sum of money that has been given to the Port Augusta community. In Port Augusta on Saturday we had a celebratory dinner at which Lions Clubs from around Australia helped the Port Augusta club celebrate. The Port Augusta Lions Club was started in 1966 as a sister group to the Whyalla club and had five members whose combined service amounts to 105 years of service to Lions in our community. I doubt that that record has been bettered anywhere else and it is a major achievement to those Lions who have given all those hours of service to the local community.

Further, the Port Augusta Lions Club has been most innovative and, in fact, in its early days and in the early 1970s two doctors involved in the club got together a glaucoma screening program. As a result of that program thousands of people around Port Augusta were screened and early intervention in respect of glaucoma was achieved. Many people have the Lions Club to thank for that important contribution.

Members interjecting:

Mrs HUTCHISON: I will not make the Lions political, because one of their objectives is not to be political. However, as the local member I would like sincerely to congratulate the club on its community involvement over this period. Not only was the club involved in glaucoma screening but it also raised funds for the Port Augusta Ambulance Service, which has been well used since the club provided the money for it. The club is now involved in raising funds for a mobile mammography screening unit that I hope will shortly be in operation in the country areas of South Australia in the north and the west. Certainly, the member for Flinders will be grateful, as I will be, when that unit comes on stream in early 1992.

Not only has the Lions club been involved in those health issues but it has also been involved in community projects such as building fences for kindergartens and the CWA. It created the Lions Park, which presents a good image as people drive into Port Augusta and which is used substantially by tourists as they pass through our city. The Lions club was also involved in helping out at the Homestead Park area, another tourism park project in Port Augusta.

I am sure that all members would agree that service clubs do a tremendous job for the communities in which they live and work and that, without them, many of the amenities that we now take for granted in our community would not exist. Certainly, to achieve 25 years in one area with Lions International is something that all the Port Augusta club members can be justifiably proud. In listening to comments by people who have been members of that club and who have shifted to other clubs in Adelaide or other country areas, the accolades given to Port Augusta Lions would have made club members proud because they have formed one of the most substantial clubs in the State.

In 1975 and as recently as 1989 the Port Augusta Lions Club hosted two international conventions of Lions. The first was probably the biggest as it involved hosting around 600 people. That effort was spoken of by a number of people who came to the dinner to help the club celebrate last Saturday evening. I understand that that record has not been bettered yet by any other Lions club in this State. I feel proud to be the local member for a club that has contributed so much to the community in which it works, and especially in the respect of its members.

The DEPUTY SPEAKER: Order! The member for Hayward.

Mr BRINDAL (Hayward): For two hours this House has been involved in considering the malaise which affects this Government. We witnessed the extraordinary scene of the Premier saying that that was not one of the important issues of the day. I follow my colleague the member for Light who also spoke about this Government's rapaciousness. For people living in South Australia on this day, there is no more important issue than the malaise and maladministration of a Government which is tired and which has run out of steam, a Government which promised flair and vision but which can produce only a miasma of fog and smoke.

The ineffeciency and the general lack of competency must be a concern to all South Australians, but especially so since

this Government seems determined to protect those who work for it. In the brief time available today I wish to highlight a matter of concern to me. We currently have being built in South Australia a number of police transmitter buildings in remote country areas. I do not deny the need for the police to have a state of the art efficient communications network, but it does concern me that little attention seems to have been paid to working on some joint arrangement with either Telecom or Australian National for the joint sharing of facilities that both of these organisations, as the member for Stuart will attest, have in plenty throughout country South Australia.

It may well be that there is a need for some sort of confidentiality and to keep the police network discrete, separate and secure. That being the case, there may well be a need for these new buildings, but I do not believe that the joint sharing of facilities has been properly explored. Nevertheless, SACON issued tender document No. 79/E/91, which to me is a clear indication that Sir Humphrey needs certifying. The tender document requires class one formwork and colour control type B as defined in AS151, part one. If we look at Australian Standard 1510 part one we find that the type of formwork required by SACON for these buildings is that which is suitable for major public areas, for architectural features of buildings and for public monuments.

I contend to the House that that is quite unsuitable for a purely functional structure to be erected somewhere that only a few emus, kangaroos and perhaps the passing pastoralist will see. Further, the requirement for colour control type B means that the cement must match perfectly, that there must be no gradations of grey so that all the cement from one end of the building to the other must be perfectly matched. That seems strange in a building that is to be painted in any case. Why we need these excessive standards in a purely functional building that is to be painted is not comprehensible to me.

Members interjecting:

Mr BRINDAL: Members opposite can say what they like. They can make as much fun as they want because, when it comes to serious points, they have not much to contribute. I will give them their frivolity and stupidity, but I am trying to debate a serious point. It has been estimated that every one of these buildings has cost $8 000 to $10 000 more because of these unnecessary requirements. They could have class one formwork, but they do not need colour control type B. So, $8 000 to $10 000 per building could have been saved by this Government. However, we have designers of buildings working in SACON who apparently disregard cost. So, in one simple exercise, $80 000 might as well be flushed down the toilet. If this Government has $80 000 to spare, there are a number of projects in my electorate and I am sure in the electorate of the member for Albert Park—

The DEPUTY SPEAKER: Order! The honourable member's time has expired. The member for Albert Park.

Mr HAMILTON (Albert Park): One of the issues that has raised a fear in most people's mind in recent years is the threat of HIV, particularly through needle injuries. One has only to go into any hospital, medical or dental surgery and talk to any doctor or person involved in that area to understand how fearful they are of being pricked by a needle that has been used on a patient. It was with a great deal of interest that, in having a look through the newspapers—as I am prone to do—I came across an article in a Western Australian newspaper dated 24 October, in which reference is made to the demonstration of a needle disposer at a Perth hospital. The article states:

> A Kewdale company has invented an electonic device which eliminates the risk of contracting HIV through needle injuries . . . [the] director claims his device . . . is the first of its kind. He said it was far superior to earlier machines, which cut needles in half but did not erase the risk of injury.
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> The low-voltage machine, ranging in cost from $150 to $370, heats needles to more than 1 000C and turns the metal to a blob of residue in a couple of seconds. Remains can then be thrown in the rubbish bin, doing away with the cost of specialised disposal services.

I notice that the Minister on the front bench would be very interested in this issue. I give notice that I will ask him a question about this tomorrow. I hope that he will get his staff to look at it. The article goes on to state:

> The company predicts the machine will eventually be placed by every hospital bed and used in medical and dental surgeries, ambulances, police vehicles and hotels. Mr Nicholls said British companies had committed themselves to $12 million worth of the machines over the next three years. Some 3 500 machines are bound for Europe and 150 samples have been sent to medical centres in Western Australia and Queensland.
>
> Nurses in East Fremantle's private Kaleeya Hospital have made several suggestions that have led to changes in the newest model, demonstrated yesterday by a company respresentative. The Health Department's director of disease control, Charles Watson, welcomed any new device that helped minimise the problem of needle-stick injuries.

I believe that everyone in South Australia and, indeed, in Australia, and particularly the health authorities, if they have not already done so, should investigate this particular box because it only needs one person to benefit from such a machine for it to be worth while. The real test is if an incident involves a member of one's family—we would want everything done to assist them.

Moreover, this raises the issue in my mind as to whether local government and other authorities should consider placing these boxes in community centres, where constituents, such as mine, have found needles on beaches, around sandy beaches and, for example, around the West Lakes waterway, and where parents have justifiably expressed concern about the danger to their children. It may be that local government will look at one of those areas in conjunction with the Minister, and I would encourage such an investigation. I will circularise this article to the LGA, because I believe that with the approach of summer an unfortunate reality is that more and more people will use the beaches, and, indeed, as a consequence, more and more needles are used in those areas.

I suspect that there is nothing worse than being pricked by a needle and being frightened (for 12 or 18 months or even two years) while waiting to find out whether or not the person who used the needle had HIV or, indeed, AIDS. As I indicated, I will ask the Minister tomorrow whether the Health Commission will investigate this and whether it has an similar device that is used in South Australia.

Mr LEWIS (Murray-Mallee): Would members believe that the very Minister who was the subject of the motion just passed through this Chamber has yet again demonstrated her incompetence and has done so in concert, of course, with three other Ministers—the Minister of Mines and Energy, the Minister of Transport and the Minister of Marine? I refer to a division within what used to be the Survey Section of the Department of Mines and Energy. It has now gone to the Survey Division of the Department of Lands under the terms of an agreement struck for transfer on 1 July and made on 21 March in a memorandum earlier this year.

The particular memo to which I refer is to the Director of the Department of Lands and the Director of the Department of Mines and Energy from a working party, which comprised four people. The agreement was for the proposed

incorporation of the Mines and Energy Survey Section into the Department of Lands. It was stupid to have ever transferred it anyway. The staff in that section have specialised skills, the same as have mines inspectors in the Department of Mines and Energy, who have now been transferred to the Department of Occupational Health and Safety, have very specialised skills relative to that industry. However in this instance, the salient points in the terms of the agreement are:

Survey vehicles: The vehicles presently used by the Mines and Energy Survey Section, complete with vehicle equipment, tools etc, are to be transferred to the Department of Lands. The Department of Lands is to assume responsibility for the running costs and replacement of these vehicles.

Asset transfer: All Mines and Energy Survey Section major and minor plant items are to be transferred to the Department of Lands asset register.

Charging policy: The South Australian Department of Mines and Energy sections requestng survey services do not pay for the surveying service, other than covering operating expenses.

They used to be costed out at about $50 an hour, but now the Department of Lands is charging the client department, in breach of the agreement, $100 an hour plus extras. That strikes me as odd. The vehicles mentioned in the agreement are specially modified and fitted out by the staff who use them, and much of the work is done in their own time. They are a very dedicated, competent and professional group. It is this group of people whose work is crucial to the investment of exploration dollars in this State.

We are not talking about small bickies, a few thousand or a few hundred thousand: we are talking about megabucks. Yet, the senior officer's position in this survey section has been abolished and that officer has been given early retirement. The other two people have been assigned to other survey work; they are not even involved now. The Department of Lands has run its budget right out this year already; it is gone; there is no money left. No more work can be done for the Department of Mines and Energy because there is no money left in the kitty to do that. Under the heading 'Vehicles', the department is to:

(a) assume responsibility for the vehicle running costs, and

(b) reserve the vehicles for continued use in carrying out South Australian Department of Mines and Energy tasks by the transferred members. Allocation for other tasks is to be arranged in consultation with these personnel.

The Minister now leaving the Chamber ought to stay here and listen, because it is in her department. The memo goes on to list the department's tasks as follows:

(c) in consultation with the transferred South Australian Department of Mines and Energy personnel meet the cost of future replacement, and modification for exploration, and mining industry related survey tasks.

The crazy thing about this policy is that the very group of people who did the hydrology surveys are about to be transferred out of the Lands Department to the Department of Marine and Harbors. Yet, Department of Mines and Energy surveyors have been transferred into the Lands Department to consolidate all the survey services into the one department. The Minister of Transport comes into this because it is in clear breach of his commitment given on 24 January. In a letter to Mr Charlton, Divisional President of the Institute of Engineering and Mining Surveyors of Australia, the Minister stated:

Thank you for your letter and associated material of 10 January 1991 expressing the views of your institute on the transferring of three surveyors from the Department of Mines and Energy to the Department of Lands. It is not the South Australian Government's policy to allow any employees to do work that they are not qualified to do. The three employees involved have all agreed . . .

These people are now not doing the work that they are qualified to do. Others are doing it. For instance, at Mount Clarence Station near Coober Pedy, we find that surveys are being done by unqualified people to determine the outer limits of the opal mining precious stones field.

The DEPUTY SPEAKER: Order! The honourable member's time has expired.

SITTINGS AND BUSINESS

The Hon. D.J. HOPGOOD (Deputy Premier): I move:

That the time allotted for the completion of the following Bills:
Australia and New Zealand Banking Group Limited (NMRB), Privacy,
Road Traffic (Safety Helmet Exemption) Amendment, and
Statutes Amendment (Waterworks and Sewerage)
be until 6 p.m. on Thursday.

Motion carried.

AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED (NMRB) BILL

The Hon. FRANK BLEVINS (Minister of Finance) brought up the report of the select committee, together with minutes of proceedings and evidence.

Report received.

The Hon. FRANK BLEVINS: I move:

That the report be noted.

My only comment is to thank the Opposition for its cooperation in getting this Bill through the House as expeditiously as we have. There is a very short time line on this Bill, which is not within the control of the Government or, indeed, that of the ANZ Banking Group, I believe. I know that I speak also on behalf of the ANZ Banking Group when I express its thanks to the Opposition for the cooperation that we have received.

Mr S.J. BAKER (Deputy Leader of the Opposition): It was relatively simple for the committee to decide on this issue. It had been canvassed in other States and we found that legislation had been passed in Victoria, New South Wales, the ACT and Queensland. South Australia and Western Australia are pending. It does have a short fuse. The matter must be resolved during this sitting week, otherwise the consequences to the ANZ Bank will not be productive. The deliberations of the committee were very speedy and we may well have set a new record for the time spent in a select committee.

The matter of bank amalgamations is considered by the South Australian Parliament. That is a practice of earlier days and it may be that, with the deregulation of financial institutions, reference to the South Australian Parliament when a financial institution disappears, amalgamates or changes its shape or form is no longer necessary. It is a pity that we did not have more time because we could have addressed some of the prevailing issues in the marketplace with respect to our banking institutions.

This Bill results from the efforts of another overseas competitor which, on entering the Australian market, sought to take vast amounts of business from existing Australian banks and failed to do so. Obviously, that is as a result of the extensive network of the existing banks and the fact that we are one of the best banking countries in the world, and it has been recognised overseas that Australia has been prudent in its practices. Many outlets have been provided,

even to small communities, and we can be proud of our banking history. It is interesting to note that another overseas bank could not quite make it against the Australian competition.

The issue that relates to the NMRB is a very minor one. The bank has a very small outlet in South Australia. I am told that it is on King William Street, but I have not visited the premises. It has few borrowers and few lenders and it keeps only a small sum of money. However, our conventions and legislation require that this matter be addressed. I thank other members of the committee for their very prompt consideration of this matter. I presume it will be given due speed in another place to ensure that the legislation passes by the end of the week and is assented to by the Governor so there will not be any problems for the ANZ Bank.

Motion carried.

Bill read a third time and passed.

PRIVACY BILL

Adjourned debate on second reading.

(Continued from 12 September. Page 833.)

Mr INGERSON (Bragg): The Opposition opposes the Bill. This measure is a sledge-hammer to crack a nut. The Opposition recognises that there are a few occasions when privacy is breached, not only by the media but by many business people in the community. However, we believe that this legislation has been poorly drafted by people who we believe should have done a better, more extensive job. Given the time allotted to the select committee, it is very poor that the Bill has had to be changed significantly. The major groups that have been singled out by the legislation are the media. Whilst there are obvious areas of concern relating to the media, they are very minor and this Bill has been introduced very quickly and without much thought. It is purely and simply a regurgitation of the Bill that was lost in this House in 1974-75.

Members interjecting:

Mr INGERSON: I apologise. If it was withdrawn, it was done so purely and simply on the ground that it could not get through. The position was exactly the same. The Attorney-General introduced this Bill following the report of the select committee, and it has been circulated to a wide range of people and organisations, including all media—print and electronic, metropolitan and country—the Victims of Crime Service, the Law Society, many employer associations, and many individuals within the legal profession and the general community. Considerable concern has been expressed about the effect of the Bill not only on the media but also on various other activities, organisations and individuals. The Credit Reference Association gave evidence to the select committee and the report stated:

> The CRAA submitted that the Bill, in attempting to stop extreme and unreasonable intrusion into personal affairs of individuals, had strayed into areas of legitimate business practice such as the exchange of necessary commercial information.
>
> The CRAA [the Credit Reference Association of Australia] submitted that the draft Bill in its present form should not be supported, because existing State and Federal legislation covering listening devices, telephone communication, credit reporting, defamation and the fair trading report section of the South Australian Fair Trading Act adequately cover credit reporting and the exchange of references between credit providers.
>
> The CRAA said that improvised definitions within the draft Bill may lead to unintended consequences that could adversely affect the commercial world. The CRAA believed that a better path would be to focus on clearly identified abuses rather than provide a genuine right of privacy.

Those comments support the general thrust of nearly all the criticisms of this Bill. It is clearly argued that there is a much broader relationship in terms of privacy than was intended; that the cross-relationship between the commercial world and its general practices is an area of major concern; and that, if there were particular abuses, they should be identified. That was really the thrust of the majority of comments. The member for Hartley has repeatedly said that the impetus for the Bill came from a concern that personal grief should not be subject to intrusion by the media. That is not reflected in the Bill, as initially floated by the member for Hartley, and as reported upon by the select committee, or as introduced by the Attorney-General. The Bill is extraordinarily wide and goes far beyond the claimed intention of the member for Hartley.

I draw attention to clause 3, which establishes the right of privacy and provides that that right is infringed by a person who without the express or implied permission of the other person intentionally intrudes on the other's personal or business affairs in any way as set out in clause 3 (2) *(a)* (i). The intrusion must, in the circumstances of the case, be substantial and unreasonable. An infringement of privacy will also occur in the circumstances set out in clause 3 (3), but a right of privacy is not infringed in the circumstances set out in clause 3 (4) *(a)*. A defence is provided in the Bill and so on.

The right of privacy under this Bill is very broad. There is no similar right in any other State of Australia. There are a number of pieces of State and Federal legislation which do have an impact on privacy matters, such as the Listening Devices Act, the law relating to defamation and freedom of information, the Fair Trading Act in relation to fair credit reporting, telecommunications interception legislation and the Federal Privacy Act. This Bill is so broad as to impinge on every aspect of human relationships as well as placing a substantial bar on the ability of the press to report freely on matters which might involve personal or business privacy. An essential ingredient of every democratic society is a free press, and the essential principle is the freedom of speech by not only the media but also the citizens.

The Bill is so wide that it can be used as an instrument of suppression. The topical illustration is the August front page photograph of the Premier and the Speaker meeting at lunch before the vote of no confidence. The Premier claimed that it was a breach of his privacy. Others would argue that it was a matter of public interest. There are many instances in which—

Mr Groom interjecting:

Mr INGERSON: I use that purely and simply as an example; many people in this community are caught in similar sorts of instances. A photograph is taken, either when a person is with someone of significant importance or when they are just purely and simply sitting around with an important person. Photographs are taken and, very often, they are used. That is an example in which there has been a claim of breach of the Premier's privacy. Others would argue that it is a matter of public interest. Under the Bill, the photographer could have been sued for a breach of privacy, and the Editor and the newspaper could have been sued for publishing the photograph.

A defence may be raised that it was in the public interest. The photographer would have to argue that it was a matter of public interest. The Editor, having received the photograph, would have to determine whether it was one which ought to be published in the public interest. A similar situation occurs on many occasions, and every member of Parliament would have that experience. Fortunately, in our community, it does not occur often, but this Bill covers that

situation and, if a person decides, for whatever reason, that their privacy is breached, this Bill covers that instance. Surely it is not meant to do so.

It could be argued that if publication occurs immediately, there is a breach of privacy. There may be *prima facie* evidence of that, but the onus is turned around and placed on the publisher, who must argue that it was in the public interest. That defence is often used, and we all know that it may or may not succeed, but the reality is that this Bill ties up what is an every day occurrence and can create litigation beyond belief. That is what the Law Society is saying: that is what everyone in the community is saying.

Mr Groom interjecting:

Mr INGERSON: All those who have replied to us—I correct my comment so that it is very clear. Photographs of Skase and Bond taken four years ago in some circumstances might have been regarded as a breach of privacy. They could have obtained an injunction and even damages if such photographs were published. At the time, there might not have been an argument that such publication was in the public interest, but several years later no-one could doubt that publication would have been in the public interest. If corporation documents relating to its business were leaked and published by the media, there would be a breach of the right of privacy. Such publication could raise important questions of propriety, but such publication might still not be in the public interest. If a corporation were alert to the possible publication, it could seek an injunction on the basis that publication would be a breach of privacy, yet that information, when taken with substantially published information, may indicate a scandal, a potential scandal or something that ought to be subject to formal inquiry. The Westpac letters would clearly fall into that category, and it is also—

Mr Groom interjecting:

Mr INGERSON: On the advice given, it is a breach of privacy as well. It is possible, and it is covered under this Act. Surely that is not the intent, and that is why the Opposition is clearly opposed to this direction. It is possible that, if a prominent public figure is observed in earnest discussion with a known underworld figure at a cocktail party, the publication of that information may be defamatory but, more particularly, it would be a breach of privacy unless it was established that such publication was in the public interest. Yet that may be relevant to other information and inquiries. Publication does not have to relate to the media: there can be the mere communication of that information to another person.

The member for Hartley will have plenty of time to reply later. Excited as he is about getting his first opportunity to bring forward a major Bill in this place since I have been here, he should not let himself get carried away. He should listen to what we have to say. If he does not support what we say, he knows full well that he has a right in every debate to get up and say that the Opposition is clearly wrong. I understand the agitation of the member for Hartley, because he has been taking a bit of a pasting in the media in the past few days for pushing forward this unreasonable and unholy Bill. Today he should be quiet and calm while we put forward our arguments. If he does not agree with them, he can make comments later.

A number of questions arise under clause 3 (2). There is no definition of confidential business correspondence or records, and there is no definition of personal or business affairs, referred to in paragraphs (F), (G) and (H). The keeping of a record of another person's personal or business affairs, which may be a dossier by an investigative journalist, would be an infringement. The mere publication of information about another person's personal or business affairs is an infringement, and other areas of publication are similarly infringements.

All the representations I have seen so far, apart from those in the media, including from the Country Press Association, are opposed to the Bill. I have received representations from the Engineering Employers Association, the Law Society, the Retail Traders Association, the Australian Conservation Foundation, the Australian Retail Finance Network, the Credit Reference Association (from which I have already quoted) and the Victims of Crime Service. We have received a major submission from David Syme, representing the AJA, and a significant submission from the *Advertiser* representing the *News* and the *Sunday Mail.*

Mr Groom: Have you read the report?

Mr INGERSON: That is what I quoted from earlier. The difficulty one has is to draft legislation which is clear and which deals with all the possible situations where victims may be involved in events of a newsworthy nature. I doubt whether there can be sufficient precision in the drafting to deal with limited circumstances, even if they are defined. The Government seeks to deal with this by setting standards for the press by regulation. The moment a standard or code is reduced to writing and becomes law, that is the point at which there will be litigation to determine the limits of that law. I suggest that such a proposition cannot be implemented without restricting the freedom of the press and freedom of speech.

There is, of course, the problem of defining private grief. I have previously referred to a broad television picture of the coffin and members of the family and other mourners at the funeral of the late Dr Chang. That depiction would undoubtedly have infringed the provisions of the Bill, yet it was a significant public event. If a breach of privacy is alleged, any court will be able to deal with that either by injunction, in the event of a breach which has occurred or is apprehended to occur or damages for distress, annoyance or embarrassment arising from the infringement and also to issue an order relating to anything made or used for the purposes of that infringement or in the defendant's possession or under the defendant's control in consequence of the infringement. This latter power could extend to the confiscation of cameras, typewriters and other things used for the purposes of the infringement.

The Opposition is saying that there are many loopholes in the general drafting of this Bill. We believe that, as a consequence principally of that and because of the broad catch-all nature of this legislation, it should be rejected.

There are several other areas of concern that I have not covered to this stage. If South Australia alone passes restrictive legislation, undoubtedly there will be difficulty with material which is published interstate and which constitutes an intrusion into privacy also being published in South Australia, even if only by the newspaper being available in South Australia or the television program being shown here. If there is concern about intrusions into privacy, we believe they have to be addressed at the national level.

The responsibilities of members of Parliament would be compromised. Where a constituent seeks assistance from a member of Parliament and the member undertakes research into the activities of another person about whom the constituent might have sought assistance, the member of Parliament would be committing an intrusion into privacy. The defence of public interest will not apply in most instances, because the MP's research will be related to the inquiries of a particular constituent and not necessarily on behalf of the wider community.

Mr Groom interjecting:

Mr INGERSON: The member for Hartley says that that statement is absurd. If one reads the Bill, it is clear that this is a possibility.

Mr Groom: Everything is possible.

Mr INGERSON: The member for Hartley says that everything is possible. We are here to draft legislation so that it is clear and precise and can be understood by all. There is no doubt that this legislation is so woolly and wide that it catches everything. It is our role as an Opposition to point out to the Parliament that there is a need for all these issues to be properly canvassed and covered. Much of the work of members of Parliament, separately or collectively, involves keeping records of another person's personal or business affairs. Frequently this is necessary to build up a picture of an individual or organisation or issue before the matter is raised either in the Parliament or publicly. Examples are WorkCover, the shareholdings of Mr David Simmons, Mr Tim Marcus Clark or Mr Vin Kean or their directorships and statements which they are believed to have made on particular issues, as well as research into bodies like the State Bank and Pegasus. All those would be in breach of this Bill. There have been several occasions when the Opposition has questioned the shareholdings and the roles of the people I have mentioned. We believe it would be difficult for us to continue in that area and not be in breach of privacy as the Bill is drafted. We bring it forward because we believe that is a genuine grievance and a genuine reason why the Bill should be rejected.

The defence available is that the intrusion is justified in the public interest, but that reverses the onus of proof and, if an injunction were sought to prevent the keeping of these records or even obtaining confidential information as to another person's personal or business affairs, public interest, at least in the early stages and even in the latter stages, may not be established. The recording of comment made by persons on television and radio and the keeping of newspaper clippings could fall foul of this Bill. The use of leaked documents will be a breach, because they will have been obtained from confidential information about another person's personal and business affairs. The publication or visual image of another person where it is substantial and unreasonable in the circumstances of the case is an intrusion into privacy unless the person whose image is published has given express or implied consent.

There are many occasions on which I follow the Crows or Central Districts. As members opposite would know, the Crows are a very big crowd puller. There will be occasions when people will be caught up by television and, under this Bill, the photograph of those people, without their intent—

Mr Groom: Where is the element of privacy?

Mr INGERSON: There is an obvious element of privacy. People may be concerned about being photographed and appearing on the general public media when there was no intent for that to occur; there is obviously a breach of privacy. There is concern about that, and that has been expressed to us by many members of the public. Under our law, except in specified or identified cases, a minor does not have the capacity to consent. This will mean no visual image of a minor can be published in circumstances where there would be an intrusion into that minor's privacy even if the minor says it is in order.

For years the names of victims of crimes or accidents have been published generally after the relatives have been notified. There is a strong argument that this information would not be able to be published in the future. Similarly, the criminal records of a person will not be able to be published unrelated to an appearance in court. The limited right of a commercial organisation or a person to carry out reasonable inquiries into the creditworthiness of a customer or potential customer will not allow such inquiries by, for example, life insurance organisations in assessing the worthiness of an applicant for appointment as an insurance agent or notifying for the purposes of managing the agents. Surveillance in the work place, time and motion types of study and monitoring work practices by the employer are all issues of concern of employer associations and, when we get to their grievances, I will elaborate on that. The use of video surveillance of shoppers by retailers is a concern of retail traders, because it is an intrusion into a person's privacy under the Bill.

On the basis of concerns about victims of crime and their families, there is no doubt, in my view, that the Bill should be thrown out completely. The points made by David Bevan, a court reporter with the *Advertiser*, have been well made. Some of the complaints by Mrs Barnes in respect of use by the press of a photograph of her dead son's face and Mrs Kelvin's complaint about publication of details of injuries to murdered children would not be prevented by the Bill.

The description of the behaviour of some journalists and editors, in specific cases outrageous, should be acknowledged. However, I suggest that they are but a handful compared with the thousands of occasions that the media deal responsibly with the issue of privacy and grief. The question is whether a wide-ranging law or even a limited law is needed, or desirable or can effectively curtail these problems. If one were to focus the law on the issue of grief, there must be a definition of it. Is grief personal to a relative of a deceased person, or does it extend to the grief of a friend or of a community?

Should the grief include distress and include the loss or injury to the member of the family or some relative or close friend, or does it extend to some adverse experience of that relative or friend? For example, would it extend to the distress of a wife of a police officer charged with an offence? Would it extend to grief and distress at the losing of a pet? Does it extend to the distress resulting from a natural disaster such as a bushfire, earthquake or flood and the loss of one's home or, without such loss, the trauma of the event?

Should observing grief or distress in public be the subject of the prohibition or should it be limited to the grief suffered in private? Would a report referring to the grief or distress be a problem? If there is a large group of people, some of whom are distressed, would the filming of the group be in breach. The answer to these last two queries is, of course, 'Yes'. This issue must be addressed if the Bill is to be amended at all. This whole area of grief concerns the Opposition and obviously concerned the committee.

The scope of the Bill and the lack of definition in this area of concern explain why the Opposition is not willing to support it. The interest shown by all members of the committee, especially the member for Hartley and other members opposite, clearly shows their concern for this area, but there is no specific provision in the Bill to clear up and isolate this particular area. If the Bill is to be amended to focus only on personal grief, what consequences should flow to the person intruded upon? Should there be a right of injunction and the awarding of damages? If damages are to be awarded, what should be the form or the basis of those damages? Should they be punitive rather than compensatory for any loss or intrusion suffered, and should there be an offence created with a final penal sanction attached? It is my view and that of the Opposition that the Bill is not capable of amendment and that this area has been lost in the general thrust of what the Government has attempted to do.

The Liberal Party expresses concern at lapses by the media from time to time where reporting goes beyond the normal ethical standards. There is no doubt that there are occasions when people in the media in this town and nationally extend themselves into difficult areas in a poor way. There is no doubt that there should be a mechanism by which that is controlled but, to do it with a sledgehammer, as this Bill attempts, is not the way to do it.

As several editors have said in letters to the Opposition, the pure and simple public debate of this issue has brought home to the media many of the concerns expressed by members opposite and by Opposition members, that there is a need to recognise that there are ways and means to control the general bad reporting by the media. 'Bad reporting' is a generalisation, but there are many ways that the media can be brought to heel and properly controlled.

This Bill goes so far and is so broad that we do not believe it is the way to go. The Liberal Party notes that any attempt at the State level to legislate to impose standards on the media will not be workable because such laws need to be uniform across Australia. As we know, the Government proposes through the MFP to improve telecommunications and general communications throughout Australia, yet every member in this Parliament knows that communications are not within and confined to State boundaries. Therefore, any legislation introduced to control the way that the media translates and transforms its message cannot be held and controlled within State boundaries.

We recognise that any legislation introduced to deal with this area should be national and not be restrictive legislation applying only in South Australia. The Liberal Party questions the legal capacity of the State to legislate for standards to be imposed on the electronic media, which itself is subject to Federal law. It is pointed out clearly in the ABC's submission to the Opposition that the ABC is controlled under Federal law and is exempt from many areas. Members will realise—

Mr Groom interjecting:

Mr INGERSON: Crown law was wrong earlier in relation to water rates, and it is possible that Crown law could have given incorrect advice again in this case. The ABC's submission to the Liberal Party points out clearly that it is exempt from certain provisions. Irrespective of whether or not the ABC is exempt, it is controlled under Federal law and other electronic media operations are also subject to Federal law so that, if we are to introduce a Privacy Bill that has impact on any electronic media covered by Federal law, the member for Hartley would well know that Federal law would take precedence over State law and that, in respect of any breach, that precedence will apply.

Any State law must be able to be upheld. It has been put to us that that is not possible. The Liberal Party also notes the proposal of the South Australian Branch of the Australian Journalists Association to have its Federal rules amended to provide for at least two lay persons on the branch judiciary committee and to encourage the branch to develop and adopt the proposal so that the public can have confidence that the committee will deal effectively with a journalist who transgresses ethical standards. The AJA is to be encouraged to ensure that lay persons are men and women respected within the South Australian community and that provision may be made for publication of findings.

If the publication of findings is shown to be prevented by definition law, we would be willing to consider any proposals for change. The member for Hartley gave a bit of a giggle, but I would have thought that any encouragement of the AJA to expand its judicial and ethical committee to include the public would be a good move, whether or not—

Members interjecting:

The SPEAKER: Order!

Mr INGERSON: Thank you for your help, Mr Speaker. I would have thought that any person in this Parliament would be very interested in encouraging the AJA to have more lay people on its committee. It is amazing that the member for Hartley should find it a joke that we should be encouraging that to occur, because there is a lot of criticism of that comittee's saying that it does not have a broad enough range of people involved. I note that recently it has said that it will do something in that regard: that is an excellent progressive move by the AJA and a move that the Liberal Party supports.

The Opposition also recognises that for journalists to put their house in order deals with only part of the issue. There are many in the media—editors, subeditors and owners—who are not members of the Australian Journalists Association. The question is how to require them to act responsibly. The Press Council, as it relates to the press media, ought to be strengthened to ensure that it fulfils its role effectively and that the Australian Broadcasting Tribunal, in so far as it relates to the electronic media, should ensure that standards are met, but that reporting is not stifled. These issues need to be discussed at not only State but Federal level. The Opposition has said, as I, too, have said, that a lot of the electronic media is blurred with Federal involvement.

Today—even though members opposite may not believe so—some news in South Australia, albeit probably a very small amount actually passes across the border to other States. However, a significant amount of interstate news comes into South Australia. Therefore, any rules we set here in this Parliament obviously have to be applied to interstate media. The Opposition is very concerned about this blurring of State boundaries. We also believe that if the Privacy Bill is allowed to pass through the Parliament, rights will be restricted rather than strengthened and that extensive litigation will ensue. Whilst I have many friends in the legal profession, I would not have thought that it was generally the role of the Parliament almost to guarantee that significant litigation will be created by any Bill that we pass through this place. The Opposition believes that we should be introducing legislation into this place that makes the work of our community simpler. I believe this legislation will be a lawyers' paradise.

As a Party we recommend that representatives of the press consult with victims of crime through the Victims of Crime Service to endeavour to develop an understanding of the sensitivity of victims of crime and their families and that the Victims of Crime Service and the victims themselves should be involved in presenting a view to trainee journalists as part of their course, just as they are involved in presenting their views to police trainees. The Opposition recognises that there is a problem area involving victims of crime and that most of the obvious so-called breaches of privacy do involve victims of crime. We also recognise that a lot of their concerns must be picked up and the people concerned must be more properly helped within our community.

In recent days, because of the poor drafting of this Bill, the Government has rushed out a whole new range of amendments in an attempt to rescue this very poorly drafted measure. As I said initially, it is quite staggering that the Attorney-General and the member for Hartley could have put forward such a poorly drafted Bill in the first place. As I understand it we now have significant amendments that

will come before this House in the Committee stage. Because they have been broadly canvassed, I will make some comments on those amendments.

The Australian Conservation Foundation has raised the question of whether its own magazine and its authors could be regarded as media or as media organisations. Equally, this will apply to many other organisations that publish by means of the press—whatever that means. Organisations such as the Public Service Association, the South Australian Institute of Teachers, professional and trade organisations publish magazines and papers. The inclusion of the definition creates further uncertainty. Many trading magazines, from both an employer and an employee perspective, would be caught by this new definition, and that is obviously of concern. We cannot even get this right in the amendments area; we drag in more associations and journals than was ever intended.

The Australia Conservation Foundation put the point of view very strongly that publication of material it believes is fair and reasonable within its association could be caught by this amendment. Although the onus is on the plaintiff to establish that an intrusion was not justified in the public interest—and that takes a lot of pressure from a defendant—nevertheless it still leaves an element of considerable uncertainty in determining whether or not to intrude into privacy. Whilst it is specifically provided that a right to privacy does not extend to a body corporate, there will be nothing to prevent a director, officer or an employee or consultant from arguing that a person investigating a body corporate and matters with which such an entity may be concerned is an intrusion into business affairs. The mere exclusion of a body corporate does not address the concern expressed by conservation groups and the media that business activities of companies should be open to inquiry.

That is a very important area because in recent times we have had the fiascos of the State Bank and SGIC and almost certainly in future there will be other bodies corporate which will meet similar demises, whether they are private or State owned. There is a widepsread concern that, just by removing the body corporate from the definitions, it does not remove the problems of privacy. There is also a major concern that this Bill does not attempt to explain how that will be overcome.

Mr Groom: What protection do you think a company should have?

Mr INGERSON: The member for Hartley is getting very uptight. As I said earlier, this has been his first opportunity for years to get some media coverage and he has not done as well as he hoped. He is getting very testy. If he is patient I am quite sure that we will listen to his response.

Mr Groom: I have only got 20 minutes.

Mr INGERSON: I know that, but we will listen to it because it will be well put, concisely put and well thought out. If the honourable member keeps jumping in like this, he may not have time to make notes.

The SPEAKER: Order! I point out to the member for Hartley that, if he keeps jumping in like this, he may not get his 20 minutes.

Mr INGERSON: The fourth point is that the courts will have to determine what is a reasonable code adopted by the AJA or the Australian Press Council. The concern is that television is not under the watchful eye of the Australian Press Council and that many in the press—managing directors, editors and others—are not members of the AJA or bound by its code. That is a problem when you put any code into practice. If the code is guaranteed or hooked into membership, that is a major problem.

Mr Atkinson: That is the first good point you have made in 55 minutes.

Mr INGERSON: That is a real issue, as I know from my time as President of an association. I know that the honourable member opposite was connected with a trade union with which I was closely involved and we all know that membership is the major issue when you try to tie codes of practice to that membership. It is a major issue that this Bill does not cover and, as a consequence, it is a major concern.

Clause 4 (4) allows the courts to determine the meaning of public interest and also allows courts to determine the meaning of what might be the importance of free inquiry and free dissemination of information and opinions. The courts will make the law, not the elected members of Parliament. I do not think that is the way we ought to do it. If we have something that is a bit difficult, we ought to try to do it. If we believe that there should be a public interest issue, we ought to define what Parliament believes is public interest and not leave it to the courts to decide. In many cases, the courts must have due regard to certain principles. In this case they are not of paramount importance, but we need to give the courts some sort of guidelines before we go off with these wishy-washy ideas which lack definition.

Sixthly, in determining public interest, the courts may have regard to material published by responsible international organisations or Australian State or Federal authorities. It gives no weight to bodies such as the Australian Press Council or academic dissertations or material published by international bodies that are not Government backed. This is of some concern because the bodies referred to in the amendment are not elected and are not accountable to any elected agency and are certainly not bodies with which the State Government has had any involvement. As members will see from the schedule of responses, there are some who question why the media should be exempted from injunctive action but other organisations such as the Australian Conservation Foundation should not be so exempted.

On the basis of all the information received and the assessments made of the amendments and the original Bill, the Liberal Party holds the strong view that it is not possible to amend this legislation. We are very concerned with its whole direction, as I have been saying. I will now discuss in summary form some of the submissions that the Liberal Party has received.

Mr Groom interjecting:

Mr INGERSON: The member for Hartley should not get so excited. I know it is his best chance to get on the front bench but he must be patient. We can always help him. The Country Press Association is seeking our assistance to oppose this Bill. According to that association, the State Government's amendments do nothing to address one of the fundamental problems, namely, that a journalist can still find himself or herself having to prove public interest under litigation.

The Retail Traders Association says that the proposed amendments have in one respect made a minor potential improvement to the Bill as it may affect the retail industry. However, the amendments do not go far enough in that they do not address the fundamental concerns raised by the RTA in its March 1991 submission in evidence to the select committee in April 1991 and in its supplementary submission in September of this year. Notwithstanding this minor potential improvement, the Bill fails to protect adequately the legitimate business activities of retailers in deterring and detecting criminal activity in and around shops because it

does not exclude expressly such activity from the right of privacy.

The Retail Traders Association regards it as discriminatory for media organisations to be excluded from the remedy of injunctive relief but for other business to be subject to this remedy. It seems that the Government has decided that, because of the flak it has copped from the media, if the media are exempted, it will be okay and everyone else will be quite happy to wear the consequences. Clearly, the Retail Traders Assocation, which represents a significant number of people involved with employment, is very concerned that an injunction can be taken out against a trader while the media have been exempted.

The Law Society remains of the view that the Bill is unnecessary as sufficient safeguards for the protection of the interests of members of the public exist by way of existing procedures for the breach of peace complaints, restraining orders and the common law of nuisance. Further protection is granted by statutory control of use of telephones and other electronic media and fair credit reporting acts in the control of investigation agents.

The Law Society is also of the view that the Bill will encourage litigation by granting the extensive right of privacy contained in the Bill. Litigation will be available between members of the public, neighbours and competitors in business, with far-reaching consequences, many of which are undesirable, in our opinion.

After careful examination, the anti-secrecy committee of the South Australian branch of the Australian Journalists Association rejects the Government's amendments to the Bill. They do nothing to address the committee's fundamental opposition to the creation of a tort of privacy which impacts on the free press. The media will still find themselves in court fighting unnecessary litigation. Putting the onus of proof on the plaintiff to prove that a report is not in the public interest still requires media counsel to put up a counter argument that it is. The committee is sceptical of the amendment that talks of safeguarding the free media and the dissemination of information. This is a far cry from enshrining freedom of speech as an inalienable right *vis-a-vis* the American Constitution. This noble sounding amendment will not bind our courts in any way because judges have the discretion to give it whatever weight they see fit. If the past is anything to go by, they will not give it much weight at all.

The Victims of Crime Service supports the Bill. In a letter to the Attorney-General, the Executive Director, in reporting on a decision of the Victims of Crime Service Council, said:

> As a direct result of our continued contact with victims of crime, we are aware that the print and electronic media often intrude on their privacy, particularly that pertaining to grief, in ways that are indefensible and damaging to the victim's recovery from trauma. We therefore particularly applaud the clauses of the Privacy Bill which relate to the accountability of the media and consider that the public interest clause is sufficient to encourage and allow high quality investigative journalism.

The Victims of Crime Service has also asked me to specifically state that it considers the Australian Journalists Association and its code of ethics to be a toothless tiger, and the suggestion that the AJA and its committee should include representatives of the community at large and, perhaps, victims of crime in particular is to be applauded. Of all the groups that have written to us asking us to express their concerns, that is the only group that has supported the majority of the Bill. The Life Insurance Federation of Australia made the following comments:

> We do not have any particular concerns with the proposed amendments, however, it is disappointing that clause 3 (4) *(b)* has not been amended as we proposed in our letter . . . to the Attorney-General . . . We reiterate our view that insurers should have access to credit files held by credit reporting agencies for underwriting and claims management purposes . . . We also raised a number of practical issues in relation to the application of clause 3 (4) *(c)* and are also very disappointed that these very genuine concerns have not been addressed.

The association goes on to say that it is concerned about several other clauses, which will be discussed in the Committee stage. The Engineering Employers Association South Australia makes the following comment:

> They do not seem to address any of the issues raised in our submission to the committee, and expanded upon in our letter to you dated 20 September. Our concerns about the potential for breach in all the traditional visual management practices in industry, and the maintenance of employee records remain. It would appear that an aggrieved employee, or one involved in industrial disputation, could seek redress by claiming an infringement of privacy, and a court would have to determine whether the infringement was 'reasonably incidental to the protection of lawful interests'. We would therefore maintain our position that the open-ended approach of the Bill renders it conceptually flawed and reiterate our belief that it should be scrapped altogether.

The South Australian Employers Federation supports very strongly the argument put forward by the Engineering Employers Association. The Australian Library and Information Association states:

> We wish to express a concern with the treatment of public interest in the proposed amendments. The onus of proof of public interest should rest with the defendant in any action for breach of privacy. It would be extremely retrograde if, as reported in the media, the onus will be on the complainant to prove that the breach is not in the public interest, since it would be difficult for ordinary people to prove and would deter action.
>
> We also query the looseness of the new clause 4 . . . Why not state 'in accordance with the code of ethics of the Australian Journalists Association', rather than leave it so open? We are concerned that the amendments do not remove protection against the media. Further to our submission to the select committee, are we to assume that libraries can successfully argue public interest as a defence or can there be a further exemption for material which genuinely forms part of an archival collection in a library?

In the summary of its position, the response of the association raises concerns about newspaper collections in libraries where a newspaper has breached privacy and asks:

> Would it then be an offence for a library to display or lend a newspaper which carries the offence?

It is interesting to note that apparently the Crown Solicitor has given the ruling to the association that the collection, display and loan of newspapers carrying suppressed material is illegal in libraries. The association states:

> Our concern is that this will also apply in the case of newspapers bearing material which breaches privacy.

The association also raises the issue of the availability of newspaper text through full text data-bases, which can be searched on line. The association goes on to say:

> The Attorney-General advised that the suppression also applies to information in electronic form and that libraries should not provide access to it. It is not possible to block out items from the data-bases, especially if interstate, and it is difficult to see how it could be controlled in the library at the user end.

The association continues to raise concern about the meaning of 'public interest' and whether, under the amendment, library archival collections or material published in newspapers and other donated historical material are always available in the public interest or whether a specific amendment is required to deal with this issue. It is the association's view that the issue is not adequately addressed by these particular amendments. David Syme and Co. Ltd is the principal owner of the *Age*. The conclusion of the Editor is as follows:

> I am still of the view that the supporters of the Bill have not adequately shown the need for wide-ranging privacy legislation in this country. In addition, I have attempted to set out some of the specific problems I have with the latest draft of the Bill.

David Syme and Co. acknowledge that the amendments proposed to the Bill are improvements, but it makes the following points:

> We reiterate our belief that participant monitoring should not constitute an infringement of privacy under section 3 (2) *(a) (i)* (B). The amendments also do not clarify the meaning of the word 'observation' . . . This section fails to draw the vital distinction between observing others in public and private places. The words 'free inquiry and free dissemination of information and opinions' in section 4 (4) *(a)* (i) require judicial interpretation. We remain uncertain about the status of people who conduct activities such as recreational photography or painting. While far more attractive than the earlier section, it does for the first time allow the courts to closely examine whether the media organisation and/or the reporter has acted in accordance with the AJA code of ethics or any codes, standards or guidelines established by the Press Council. This is a significant move from what are largely now voluntary codes to a statutory code.
>
> We also pointed out in our submission that the previous Privacy Bill imparted vagueness and uncertainty by not defining 'public interest'. Although a definition of 'public interest' need not be exhaustive, we believe that its ambit needs to be outlined. The suggested amendment provided by section 4 (4) broadly refers to the 'importance in a democratic society of free inquiry and free dissemination of information and opinions'. This reform is welcome, but it will provide the courts with too much discretion in determining the parameters of 'public interest'. We again reiterate our concern that the Bill fails to give individuals a right to access personal or business information obtained legitimately under section 3 (4). Again we express our concern that there is no definition of 'personal or business affairs' as in section 3 (2) *(a)* (ii) (B).

The Australian Broadcasting Corporation states:

> Paragraph *(b)* exhibits an implicit acceptance that the only relevant codes, standards or guidelines for media organisations are those prepared or adopted by the AJA or the Australian Press Council. If the proponents of the Bill continue to insist that the Bill is to apply to the ABC (which we will continue to deny) they should at least be prepared to accept that the board of the ABC has an obligation, pursuant to a Federal statute, to prepare or adopt such guidelines for the ABC. Therefore, we consider that these words should be added to the end of the paragraph, 'or prepared or adopted in accordance with a statutory obligation, imposed by a statute of the Commonwealth, a State, or a Territory.'

In other words, the ABC is clearly saying that it is under Federal law.

Mr S.G. EVANS: Mr Deputy Speaker, I draw your attention to the state of the House.

A quorum having been formed:

Mr INGERSON: We have also received an excellent submission from Advertiser Newspapers. That company's general belief is that the Bill should be thrown out. I will take up the comments of the *Advertiser* in the Committee stage and also the comments of the Australian Conservation Foundation. Basically, those are the general representations that we have received. The Opposition opposes the Bill. I will take the opportunity in the Committee stage to ask many questions.

Mr GROOM secured the adjournment of the debate.

STATUTES AMENDMENT (WATERWORKS AND SEWERAGE) BILL

The Hon. S.M. LENEHAN (Minister of Water Resources) obtained leave and introduced a Bill for an Act to amend the Waterworks Act 1932 and the Sewerage Act 1929. Read a first time.

The Hon. S.M. LENEHAN: I move:

That this Bill be now read a second time.

I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

Its purpose is to validate the water and sewerage notices which were published in the *Government Gazette* of 11 July this year. This action arises out of a recent Supreme Court decision declaring the water rates notices to be invalid. It is stressed that the problem does not arise out of any legal defect in the Waterworks (Rating) Amendment Act 1991, which was passed earlier this year. I emphasis this point because it would apear that some concern still exists in the community in relation to the Government's right to set a rate for water already consumed.

The legal problem which has arisen stems from a long-standing practice within the Engineering and Water Supply Department. Notices relating to water and sewerage rates have traditionally been published after 1 July each year and this practice was continued after the passage of the new Act. However, the Supreme Court has not determined that the legislation does not allow for this practice to continue and, as a consequence, it has become necessary to further amend the Act. The court's decision is of major significance to the State, because there is presently no authority to recover any charges for the water and sewerage services provided during this financial year. The potential loss of revenue to the Engineering and Water Supply Department is of the order of $220 million in water rates alone.

It would be irresponsible for anyone to suggest that those rates should not be made payable. I am sure most members of the community would not wish to take advantage of this legal technicality in order to avoid paying quite legitimate charges for their water and sewerage services. The current situation is clearly untenable and needs to be rectified as soon as possible. Ever since the water rating legislation was passed, Opposition members have argued that it was legally defective. The legislation has now been tested at law and, whilst the gazettal procedure has been found wanting, the legislation has been demonstrated to be fundamentally sound. It is now vitally important to rectify the gazettal procedure, so that the Engineering and Water Supply Department can continue to recover payment for services which it provides to the community. This Parliament has already passed legislation setting out the basis on which charges should be levied, and the Bill which I now introduce will give proper effect to that decision. I commend this Bill to the House.

Clauses 1 and 2 are formal.

Clauses 3 amends the Waterworks Act 1932. Paragraph *(e)* inserts a schedule that validates the notices published on 11 July 1991 and the rate notices sent to individual ratepayers under section 87 of the Act. Clause 1 of the schedule makes it clear that it is Parliament's intention that the notice declared to be invalid by the court will be taken to be valid.

Clause 4 amends the Sewerage Act 1929. Paragraph *(a)* amends section 73 (2) which at the moment provides that the capital value of land in force under the Valuation of Land Act 1971 on 1 July preceding publication of the notice under section 73 (1) must be used for calculating rates. If the notice is published on 1 July this would require a valuation that was a year out of date to be used. The new wording provides that the valuation in force on 1 July of the year to which the rates relate will be used.

The Hon. D. C. WOTTON secured the adjournment of the debate.

[*Sitting suspended form 5.58 to 7.30 p.m.*]

PRIVACY BILL

Adjourned debate on second reading (resumed on motion).
(Continued from page 1771.)

The Hon. JENNIFER CASHMORE (Coles): This Bill claims to be about privacy. My colleagues and I maintain that it is about the suppression of information, it is about the suppression of freedom of speech and it is, therefore, about the curtailment of liberty in a democracy. The whole notion of liberty in a democracy is so closely linked to freedom of speech that in Parliaments themselves—and in this Parliament—there is provision in the physical structure of the Parliament for press galleries. That has been the case since time immemorial, and it is a visible reminder to us that our freedoms in a democracy are inextricably linked to the freedom of the press.

Indeed, the great Irish philosopher, politician and Liberal, Edmund Bourke, stated that there were three estates in Parliament. He was referring to the Lords Spiritual, the Lords Temporal and the Commons. But in the reporters' gallery yonder, there sat a fourth estate more important far than they all. Among other things, this Bill is about curtailing the freedom of the fourth estate, thereby limiting the essential nature of the freedom we have in a democracy. That freedom has been recognised by liberals—and I use the word in a small 'l' sense—for centuries bygone, and I will quote a few of them. In his writings, Jefferson said:

> No government ought to be without censors; and where the press is free none ever will.

Junius said:

> The liberty of the press is the palladium of all the civil, political, and religious rights of an Englishman.

Napoleon stated:

> Three hostile newspapers are more to be feared than a thousand bayonets.

I suggest that only a Government with plenty to hide would contemplate a Bill of this nature. It is not so much about privacy as about control, about suppression of information and about restraint of the freedom of speech. That is what is at the heart of this Bill, and that is why every section of the media without exception has opposed it. I suggest that that opposition is not purely out of self-interest by the media, although I acknowledge that a large degree of self interest is contained in that. It is about the public interest, because the media has as much legitimate interest in the public interest as does this Parliament, as I have demonstrated by the history of the relationship between the freedom of speech and the freedom of information which is exemplified by a free press and a free media, as by the freedom of parliamentarians to be protected by parliamentary privilege in the pursuit of their duties.

The essential provisions are under clauses 3 and 4. Clause 3 establishes the right of privacy. It provides that a person infringes the right of privacy of another if that person, without express or implied permission, observes, listens, intercepts communications, records acts, images or words of another, examines or makes copies of private correspondence, or obtains confidential information, keeps records and publishes that information, visual images, words spoken or private correspondence. Under clause 4, the action for infringement of the right of privacy is established by the infringement of a right of privacy being classified as a tort actionable without proof of special damage by the person whose right is infringed. That clause goes on to say that it is a defence to an action that the infringement was necessary for or reasonably incidental to the protection of the lawful interests of the defendant or was justified in the public interest. In other words, if this Bill were to become law, publication of information, which is of general interest, in future will have to be justified in the public interest if the person about whom the information is public objects to that and seeks an injunction to express that objection.

Further, under subclause (8) of clause 4 the Bill provides that a court must, in determining the nature and extent of any remedy to be granted for infringement of a right of privacy, have regard to the effect or likely effect of the infringement on the health, welfare and social, business or financial position of the plaintiff. I find that clause utterly repugnant. Moreover, I would have thought that members on the other side of the House would find it utterly repugnant that the financial or social position of a person was material to the purpose of this Bill. In short, the rich are to be protected under this Bill if their privacy is infringed: the poor are of lesser concern to the Government, and they are not mentioned.

Certainly, health and welfare are mentioned. However, the financial, business or social position simply means that the rich and powerful of this State, under law, will have a greater entitlement to protect their right of privacy than any other citizen. I find that quite obnoxious, and I am genuinely surprised that members on the other side of the House should tolerate such a provision in such a Bill. I am genuinely surprised that some members on the other side could tolerate the essential notions contained in this Bill.

My objections to the Bill are many, but they can possibly be summarised best by referring to three principal areas. The first is a purely practical objection. I maintain that it is impossible for the State to legislate effectively in this field or, indeed, for any State in Australia to legislate effectively in this field. The national, indeed the international, nature of the media and the nature of our Federal laws controlling the electronic media makes it impossible for any legislation enacted by a single State to have any real and comprehensive effect in fulfilling the purposes inherent in this Bill.

In fact, it would be fair to say that this Bill is similar to a fence that goes only half way around a paddock. There are so many escape mechanisms for the national and international media. That simply means that this Bill will be applied inequitably. It means that, if this Bill were to become law, there would be an application to local media, and there would be no application to the national electronic media or, indeed, to the international media, which may well be publishing articles about South Australian citizens. The inequity of the application of this Bill is a primary reason for opposing it. The fact that legislation cannot be effective means that it should not be inflicted upon us.

My second principal objection to the Bill is that adequate remedies are already available for every ill that the Bill seeks to cover. Already, we have breach of peace orders, restraint orders, the common law of nuisance as a remedy, listening devices legislation, defamation legislation and freedom of information legislation. I may add that it is interesting—and indeed depressing—to note how many people confuse breaches of defamation laws with breaches of privacy and assume that this Bill will automatically give protection from defamation.

It will do no such thing, and in future defamation laws will apply presumably as they have in the past. Or will they? One wonders whether a Government that would introduce a Bill of this nature would not go so far as the Cahill Government did in New South Wales to protect Esra Norton, who wanted to protect the reputation of his father, John Norton.

The Cahill Government passed a law providing for defamation of the dead, which is why New South Wales today has a law that simply means that one can defame the dead. Thank God we have not got that in South Australia although I fear that, if this Government remains in office much longer and continues to be supported by those who determine its fate, we may have such legislation and, if we did, it would be damaging indeed.

Without doubt the Bill will curtail investigative journalism. The nature of investigative journalism determines that a relatively long process, often starting with a small or comparatively small lead, is required before a journalist can establish the evidence and draw together the threads that enable a story or a series of stories to be written that expose corruption, fraud or malpractice of some description, either at a political, corporate or individual level.

This Bill provides the defence for conduct of a breach of privacy by saying that it is justified in the public interest but, as any journalist will tell us, it can be difficult in the initial stages of investigation to justify the public interest. As with politics, in journalism the primary component is the gut feeling of an intuitive journalist or the gut feeling of a professional journalist who, through years of experience, has developed a nose for what smells. It would be impossible in the early stages, as I say, at the stages where an injunction may be taken out—I note the agreement of the member for Spence—to demonstrate beyond doubt the public interest.

If this Bill had been law and had been on the statute book for years past in this and in other States, it is fair to say that the stories that led to the establishment of the Fitzgerald inquiry in Queensland could not have been written. It is fair to say that the stories which uncovered police corruption in South Australia and which led to the arrest and conviction of Barry Moyse could not have been written.

Mr Groom interjecting:

The Hon. JENNIFER CASHMORE: All the denials of the member for Hartley do not alter that fact. I said that members have had representation from virtually all sections of the media in this State and nationally. Every one of them is opposed to the Bill. One of those submissions which I would like to quote came from Channel 7, Adelaide. It referred to the fact that investigative journalism has become a central feature of television current affairs. I venture to say that the events of the past five years in this country would demonstrate that it has also become even more centrally identified with the maintenance of democracy and the exposure of malpractice at every level—from the Government down and from small business up. That submission states:

> Ratings reveal how the viewing public highly regard such programs. The Bill would therefore effectively put an end to such an important contribution which television makes. We doubt that the public would benefit from such a consequence.

The Managing Director of Channel 7, Dennis Earl, goes on to ask simple practical questions that go to the heart of this Bill. He states:

> News and current affairs programs are created in an environment of short deadlines and quick decisions—

as to a lesser extent are newspapers—

> The Privacy Bill would require journalists and editors to make snap judgments not only on matters of defamation [which they have to do already], contempt [which they have to do already], but also [to ask these questions]:
>
> Does this item affect anyone's, and whose, right of privacy?
>
> Is the affect a 'substantial and unreasonable intrusion' and what do those terms mean?

Good question, Further:

> Is the story in the 'public interest', and is that to be judged from the point of view of the person whose right of privacy may be affected?
>
> If express consent has not been given in respect of each person involved in the item, is there implied consent?

How in the name of fortune is any news editor able to judge that. He continues:

> Is there a standard laid down by a State or Federal privacy body which may be relevant?

If one has the resources for a vast library and the staff to staff it to give instant answers on those questions, possibly one could attempt to answer them. As Dennis Earl says:

> Such questions would be difficult enough to answer before a court after a full trial involving evidence, legal argument and time to reach a considered judgment, let alone before an evening news broadcast.

That is a reference to the media but, before I conclude, I want to refer to the impact of this Bill on historians, researchers and biographers. The impact will be profound, as the notice inviting members to a privacy seminar conducted by the Association of Professional Historians indicates. That seminar, which took place in response to the introduction of the Bill, was held on 1 October this year and left historians and researchers feeling confused and anxious about the propositions contained in the Bill. The historians were told—and they had legal advice—that, had the Bill been law, the recently written biography of Sir Thomas Playford might not have been possible. There would have been a requirement—

Mr Atkinson interjecting:

The Hon. JENNIFER CASHMORE: I will explain why—because the confidentiality undertaking required not even by this Bill at this stage but by administrative fiat of the honourable member's Government would have required the researcher and the author to obtain, before any information was released, the consent to publish details from any person the subject of the research. In the case of a deceased person, the consent from a near relative of the deceased must be obtained.

An honourable member interjecting:

The Hon. JENNIFER CASHMORE: It was not an official biography. The honourable member is not correct. I doubt very much whether David Marr's outstanding biography of Barwick, which was written without the authority of Barwick and in contravention of Barwick's wishes and which has added considerably to our knowledge of Australian political and constitutional history of the 1950s, could have been written if this law applied. I seriously doubt that it could have been written, and this country would have been the poorer for it.

I conclude by referring, in the interests of balance, to the AJA's code of ethics. I am one who has very little confidence in the AJA's code of ethics. I believe that, whilst it looks good on paper, in practice it is not observed, nor is it upheld. One has only to read the *Sunday Mail* of last Sunday week to see the quite shocking and insensitive reporting of the death of a 20-month old baby in my electorate and the publication of a photograph of the home of that child and the address of that child's family to realise that the code of ethics is not recognised. I say to the AJA that it must improve its act or it will face legislation that has general community support.

It is clear that this legislation does not have general community and public support; it certainly does not have the support of the Opposition. I believe the Bill should be discharged, defeated, dismissed and become a dead letter. The Government that decided to inflict this upon us should never again attempt the cover-up that is inherent in this Bill.

Mr GROOM (Hartley): That was a very disappointing contribution, because it reflects the same attitude that was prevalent in Opposition ranks at the time Don Dunstan introduced the 1966 Bill prohibiting discrimination on racial, ethnic or religious grounds, which was opposed by the same attitude expressed by the honourable member. That Bill became the foundation of our multicultural society.

The select committee made two unanimous policy decisions in relation to its report. The first policy decision was that a journalist or media organisation acting within its code of ethics relating to privacy would commit no intrusion of privacy. That was a clear and unanimous policy position of the select committee. The second policy position was that in respect of the media no impediment or restriction should be placed upon the proper investigation of affairs of such bodies as Beneficial Finance, the State Bank, SGIC, or any other legitimate target in the public or the private sphere. That was the second policy position and that is why it was a unanimous select committee report.

There are three fundamental aspects to this Bill. I do not propose to go into these in very much detail, but one aspect deals with the information protection principles (the right of access to files); the second deals with the codification of the law of private nuisance; and the third impacts on the media solely in relation to private grief and purely personal privacy and not in relation to investigative journalism. That has been the area of attack in relation to this Bill. I do not know why this House sets up select committees if members opposite, such as the two previous speakers, do not read the evidence and do not read the select committee's report.

An honourable member interjecting:

Mr GROOM: Maybe, but the fact is that the select committee expressed its concern about the media only in relation to private grief and purely personal privacy and included public interest, for which the media had been screaming for decades in relation to defamation law, because it is a wider protection. What evidence in relation to that area that impacted on the media influenced the select committee to bring in a unanimous resolution in so far as this aspect was concerned? Betty-anne Kelvin gave evidence to the committee. Not only victims of crime gave evidence: it also included innocent bystanders who were victims of media intrusion in relation to their privacy, as well as families of victims at court. Reporters tend not to chase the accused person: they tend to chase the victims of crimes.

Mrs Kelvin told the select committee that the media constantly referred to it as the 'Kelvin killing', not the 'Von Einem killing'. There were school reports and progress reports of her son and graphic descriptions of his injuries. They implied that he was a homosexual. All of that was grossly untrue and there was no later retraction. Mrs Kelvin told us that she was in a doctor's surgery awaiting treatment because she could not cope with the death of her son. She was in the waiting room and had picked up a women's magazine and there was a smiling photograph of her and her husband and an article saying how well they were coping. The reporter on that magazine had never come near Mrs Kelvin. All that did was precipitate a downturn in her health while she was awaiting treatment. The photograph was of the Kelvins some years before. The family's home routines were scrutinised by the media. They wrote stories just to get the name Kelvin on the front page—'Kelvin mum tells Von Einem hearing, "Last time I saw Richard".' That was all false but designed to intrude on their privacy and to sell newspapers.

The media said that at court Mrs Kelvin broke down and wept and said, 'My poor baby.' Again, it was just made up; it was not true; it never happened. It was all invented to put on the front page of the newspaper. The Kelvins have had to change their surname. Do honourable members realise that the only member of the Kelvin family who uses the surname Kelvin is Rob Kelvin, and that is because he is a newsreader with Channel 9? Betty-anne Kelvin and the children have had to change their surname because of the intrusion from the media. Mrs Kelvin told of people, whether reporters or investigators, eavesdropping on private conversations of families of victims of crime while they were in court and in coffee shops; during breaks they chased them—all to put stories on the front page and sell newspapers.

What about Mrs Barnes? Mrs Barnes told of newspaper stories containing graphic details of injuries of their son containing statements such as 'face gnawed by rodents' and photographs of his dead body with his mouth agape. This was all intruding on their purely personal privacy. It may have been the privacy of their son but it was also their private grief. On one occasion a reporter said, 'Had your son ever taken drugs?' Mrs Barnes said, 'I think he told me he took a joint once.' From then on he was reported in the media as a 'known drug user'. That caused great distress.

Mrs Barnes told the committee that on Mothers Day in 1989 the media reported on the front page that her son Alan was involved in kinky gay sex photo sessions at the Edinburgh RAAF base. The article referred to gay orgies; it had the lot. It was all untrue, but his name was mentioned. As a consequence of investigations, Mrs Barnes's report to the select committee was that the source of that story was a clairvoyant from Sydney who was also the person who reported to the Sydney papers that Kylie Minogue was an alien from outer space, and he could put people in touch with Elvis. He was known as a white witch.

The select committee did not chase all those issues down their burrows, but we took note of the distress that was caused to the families. There was no retraction and none of this was true. The 'big police investigation' referred to never came about, because it was not true. However, the member for Coles says that we are stopping investigative journalism from sussing out what smells in society. What smells about this is the way in which the media treated these families and their private grief all in the name of jacking up circulation.

There was the incident in the back garden, when the victims of crime was meeting in the Barnes's private sunroom. The media found out about that and reporters knocked on the door. They got no answer and stormed in with cameras and all the rest of it, found them in their private sanctuary out the back and demanded media interviews. If anyone did that to our houses—invaded our privacy in that way—we would get very angry. However, the member for Coles does not want to give these people a remedy. She is quite happy for this type of so-called journalism to flourish. We had material from the Ratcliffes—a dying man's last wish; how he was tricked by the media in relation to a story. There was the Villani killing: an Italian girl was having an affair with a married man—all of this is in the report and I ask members to read it.

The member for Coles says that there are adequate remedies. Even the AJA did not say that. There is evidence in the report of the anguish that has been suffered. There is this case of a young 19-year-old girl collapsing into the arms of a funeral director at a funeral. What is the public interest in that? What is the devastation to that girl's family? There was also the recent case of the Stock boy. Members cannot pretend that there is only a few of these cases. I heard the comment about a steamroller being used to crack a nut. The Victims of Crime is an international organisation now and it is determined to gain protection so that the media

does not prey on their purely personal privacy and their private grief all in the name of selling newspapers.

So, there was another story about a son's grief. A father committed suicide before the trial of a young man. What did the media do? They chased him down the laneway—and I am referring to a 15-year-old boy—and he put his head up against the wall and burst into tears because of the media intrusion and the way they behaved. Why does the media need to put a photograph of a 15-year-old boy in the newspaper and prey on his grief, humiliating him in his family circle when his family has just suffered enormous tragedy after the suicide of the father? The media was ticked off by the Press Council for that. However, that was all it could do; nothing else could be done. There is no sanction or anything like that; they can keep on doing it.

There was also the Port MacDonnell incident in the electorate of Mount Gambier, where there was a family tragedy and the media turned up with their cameras and telescopic lenses and homed in on the grieving father and the sole surviving daughter, preying on the family tragedy. What right do they have to be at funerals, uninvited? They have turned up at funerals trying to photograph bodies in coffins.

What we have to determine is whether we allow this industry to develop, prosper and flourish or whether we cut it off. The fact is that there are many more incidents and many more have been reported to me of invasions of privacy on the part of the media, not only victims of crime but people who appear in a court as witnesses. As I said, the media go for the victims, not for the accused person. The accused person is fair game, if that is the case. If the media want to photograph them coming out of court, they may do so, it is a public event in a public place.

Having heard the evidence from the Kelvins, the Barnes, the Ratcliffes and on the Vilani situation and having heard about and the Port Macdonnell situation, no self-respecting member of Parliament could ignore the plight of people who have had their privacy invaded and who will continue to have their privacy invaded. All the committee recommended was that, in relation to the media, they apply their own code of ethics, not anyone else's, in relation to private grief and purely personal privacy. We recommended that was the only impact. That is why the report was a unanimous report in relation to those two policy issues. It had nothing to do with investigative journalism.

The member for Coles, who is a woman, should be more sensitive to the plight of women in our community. She says that the law is adequate at present, yet the evidence before the select committee was quite clearly that men get fetishes on women, they follow them from the time they leave home and they follow them on the bus to and from work. A girl in my electorate worked in a chemist shop in Rundle Mall and a male followed her each morning to work. He followed her in the bus, he sat in Rundle Mall and watched her all day and he followed her home from work. The law does not provide for that situation. Unless there is indecent behaviour or an explicit threat to the woman, there is nothing the woman can do. The Legal Services Commission and Norwood Community Legal Services reported that this is a frequently occurring situation but, under this Bill, the woman is kept under observation, so she can stop that sort of behaviour or intrusion.

Nude photographs or semi-nude photographs are another instance. There is nothing to stop a nude photograph or a semi-nude photograph of an individual being published in the press. It happened in the UK with regard to the Duke of Norfolk. A nude photograph of the Duke of Norfolk was published, but there is nothing to stop that taking place. It could happen as it does happen with road victims where photographs can be taken of victims in various states of undress. There is nothing a person can do to stop such photographs being circulated.

I want to deal with a few of the criticisms of the Bill and I suggest that there is no point setting up select committees of the House if members do not read the evidence or analyse it. Of course there are concerns but each one of those concerns was analysed and the committee found that there was no substance to them. It is no good relying on media reports of the concerns; one has to anlayse them. A *Sunday Mail* editorial stated:

> One of the biggest concerns about these proposals is that the Government and its agencies are almost totally exempt from them.

That is not true; it is plainly wrong. Clause 5—the whole right of privacy—binds the Crown. Clause 6 sets up privacy standards and information protection principles which are binding on the public and private sectors.

The Retail Traders Association said that shopkeepers may be prevented from keeping a watch on shoplifters and other criminals. It suggested that they cannot do credit worthiness checks or pre-employment checks. However, these claims did not stand up to scrutiny. They are not affected because that is private property and a condition of entry is that people accept surveillance in relation to private property. Not only that, we exempted inquiries into credit worthiness. What people want to pay attention to is that the Bill provides that there is an intrusion of privacy only if it is without a person's consent, express or implied. All a trader has to do in relation to employees is to get an appropriately drafted consent form from a prospective employee when he or she makes an application for employment. The Bill has no application to the retail sector because that involves private premises.

A section in the Bill in respect of the Commercial and Private Agents Act provides that if a person employs a licensed agent or bailiff surveillance activities are not caught under this Bill because they will be dealt with under that other Act. A person can therefore employ a licensed agent to keep people under surveillance. This measure will be welcomed by commercial and private agents. I know that because I have had a discussion with them. There was an initial wrong understanding of the clause, but it gets rid of the fly-by-nighters and the unlicensed people, and they are happy with the situation.

The member for Bragg said that, with workplace practices, supervision, and all this record keeping, aggrieved employees will take action against employers. That is a lot of nonsense. The clear answer in relation to the employment situation is that, if a person undertakes ordinary duties pursuant to an award made under statute, that person is doing ordinary things. There is no element of privacy in relation to that, and by carrying out one's award duty one is carrying out an obligation required by law. In relation to record keeping, that is catered for clearly and, again, if someone works for a person all that person has to do is obtain the consent of the employee on the application form with respect to workplace practices.

However, if an employee collapses at work and the employer removes some clothes to resuscitate that person, and then someone comes along and snaps a photograph for the office Christmas party of this person in a semi-nude state, that involves an element of privacy. Doing public things in a public place does not contain an element of privacy. There must be an element of privacy for the Privacy Bill to apply. We have added to that in the amendments in relation to public interest and reports, etc., under statute.

The newspapers reported criticism from the Law Society. The society did start off saying there was some degree of uncertainty in relation to terms, etc. However, the society retracted its position before the select committee. In the end it said that it agreed with the Legal Services Commission. It said that it had to rethink its position. Even in its submission it said that the onus on the plaintiffs was too high, that not too many plaintiffs would get up. That is in its written submission which has been selectively reported upon by the press.

I want to deal with the Human Rights Commission because the Adelaide media have never given the commission a proper run on this matter. By submission to the select committee on 18 April, the commission wrote:

May I simply indicate my personal support for the creation of statutory tort of privacy ... Possibly the most frequent line of attack on the statutory tort has been that 'privacy' is nebulous and difficult to define. I regard this as a faint-hearted approach which gives little attention to the many other seemingly nebulous terms that the courts have had to grapple with, for example, 'negligence' 'nuisance', 'misrepresentation', 'deceptive conduct in trade or commerce' ... I was pleased to see your emphasis on the importance of privacy within the democratic framework. This point is, in my experience, all-too-easily forgotten. There is a tendency to trivialise privacy concerns with agruments such as the innocent have nothing to fear and privacy only protects rogues and cheats.

After the report was released, the commission wrote in a further letter of 18 September:

Thank you for keeping me informed over the press counter-attack on the Privacy Bill. Much of the comment appears to me to involve a misrepresentation of the provisions of the Bill. I remain of the view that there should be an independent forum to which an individual can complain about unfair intrusiveness into matters of private life. The Press Council is not supported by all the media organisations, so it is only a part solution—and then only to one aspect of privacy-invasion. It is inevitable that any law drafted to cover a wide range of community circumstances will use language of some generality and language which calls upon the independent forum to make a judgment involving the balancing of competing views and of many considerations. Much of the comment that I have read seems to object in principle to the involvement of an independent decision-maker.

The Law Society's objections are ones that it could make to a variety of existing laws. The challenge for the lawyer is to translate broad statements of principle to the particular circumstances of a case. While no-one wants to see utter vagueness in the law, even the most detailsed laws involve areas of speculation as to their application to particular circumstances. The Law Society seems to be unwilling to meet the challenge presented by a privacy jurisdiction.

By letter dated 5 November the commission said:

I have followed recent developments in relation to the Privacy Bill with interest. May I again indicate my support for the Bill. I have noted the recent amendments aimed, in particular, at giving the media increased protection from inappropriate action. Where public interests compete, as is routinely the case in reconciling individual privacy interests and those of freedom of speech and the like, difficult balances have to be struck.

I feel that the Bill as revised adopts an understandably cautious approach in seeking to give individuals protection against media infringements of privacy. It seems to me that the Bill places minimal demands on media organisations in only requiring that they observe the standards declared by their own ethical bodies. It seems to me to be difficult to argue with the proposition that the media not infringe their own ethical standards when publishing information about the private life or behavious of individuals.

There have been a number of suggestions that we are the only ones dealing with privacy. I point out that the issue is being dealt with in every OECD country. The same laws that we are debating today are in existence in the United States. Rights of privacy co-exist with freedom of the press. Do not say that the terms are difficult: 'freedom of the press' is the most nebulous term. The first table that I seek leave to insert was prepared in 1988 and deals with the countries that have adopted the OECD guidelines. It is of a purely statistical nature.

Leave granted.

Member Country	Date of Adoption of Guidelines Noted by OECD Council	Existence of National Data, Privacy Act if any	Application	
			Public Sector	Private Sector
Australia	10.12.1984	—		
Austria	23.9.1980	x	x	x
Belgium	23.9.1980	—		
Canada	29.6.1984	x	x	
Denmark	23.9.1980	x	x	x
Finland	23.9.1980	x	x	x
France	23.9.1980	x	x	x
Germany	23.9.1980	x	x	x
Greece	23.9.1980	—		
Iceland	28.10.1980	x	x	x
Ireland	12.6.1986	—		
Italy	23.9.1980	—		
Japan	23.9.1980	—		
Luxembourg	23.9.1980	x	x	x
Netherlands	23.9.1980	—		
New Zealand	23.9.1980	—		
Norway	23.9.1980	x	x	x
Portugal	23.9.1980	—		
Spain	23.9.1980	—		
Sweden	23.9.1980	x	x	x
Switzerland	23.9.1980	—		
Turkey	21.1.1981	—		
United Kingdom	23.9.1981	x	x	x
United States	23.9.1980	x	x	x
Yugoslavia	—			

Mr GROOM: The second table that I seek leave to insert is also purely statistical and relates to State privacy laws as at 1988 in each State of the United States.

Leave granted.

State Privacy Laws

This chart shows which States have laws to protect the confidentiality of personal information contained in various records and data bases. The scope and effectiveness of these statutes may vary widely from State to State.

State	Arrest records	Bank records	Computer crime	Credit reporting and investigation	Criminal justice information systems	Data banks in Government	Employment records	Insurance	Mailing lists	Privacy statutes/ State constitutions	School records	Social security numbers	Tax records	Testing in employment	Wiretaps
Alabama	✓	✓	✓		✓	✓							✓	✓	
Alaska		✓	✓		✓	✓				✓			✓	✓	✓
Arizona	✓		✓	✓	✓	✓			✓	✓	✓		✓	✓	
Arkansas				✓		†s						✓		✓	
California	✓	✓	✓	✓	✓	†	✓	✓		✓	✓			✓	✓
Colorado	✓		✓		✓	✓				✓		✓	✓	✓	
Connecticut	✓	✓	✓	✓	✓	†	✓	✓			✓			✓	✓
Delaware	✓		✓		✓		✓			✓	✓		✓		✓
District of Columbia	✓					✓	✓	✓						✓	
Florida	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓			✓
Georgia	✓		✓	✓	✓			✓		✓		✓	✓		✓
Hawaii	✓		✓		✓		✓		✓	✓			✓		✓
Idaho		‡	✓		✓						✓		✓		✓
Illinois	✓	✓	✓		✓	✓	✓	✓		✓	✓				✓
Indiana	✓		✓		✓	†			✓			✓			
Iowa		✓	✓		✓	✓	✓				✓			✓	✓
Kansas			✓	✓	✓	✓		✓	✓				✓		✓
Kentucky	✓		✓	✓		✓				✓	✓		✓		✓
Louisiana	✓	✓	✓		✓	✓		✓		✓	✓		✓		✓
Maine		✓		✓	✓	✓	✓	✓		✓	✓	✓	✓		✓
Maryland	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓		✓		✓
Massachusetts	✓	✓	✓	✓	✓	†	✓			✓	✓		✓		✓
Michigan			✓		✓	✓	✓				✓				✓
Minnesota	✓		✓		✓	†			✓		✓		✓	✓	✓
Mississippi			✓			✓					✓				
Missouri	✓		✓			✓									
Montana			✓	✓	✓	✓			✓	✓	✓			✓	
Nebraska			✓		✓	✓				✓	✓		✓		✓
Nevada	✓		✓			✓	✓		✓		✓				✓
New Hampshire		✓	✓	✓	✓	✓	✓								✓
New Jersey	✓	‡	✓		✓	✓		✓			✓				✓
New Mexico	✓		✓	✓	✓										✓
New York	✓		✓	✓		†	✓		✓	✓	✓		✓		✓
North Carolina		‡	✓		✓	✓	✓				✓		✓		✓
North Dakota			✓			✓					✓		✓		✓
Ohio	✓		✓		✓	†	✓				✓		✓		✓
Oklahoma		✓	✓	✓	✓	✓				✓	✓	✓	✓		✓
Oregon	✓	✓	✓		✓	✓	✓				✓		✓	✓	✓
Pennsylvania	✓		✓			✓	✓			✓					✓
Rhode Island	✓		✓			✓	✓			✓	✓		✓	✓	✓
South Carolina	✓		✓		✓	✓		✓		✓			✓		
South Dakota			✓			✓	✓				✓		✓		✓
Tennessee	✓		✓		✓		✓			✓	✓		✓		✓
Texas			✓	✓							✓				✓
Utah	✓	✓	✓	✓	✓	†	✓			✓			✓	✓	✓
Vermont						✓		✓				✓	✓		
Virginia	✓		✓	✓	✓	†		✓		✓	✓	✓	✓		✓
Washington	✓		✓		✓	✓	✓		✓	✓	✓		✓		✓
West Virgina													✓		✓
Wisconsin	✓		✓			✓	✓			✓	✓		✓		✓
Wyoming			✓			✓					✓				

† Fair Information Practices Acts.
‡ Significant court decision affecting privacy.
Source: Compilation of State and Federal Privacy Laws, 1988.

Mr GROOM: There is much more that I could say in relation to this matter. There has been a suggestion that it is the 1974 Bill. It is not; it is very different from the 1974 Bill in many respects. The only similarity is in relation to the tort of privacy. The United States has a tort of intrusion. The common law developed in the United States because rights of privacy are in the Constitution—

The SPEAKER: Order! The honourable member's time has expired. The Deputy Leader of the Opposition.

Mr S.J. BAKER (Deputy Leader of the Opposition): I note what the member for Hartley has said tonight. I can only say that he has addressed everything except the Bill. He has related the problems in respect of the press and such organisations which have intruded on people's grief. I am sure that not one person in this House would disagree with me when I say that some of the activities of the press in this regard have been totally obnoxious. I went to the Press Council conference in Adelaide and heard Mrs Kelvin and Mrs Barnes. I was absolutely appalled at the breaches of privacy that had obviously taken place.

I have heard the stories that the member for Hartley has told the House tonight, and I could add a few of my own. However, the Bill has nothing to do with what the member

for Hartley suggested. It goes much further than protecting people from those intrusions. We will not talk about amendments. The honourable member has departed from his script in attempting to appease the press in order to get the Bill through, but it will not wash. Frankly, the Bill is obnoxious. If a select committee cannot come up with the right answer, I see no reason why the Parliament should support the findings of the select committee.

We have had two examples of select committees which I believe have gone wrong, one involving self-defence, where people of good will came up with a solution, and we finished with a drafting situation which was totally untenable. The second is where the good will of the committee has somehow been translated into areas which I do not believe anyone wishes to enter. Nobody wants the provisions of this Bill imposed on the people of South Australia—they are being imposed. The common law has been built up over 400 years.

Mr Atkinson: More than that.

Mr S.J. BAKER: I said 'over 400 years', if the member would listen. It has been built on case study, on what our forefathers deemed the right and proper thing to be, and on some substantial underlying belief in the rights of human beings to be protected from those who would do them harm in a number of ways.

This Bill is cutting into the common law. On a number of occasions within this Parliament, we have cut into the common law. We have produced legislation and invariably we have found that legislation far more wanting than the original defects in the common law. This, again, is a case in point. We have an obnoxious piece of legislation.

I take the point that has been made by the member for Hartley—everybody in this House takes that point—but what he suggests is not what the Bill does. If some positive suggestions had come from that select committee—suggestions on how to address grief, photographs and intrusions—which proved to be constructive in addressing those problems rather than the wide-sweeping legislation that we have before us, I am sure that there would be some agreement on both sides, but we do not have that agreement. I have not excused the press in any way. I am not standing here as an apologist for the press and for the things that have happened. Addressing the Bill we now have before us, I would be found guilty on about four counts under this measure. I will read to the Parliament exactly what the Bill provides:

> 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:
>
> (A) by keeping the other under observation (either clandestinely or openly);.

How many constituents have come to the offices of members of Parliament and said that their neighbour has transgressed and they want action? How many members of Parliament have then gone out and actively investigated those complaints? How many people have had backyard burning complaints and how many members have gone and observed those complaints in order to put in a formal complaint to the appropriate authority? How many members have received noise complaints and have sat in the car listening to those noise complaints at 1 o'clock in the morning, then telephoned the police to stop the noise, subsequently spoken to the Department of Environment and Planning to make sure that it does not happen again, and provided evidence to the Licensing Court to reduce the capacity of that organisation to continue in the same way? I am guilty. I have been guilty many times this year of doing exactly what the Bill states is illegal. I suspect that every member of this Parliament who is doing his or her job is also guilty.

I have kept people under observation. When some of the kids in my area start running amok with paint destroying property with graffiti, I have walked around the park at 11 o'clock at night and observed such activities, because we cannot call on the police to keep them under observation every minute of the day. How many other people have done the same thing? I suspect that most members in this House have done that. Therefore, we are immediately caught under this legislation. I am sure that was not the intention, but that is the way that the Bill is worded.

We would be found guilty on a number of other counts—for example, 'by listening . . . to conversations to which the other is a party'. How many people have brought tape recordings to members' offices and said, 'Will you listen to this information?' and we have done so. We have not said, 'I do not want to hear it.' I have listened to some interesting tapes on union matters on occasion. I have not said that I did not want to listen to them. Of course I will listen to them, but I will be guilty under this legislation.

Paragraph (E) refers to 'examining or making copies of private correspondence or records, or confidential business correspondence or records, of the other'. How many times have we investigated matters that have been brought to our attention by constituents which involved records being provided? Sometimes we do not know from where they have originated. We have taken at face value that that person has the right of possession. Yet, under this legislation by doing those things, as I have done in the course of my duties, I would have breached about five of those provisions and would presumably have been found guilty of an offence under this legislation. The Bill talks about defence, but on first principles I am precluded from taking such action as I think is important to protect the rights of the people in my area.

This Bill has nothing to do with grief. It has nothing to do with the speech that was made by the member for Hartley who seems to be the moving force behind the Bill. This measure is concerned with suppression. I remind members that we had an adequate example today in relation to suppression when the Government told the Royal Commission that it did not wish to have the details of the private deal on the Electricity Trust power stations revealed to the public of South Australia. The record of this Government on suppression is indeed questionable. This Bill is not about grief; it is not about the protection of the rights of individuals; it is about being able to suppress the press.

There are certain people who rightly feel aggrieved about some of the things that the press has done to them. As a Parliamentarian, I realise that it would probably make my life easier if these provisions were agreed to by the Parliament. I believe that on a number of occasions in the past I might have been able to take out an injunction against the press. I also believe that perhaps by not approving this measure it may be to my detriment in the future, but I will uphold the right to take that risk and believe that the press has to be unfettered. I believe that organisations which are concerned about the community have a right to pursue their aims in a constructive way that will assist their fellow human beings.

This legislation stops it. It quite clearly says that those things cannot be done. Most of my colleagues and I have severe reservations about this legislation. The member for Hartley has talked about why this legislation can accommodate all the fears that have been expressed. However, that is not the case—it cannot. The members for Coles and

Bragg more than adequately outlined to this Parliament the numerous occasions when people who lie outside the defence provisions of this legislation and who lie outside the ambit of the changes that will be introduced at a later stage will be caught under the provisions of this legislation—and wrongly caught in the process. Bodies such as the Conservation Council have been mentioned. Local historical societies in my district are concerned about the security of buildings that they want to see preserved. They do not want to see them bulldozed or changed in a way that will detract from their historical value.

The member for Coles quite adequately outlined the case for historians, geographers, researchers and biographers who would be caught under the provisions of this legislation and who would not be able to pursue their research into the background of, for example, some of our more famous citizens or extended family members. There are a whole range of reasons why we should summarily throw out this piece of second-rate legislation—but not for the reasons that the member for Hartley mentioned. Not one of those reasons is embraced by this legislation. The Bill, which is totally off at a tangent, brings together the wishes and whims of certain people in this Parliament who have a hidden agenda.

I shall talk about the impact of this legislation. I do not want to live in South Australia if the news can be reported interstate but not here. Time and again we have seen a suppression order imposed by a South Australian court, yet all the details of the case have been revealed for the interstate population to view, smile at or express concern about. The news has been created in this State but we have not been able to see the details because a suppression order has been imposed in this State. That has come up in debate on numerous occasions. The matter was addressed before the 1989 election when we were dealing with amendments to the Evidence Act.

Under this Bill, the onus will relate to South Australians, but what about the rest of Australia? Again, we are standing out like a shag on a rock, making our own legislation to the detriment of this State. Let me tell the House who would have loved this legislation. We can look at the high fliers such as Bond, Skase, Holmes a Court, perhaps Elliott and so on—and members have mentioned a number of names over a period—who would have been absolutely delighted at this legislation because they would have been protected by it.

The Hon. G.J. Crafter interjecting:

Mr S.J. BAKER: I have read the Bill. The Minister of Education has not read his own legislation. I suspect that he studied law at some stage but he, like the member for Hartley, does not understand his own Government's legislation. What about those private individuals who investigate—for example, Bob Bottom, Dick Wordley and a number of people in this State—and take up causes on behalf of people? What happens to them under this legislation? The Minister of Education is silent. Those people are absolutely ruled out.

The Hon. G.J. Crafter interjecting:

The SPEAKER: Order!

Mr S.J. BAKER: The Minister of Education, who is silent at most times, asks 'Which clause of the Bill?' I read it out previously: 'right of privacy', clause 3 (2) *(a)* (i) (A) to (D). All those devices have been used at some stage by various people who are interested in obtaining the truth. They have been used on numerous occasions.

Dr Armitage: (E), (F) and (G) as well.

Mr S.J. BAKER: (E), (F) and (G) as well, as the member for Adelaide has so rightly pointed out.

The Hon. G.J. Crafter: Refer to the amendments.

Mr S.J. BAKER: As the Minister would quite rightly know, we cannot refer to amendments during the second reading debate. That might be the Minister's second-class attempt to try to return the debate to a court where the Government can actually play the game, because it is right out of court with the Bill as it stands. We will address the amendments later, because they cause more confusion and problems than they seek to solve. It would have been wonderful for the State Bank, for example, if this legislation had been already in place.

It would have been wonderful for some of our prime movers, some of the people who have torn apart this State, some of those who have lost billions of dollars, if this legislation were in place. They could have had injunction after injunction for a whole range of reasons against those who sought to investigate them. People on the Liberal Party's side of politics have investigated the activities of some of our so-called high-flying entrepreneurs over a period, but they would have been ruled out of court if this legislation had been in place. This legislation seeks to protect those who need to be brought to justice.

I know that the Victims of Crime Service has a large number of members who are concerned about the intrusions that have taken place after they have become victims. I realise that. However, those same people would say, 'I want the criminal caught. I want the person who has done this to me to come to justice.' Coming to justice can take a number of forms. However, members would be quite appreciative of the fact that much of the information ultimately used in the conviction of criminals does not come from the police: it comes from the public. I have read the Bill four times. What if someone—for example, Joe Citizen—were to keep another person under observation because he believed that they had been involved in or were about to commit an offence? Of course, the Bill does give them some defence, but it does not give them any rights. It is a question of everybody's rights, which is also why I ask members to reject the legislation.

There is a whole range of other people who would feel comfortable with this legislation—those who are capable of or who are doing wrong. They will be able to use and abuse this legislation as we see it here today in a way that I do not believe anyone in this Parliament would condone. It is not just a simple matter of saying, 'Let's do it in good faith; let's try it out', because the law does not actually work that way. How many times has legislation been debated by members of Parliament in both Houses and on which the court has adopted a different interpretation to the one that we would wish? We cannot go forward with legislation in good faith: we must go forward with legislation that is watertight. We must go forward with legislation that will protect people's rights, not take them away.

This Bill takes away people's rights. It takes away their natural right to defend themselves, look into their own affairs and to protect other members of the community. It is no good using the defence in the Bill that one was doing it for the best motives possible—that does not wash. The right of privacy is very precious. It is abused. Let us address the abuses, but not through this sweeping legislation. Let us reject this Bill and get on with the job of getting a far better result than we have at the moment.

Mr FERGUSON (Henley Beach): I have been very surprised by the tone of the Liberal Party in debate on this Bill. When we come to the vote it will be interesting to see whether the whips have been out and members of the Liberal Party will have to vote *en bloc* or whether those

who want to exercise their conscience in regard to this matter will have the opportunity to do so.

Members interjecting:

Mr FERGUSON: I realise I am hitting home on this one—

Members interjecting:

The SPEAKER: Order!

Mr FERGUSON:—and that I have touched on some raw spots, but it will be interesting when the vote comes up to see whether individual members of the Liberal Party who have always claimed that they could vote individually if they so desired on matters of principle will exercise that right in respect of this issue.

Members interjecting:

Mr FERGUSON: You will not shout me down: I can speak much louder than you can. I was extremely interested in the remarks of the member for Coles in defence of the media. It is easy to take the side of the media to make sure one has the media on your side and receive the resulting publicity.

The Hon. Jennifer Cashmore: Be fair!

Mr FERGUSON: I intend to be fair and I intend to quote from page 83 of the honourable member's book *A Chance in Life*. I refer to the section headed 'Money, power and public interest' where the honourable lady says:

> First, we need to revive a sense of respect for the rights and responsibilities of the individual and for the importance of the family, however we define it.

I could not agree with her more, and in this respect she is absolutely right. Therefore, I was surprised when I heard her opposition to this measure and her defence of the press in this debate when she said. 'The press, right or wrong.'

The Hon. Jennifer Cashmore: No!

Mr FERGUSON: Yes. That is the impression the honourable member gave us.

Mr Lewis interjecting:

Mr FERGUSON: I ask the member for Murray-Mallee to take his medicine and quieten down.

The Hon. JENNIFER CASHMORE: I rise on a point of order, Mr Speaker. I regard that remark as an offensive reflection on the member for Murray-Mallee and I ask that the honourable member withdraw it as it is quite unparliamentary.

The SPEAKER: Order! I think it is for the member for Murray-Mallee to take offence in respect of remarks made about him. If he wishes to take a point of order, I will certainly give it due regard.

Mr LEWIS: On a point of order. Consider it done, Mr Speaker.

The SPEAKER: Consider what done?

Mr LEWIS: That reflection made on me, Sir.

Mr FERGUSON: I will withdraw, Mr Speaker. I was provoked. The member for Murray-Mallee was heehawing like a donkey, but I will withdraw.

The SPEAKER: The honourable member will resume his seat. I draw the attention of the House to this debate in general. The Opposition has had a fairly protected run and I ask the same for Government members when they contribute to the debate. If members wish the Chair to exercise more control over the Chamber, it is in your hands, but I ask that due respect be shown to both sides of the Chamber. The member for Henley Beach.

Mr FERGUSON: Thank you for your protection, Sir, I had a feeling that I was needing it. I enter this debate not because I want to refer particularly to the press. There are plenty of members on the other side of the House who are willing to look after the rich and powerful in this society, and I include newspaper proprietors in that bracket. Certainly, they have no lack of support from members on the other side. I agree with the member for Coles when she speaks about the rights and responsibilities of the individual, particularly in respect of the rights of an individual. We have these powerful organisations absolutely taking over the private lives of people, and I will discuss this on a personal basis. In 1989 I contracted a serious cancer known as lymphoma. At the insistence of some of my political opponents, who I will not name at this stage, the press contacted me at home and insisted—

An honourable member interjecting:

Mr FERGUSON: It is true and, if you are not careful, I will name those members of the Liberal Party who have been running around saying things about me in private. At the insistence of my opponents the press told me that they were going to publish what was wrong with me, although I considered my illness was a private matter that had nothing to do with anyone else, including members of the Liberal Party. Liberal Party members were insistent that the press publish the nature of my illness, and they did so for political gain. They are still running around to organisations in my electorate telling them that I am so ill that I am about to die. I can produce proof. In fact I hope the Deputy Leader does not shout too much about this, because there are people in his organisation who are running around saying these things about me.

I believe that illness is a personal and private matter, and it should not be in the realm of a political Party to run around telling organisations about the illness of someone, whether or not he or she is an opponent. However, that is what is happening. I resent it, and that is one of the reasons why I support the Bill. At present I have no remedy apart from going to the press myself in order to keep up with the rumour mongering going on in my electorate. Certain members here know what is going on. Turning to another topic, because I said I would speak about that for only a few moments—

Mr Lewis interjecting:

Mr FERGUSON: I wish the member for Murray-Mallee would be quiet.

The DEPUTY SPEAKER: So does the Chair. Interjections are out of order.

Mr FERGUSON: I also support the Bill because of what is happening in industry. I was involved with the printing industry where we now find that black lists are circulating amongst employers. The lists detail the faults of employees and former employees. Therefore, when prospective employees apply for a new job, the employer consults the black list to determine what information is available on that individual. Prospective employees have no redress or means to know what is contained in these lists, but this Bill will give those people the opportunity—

Dr Armitage interjecting:

Mr FERGUSON: Yes, it will. In fact, one reason why you are implacably opposed to the Bill is that you have to support the employers.

Dr Armitage interjecting:

Mr FERGUSON: The good doctor from Adelaide is now joining in and shouting out his lungs.

The DEPUTY SPEAKER: Order! The member for Adelaide will cease interjecting, and the member for Henley Beach will address the Chair.

Mr FERGUSON: The member for Adelaide is interjecting, and I want to explain to the House what is happening about medical records. In some circumstances employers insist that workers claiming compensation attend certain clinics. There is nothing to prevent them from doing that, and my advice to those workers has always been that, if their employer wants to send them to a clinic, they should

go. They can go to their own doctor if they so desire but, if their employer wishes to send them to a doctor, they should go. Contrary to the AMA code of ethics, information has been disclosed both to the employer concerned without the permission of the employee and, in addition, to other employers and to solicitors who are requested to represent those organisations.

That is the sort of privacy I want to protect. It is no wonder we now have the member for Adelaide lapsing into silence, because he knows what is going on and that is one of the things we should be sorting out as far as privacy is concerned. I have been able to get hold of a contract that a certain firm in metropolitan Adelaide is asking its employees to sign. One of its clauses states:

Mail: all mail delivered to the company place or business or registered office is deemed to be the property of the company and may be opened at the company's discretion, regardless of writings on the outside of the envelope.

Members would know that sometimes the only way one can contact a person is at the place of their employment, because people move from place to place, and personally addressed letters on any subject under the present law can be opened and perused by certain employers, and certain employers are insisting on it. Every member of the Liberal Party has opposed this Bill so far. I certainly hope there will be some dissenters; I hope the Whips have not gone out and forced everyone to vote in the same way. However, every member opposite has opposed this proposition so far, and they know that there are breaches of privacy occurring in industry. Not only that, I have a questionnaire that has been proposed by a firm that wishes to present it to prospective employees—not employees necessarily, but prospective employees. The questionnaire asks:

1. Are you being treated by any doctor for any illness? Yes/No
2. Are you taking regular medication from any doctor? Yes/No
3. Have you ever had any operations? Yes/No
4. Have you ever suffered from:
   (a) Wheezing or Bronchitis? Yes/No
   (b) Diabetes (Sugar)? Yes/No
   (c) Blood Pressure or Heart Disease? Yes/No
   (d) Stomach pains or Ulcers? Yes/No
   (e) Excessive noise exposure? Yes/No
   (f) Skin disorders? Yes/No
   (g) Chronic ear infections? Yes/No
   (h) Fits or blackouts? Yes/No
   (i) Head Injuries/Concussion? Yes/No
   (j) Hernia? Yes/No
   (k) Allergies? Yes/No
5. Have you ever had any trouble with your:
   (a) Back? Yes/No
   (b) Wrists/Elbows? Yes/No
   (c) Ankles/Knees? Yes/No
6. Have you ever had an industrial accident or disease? Yes/No
7. Have you ever claimed or received workers compensation? Yes/No
   If yes, state:
   (a) The date of the claim or payment:
   .....
   (b) The name of the employer against whom the claim or by whom the payment was made:
   .....
   (c) The injury for which the claim and/or payment was made:
   .....

This questionnaire is given not only to the firm's employees but to prospective employees, and there is no guarantee that the information supplied to the firm will be kept confidential. There is absolutely no guarantee under the present laws.

I know that the member for Coles would like to defend the position and would like to see this Bill defeated. However, she has to think about what she actually said. I will quote her again:

First, we need to revive a sense of respect for the rights and responsibilities of the individual and for the importance of the family, however we define it.

What right has an individual in a situation like this? What right does a 16 year old girl have out in the market now, when we have about 11 per cent unemployment.

Dr Armitage interjecting:

Mr FERGUSON: I know that the member for Adelaide wants to shout me down. He does not like hearing what I have to say. What rights does a 16 year old girl have who seeks employment and goes to this firm when there is nothing else available? What will she do? She will fill out the application, and there is no guarantee of privacy. Members opposite ought to be ashamed, because they should be prepared to protect people in this sort of situation. I believe that this Bill relates to rights. Rather than getting up and defending the press barons, as every member opposite has done thus far, they should tell us what they think ought to happen to the individuals. They should tell us about private grief. Why have you gone silent on private grief? Why are you supporting the members of the press?

The DEPUTY SPEAKER: Order! The member for Henley Beach will address the Chair.

Mr FERGUSON: Why are members of the Opposition supporting the press, who go out with their telescopic lens and chase bodies in coffins? I saw a news flash the other day of an Irish immigrant woman in Sydney who had been taken from a club; she was taken to a private place and continually raped over night. She was found in a car at the side of the road, and the press cameras were on her; the news reel cameras were on her and she had her face flashed across every television screen in the whole of Australia. If members opposite do not call that an invasion of privacy, what do they call it? All members of the Liberal Party are defending this situation. They are defending the fact that the press barons of Australia can destroy the privacy of defenceless people.

Do not tell me that there is a remedy. How can a little girl just out of school go to the Supreme Court and spend the thousands of dollars necessary to defend herself against those rich newspapers, television stations, radio stations and so on? This is the place where she should be defended, and members opposite have the right and the opportunity to defend her now. But, what do we hear? All we hear is, 'Let's look after the press.' I have only two minutes left to me and I was interrupted continually. A conservative Government in New Zealand—and dare I say it, it is even more conservative than the Party opposite—

An honourable member interjecting:

Mr FERGUSON: It is difficult to understand. The Government in New Zealand is even more conservative than the members facing me, but it is prepared to introduce a privacy Bill.

Mr Groom: It has.

Mr FERGUSON: It has introduced a privacy Bill, and that Bill goes much further than the proposition before this

House. It provides that no-one should be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence nor to unlawful attacks on his honour or reputation. Everyone has the right to the protection of law against such interference or attacks. It is a very wide Bill, and it has been introduced by a conservative Government. Why have not the conservatives in this State been prepared to have the courage of their convictions—at least some of them? Why do they not have the courage to stand up and support this proposition?

The DEPUTY SPEAKER: Order! The honourable member's time has expired.

Mr LEWIS (Murray-Mallee): We must remember that this debate has proved for the member for Hartley and for the Government an interesting and useful diversion from the problems of the day that beset us in this State and nation—the Government's woes. Public attention is now directed to a mischief, the mischief being the substance of the legislation compared with the content of the debate as presented by the member for Hartley and other members of the Labor Party.

My colleague the member for Coles has already spelt out for the benefit of us all that the Bill does not address what Government speakers so far have said it addresses. In fact, it perpetrates a number of other mischiefs against the public interest. All we can say in summary is that, were it to pass in the form in which we see it before us, either on the file or as amended, it would be a veritable bank roll for legal practitioners. What a paradise. It is full of the opportunity for litigation.

Make no bones about it, I believe that on not just one, two or several occasions, but on many, many occasions my personal privacy has been abused. I resent it but this Bill does not address the means by which I can obtain any remedy to it without infringement, by the measures put before us, of the necessity for the public interest to be served. It does not address what I see as being the root cause of my complaint against the existing law. We see that privacy would result in a consideration of defamation and content and a consideration of who it may or indeed does affect or whether or not there is applied or given consent.

It is argued by those who would report the sort of things by which I have been offended, that I implied consent by seeking public office. That is the way in which the legislation as we see it before us is written. Under clause 4 (3) *(b)*, it is a defence to an action for an infringement of a right of privacy to prove that the infringement was justified in the public interest. Because I hold public office, that would be seen as sufficient proof. It therefore distresses me that it does not address my problems or the problems of others who have come to me complaining about the invasion of their privacy. It does not provide them with a remedy, either, because in every instance it can be reasonably argued that the infringement was in the public interest, spurious though it was at the time.

The member for Hartley has repeatedly said that the impetus for the Bill came from a concern that personal grief should not be the subject of intrusion by the media. That is not reflected in the Bill, nor is it to be found as reported by the honourable member in the propositions put by the select committee. The Bill is extraordinarily wide and it goes far beyond the claimed intention of the honourable member.

Mr Groom: Haven't you read the report?

Mr LEWIS: I have. It is so broad as to impinge on every aspect of human relationships as well as placing a substantial impediment on the ability of the press to report freely on matters which might involve personal or business privacy. An essential ingredient of every democratic society is a free press. An essential principle of that is the freedom of speech, not only in the media but also for the citizens. This Bill is so wide that it can be used as an instrument of suppression and the member for Hartley knows that. A current illustration was the publication of a photograph of the Premier and Speaker at lunch before the vote of no confidence was taken in August this year.

Mr Groom: They consented to that photograph.

Mr LEWIS: That is an interesting disclosure. That was denied by the Speaker and I should think that the Speaker would therefore have cause to take the member for Hartley to task in the same way as he took the member for Hayward to task over a matter of privilege. The Speaker denied that he had given approval for that photograph to be taken. Others would argue, as I argue, that it was a matter of public interest that the Speaker and the Premier should be seen lunching together in such an unusual venue as the Botanic Gardens kiosk.

The Hon. H. Allison: There was nothing suspicious in it.

Mr LEWIS: Nothing at all, just before the no-confidence motion! The member for Hartley assures me that—

Mr Groom interjecting:

The DEPUTY SPEAKER: Order! the member for Hartley is out of order with his continuous interjections.

Mr LEWIS: As I understand it, the photographer could have been sued under the terms of this legislation for a breach of privacy and the editor and the newspaper could also have been sued for publishing that photograph.

Mr Such interjecting:

Mr LEWIS: I do not know what was sitting on the table or why it was sitting there or whether either of them had to find their way back to the House with their ministerial drivers. I do not comment on that. A defence can be raised or may be raised that it was in the public interest. That photographer would have to argue in court that it was a matter of public interest, and the editor, having received the photograph, would have to determine whether or not it was a photograph which ought to be published in the public interest under the terms of this legislation. If publication had occurred immediately, it could be argued to be a breach of privacy and that there is *prime facie* evidence of that, but the onus is then turned around and placed on the publisher to argue that it was in the public interest. That defence, hypothetically, may or may not succeed. We do not know what the court would find. I find that dangerous in the extreme.

I have been in the position of attempting to defend myself on one or more occasion against what I believe to be scurrilous statements made by an individual and published by the press. In attempting to seek a remedy for that, I discovered that the cost was enormous to the point where it was simply beyond my means to pursue it to the ultimate end, regardless of the outcome. There was no way in which it would have been possible for me to satisfy the principle involved with the resources at my disposal. It would have meant the outlay of a sum bigger than a telephone number and I do not have that kind of money.

Let us consider too that photographs of Skase and Bond taken four years ago in circumstances related to some of the events which have since unfolded would have been regarded then as a breach of their privacy. They could have obtained an injunction under our law in this State and even damages if such photographs had been published then. At the time, there may not have been an argument that such publication was in the public interest, but clearly that is not the case at present. We all know that that reporting proved to be in the public interest. It is possible, too, that the

mixture of functions of a prominent figure could be seen, in earnest discussion with someone else, say, a known underworld figure, as a publication which may be defamatory.

More particularly, it would be a breach of this privacy legislation unless it could be established there and then that such publication was in the public interest. How do we know, if we are involved in reporting matters of public interest, that the real substance of the exchange at that time was indeed in the public interest? The publication does not have to be by the media: it can be by the mere communication of that information to another person. That is the way that this legislation reads. Notwithstanding the kind of suggestion that has been made about changes that could occur, we need to accept that even those changes do not exclude sky writers and aerosigns, and there are some cranks about.

A number of questions arise under different clauses which can best be considered in our examination of the measure in Committee. However, if a breach of privacy is alleged, any court will be able to deal with that either by injunction, in the event of a breach which has occurred or is apprehended to occur, or damages for distress or damages for annoyance or embarrassment arising from the infringement and also order confiscation of anything made or used for the purposes of the infringement or in the defendant's possession or under the defendant's control in consequence of the infringement. That power could extend to the confiscation of cameras, typewriters, floppy discs, computer hard discs, computer central processors, computing units and other things used in the commission of that so-called infringement. I find that repugnant in the extreme. I cannot accept that it is legitimate for us to pursue that course of action. I have not heard very much on this question from the present Secretary of the AJA, Mr Bruce Muirden. I wonder whether that is in any way because of his close connections with the Government.

The Hon. H. Allison: He gave evidence before the committee.

Mr LEWIS: I have not heard from him. If he gave evidence to the select committee, his association ought to have made plain where it stood and he, as its servant, should have undertaken to do that. Notwithstanding that, I would say of the AJA—

Members interjecting:

Mr LEWIS: Don't talk about the gutter. We all know where you had your breakfast. I do not want to have to debate that.

Members interjecting:

The DEPUTY SPEAKER: Order! The member for Murray-Mallee.

Mr LEWIS: Thank you, Mr Deputy Speaker, for your protection. The AJA has a statement of ethics which is absolutely useless, and as an association it is gutless. I am sure there is unanimous agreement about that. It is pointless to attempt to get the AJA to discipline any organ or member employed by that association in reporting matters where individual rights, interests and privacy are involved. It does not have the power to discipline its members, despite the fact that it has claimed before us that it has. I have made the point that it would have been extremely difficult to expose Skase and Bond.

I want to rebut a couple of things that have been said by the member for Henley Beach. He regaled us all with rhetorical questions about whether or not we had been subjected to the Whip of the Party—'whether the Whips had gone out' was the term he used. Well he might, because it enables me to draw public attention to a fact which may cause him some discomfiture. As a member of the Australian Labor Party, he would find himself in no less an ignominious position than Norm Foster were he to cross the floor against the Party line. We all know that on every issue the Whips go out in the Australian Labor Party. Once the decision is taken, the vote must be firmed, or automatically members opposite—save yourself, Sir—are expelled from their Party. They do not have a choice of conscience.

The Liberal Party leaves the responsibility with every individual on every decision, and the individual is accountable not only to the constituency but to the electorate committee, and that is the way it ought to be. If you do not have the guts and you cannot stand the heat, get out of the kitchen. Do not go out into the public domain, as members opposite do, and complain that you could not vote against it because it would mean that you were automatically expelled from the Party, as is the case, and I have heard it. Members opposite hide behind that, and they expect the public to understand their difficulties and the plight in which they find themselves.

They do not have the gumption or the guts to be responsible for their own thoughts, opinions, actions and commitments. They cannot make decisions for themselves. They are without the ability to be capable of leadership as individuals; they have to rely on the mob of sheep around them. Somebody else makes the decision for them in the faction behind locked doors. Then the bargaining takes place in the Caucus room between the factions—'This one's for you and that one's for me and we will all vote accordingly.' That is the poetry by which they proceed in politics. They ought not to say too much about the Liberal Party. There are no Whips out. All members on this side on this measure, as on every other, are individually responsible.

Mr Ferguson: Can you promise me that?

Mr LEWIS: Utterly, without equivocation.

Mr Ferguson: We will see.

Mr LEWIS: It has never been any different. We need to be able to report the kinds of things to which the member drew our attention. Our sympathy went out not only during the course of his remarks but earlier, when we knew of the invasion of the privacy of the individual and the family of that individual who had been raped in New South Wales. But the media did not show the face and features of the victim, as though that was the important part of the report: the victim was shown as a human being suffering. Just as the member for Henley Beach and I would want, the public was more appalled by what they saw and understood in consequence of the actions taken by that criminal, or criminals, perpetrating that rape. It was not a deliberate exposure of the identity of the individual concerned, and no attempt was made to make it possible for the identity of that person to be disclosed. The account was properly reported in that respect. It ill behoves any member opposite to have any wish to support the member for Napier and to talk about these matters of privacy, given the way in which he frequently and constantly—

The Hon. T.H. HEMMINGS: On a point of order, Mr Deputy Speaker, I have not yet spoken in this debate, but the member for Murray-Mallee is reflecting on me.

The DEPUTY SPEAKER: There is no point of order. The member for Murray-Mallee.

Mr LEWIS: I am referring to what is in the printed record (page 1549)—the way in which the member for Napier went into a Government department and stole documents, or got someone else to do it for him, to bring information into this Chamber about what he alleged happened with the member for Bragg, and that was disgusting.

Mr GROOM: On a point of order, Mr Deputy Speaker, the member for Murray-Mallee has accused me of stealing something from a Government department. I ask him to withdraw.

Mr LEWIS: It was the member for Napier who did that. It could easily have been other members, but it was the member for Napier, who can be found on page 1549—

The Hon. T.H. HEMMINGS: On a point of order, Mr Deputy Speaker, the member for Murray-Mallee is reflecting on me, and I ask him to withdraw.

The DEPUTY SPEAKER: The member for Murray-Mallee.

Mr LEWIS: I was not reflecting on the member for Napier to any other extent than is to be found in the record.

The DEPUTY SPEAKER: Order! Is the member for Murray-Mallee withdrawing the allegation?

Mr LEWIS: Not in the least.

The DEPUTY SPEAKER: In that case, I call the member for Hanson.

Mr BECKER (Hanson): I cannot support the legislation, and I have no intention of doing so. I have given it much thought and study, and I agree with the comment of our Deputy Leader that this Bill is about suppression. I also believe that it could be a smokescreen for those who really want to use the legislation for that very purpose.

I well remember the remarks of the former member for Mitcham, now Justice Millhouse, who always said, 'If you're ever in doubt, you oppose it.' Having read the report, having studied the Minister's second reading explanation, having listened to the debate, including the remarks of the member for Hartley, who very emotively summed up in 20 minutes what he would have liked to say in three hours, I am still not convinced that this legislation is what we really want. In fact, no-one in the community has approached me personally and asked me to support this legislation. No great call has been made by individual people in my electorate for this legislation. So, I tend to think along the lines of the member for Murray-Mallee, that this is a wonderful diversion; it is a wonderful individual promotion by the member for Hartley, but it is also a great diversion for the Government. The Premier said this afternoon that we are in the worst economic crisis and the Opposition decides to have a no-confidence motion in the Minister of Water Resources. Yet, when one looks at this legislation, one would have to be forgiven for thinking that it is a clever ploy by the Government to do the same thing.

Some 43 years ago my family were maligned, slandered, smeared and goodness knows what over all sorts of allegations which were eventually never proved. One of the worst articles, which I have always kept, was written by none other than a cadet journalist with the *News*, Bruce Muirden, who is now the Secretary of the Australian Journalists Association, South Australian Division. I have often joked in the past with Bruce about that article by asking, 'Remember when you called me the flaxen-haired little boy?' However, I have always accepted what is said about being in what is alleged as public life, that anyone in the public eye must expect some of those criticisms and some stories. I, too, am a great believer in the notion that where there is smoke there is fire.

As a member of Parliament who has always pursued and believed in the principle of accountability of Government, I have endeavoured to source out what is really happening in the community. I absolutely abhor the activities of some people in business who cannot ethically and honestly run a business, people who deliberately set out to take down the public, who make a wonderful pastime of ripping off consumers and who have abused commercial law within the State and taken advantage of the weak. Those people should be exposed. I have believed, from the day when I was first elected to Parliament, that we have the right to raise those issues in Parliament without fear or favour and to ask those responsible in Government, particularly the Department for Public and Consumer Affairs, and so on, to investigate the activities of people whom we would call shonky dealers. Under this legislation, I would not be able to continue to take up these issues for and on behalf of my constituents. It would be a tremendous shame if members of Parliament did not have the individual right or the freedom to go out and ask questions and seek information on behalf of their constituents or in the public interest.

I am concerned about the definition of 'public interest' in the Bills. I believe that as drafted it would be a legal practitioner's paradise, because every time one believed one was being maligned, harassed or under surveillance, one could go to a court and apply for an injunction. What kind of country are we living in when we have to keep seeking legal advice and going to courts to seek protection? We should not have to do that; it should not be necessary. That is why I am often suspicious of legislation such as this drafted in such a way that it has a vested interest from the legal profession. That is a tragedy, because it certainly divides the community into classes: those who can and who cannot afford justice. We are often reminded that under social justice there is legal aid for those who qualify. However, one should try to get legal aid today. The Government cannot provide sufficient funds to meet all the requests of applicants who believe that they are being disadvantaged because they simply cannot afford the legal costs. This legislation has its weaknesses in that respect as well.

Whilst the select committee and the legislation might mean well, I am not convinced that the public interest is being protected. I am sure that my constituents do not want to see me gagged from exposing the rogues who plague our community today. I am one of the longest serving members of any Public Accounts Committee in Australia—I think it is now nearly 15 years—whose work is not protected solely under this legislation because, as the member for Hartley has indicated, clause 5 simply provides:

This Act binds the Crown.

The Public Accounts Committee, in undertaking inquiries in relation to the use of Government motor vehicles, has asked for log books and details of the practices and activities of certain Government departments: this legislation could well be used to prevent a committee of the Parliament investigating the accountability of Government. It worries me that the Parliament itself could be prevented from carrying out its duties as the public requires us to do and has supported our doing in the past.

Over the past 22 years I have been here, many members of Parliament have, on behalf of their constituents, investigated all types of allegations of fraud and interference that the constituents have suffered, as well as the shoddy workmanship that is carried out in some professions. They have done so successfully and have been able to advise the public to be careful when dealing with these people. I well remember one of the first issues I raised in Parliament, involving pyramid selling. After a couple of questions I convinced the then Attorney-General that there was something untoward about pyramid selling. We were right: it was one of the worst types of consumer fraud being practised, and we nipped it in the bud very quickly in South Australia.

As a matter of fact, I think we were the first State to introduce consumer laws to prevent that type of activity. We were able to do that because we were a smaller legis-

lature, a smaller State, and we were able to grapple with such problems more quickly than could the larger Eastern States. I am sure it was never intended to prevent the undertaking of such investigations, but as I interpret it we would not be able to make inquiries or search out certain information, because we could be accused of harassing people or organisations. We could be accused of doing all sorts of untoward things and impinging on the privacy of a person or corporation.

I can see that many people in organisations would hide behind this legislation to protect illegal activities, which is what I do not like. If we are going to talk about the rights of privacy, we should be looking at individual rights within the Constitution of the State and the country rather than coming up with legislation that would provide a paradise for the legal profession.

As to the other areas about which I am and always have been concerned, I refer to the dossiers kept by employers on employees. I had many specific examples when I first came into this House of dossiers and the rights of individual employees to see those dossiers. When I was President of the union concerned, we were able to force our employers to allow employees to see their dossiers. They could sign the document to say that they had seen any reports made about them as an employee.

I accept that it is important for records to be kept in certain professions. Indeed, we have it in the Public Service, where dossiers are kept on employees, particularly those in certain classification positions, because it is necessary to keep an employment record of officers considered for promotion to higher grades or areas. This practice flows through all levels of employment and it is necessary for employers to keep records, just as I believe it is necessary for employees to have the right to vet such records, and just as any individual should have a right to see the dossier maintained on them by the police. The police are exempt from this legislation, but that still should not stop people having the right to ask to see the file kept on them.

If members have ever seen a file kept on people by ASIO, they would have been horrified to see the anonymous notes and scraps of paper sometimes written by police officers with information saying, 'Today I was walking down the street and so and so said such and such.' All that is put on a person's security file and kept in vaults all over the country. We had a big clean-out in the 1970s, under the Dunstan Government, of the dossiers kept in this State, but no-one knows to this day just how much of that information was transmitted to the Federal police before it was vetted in South Australia. One can bet that duplicate files would have been kept by heads of the security organisations in this country.

One of the greatest tragedies we experienced in this country was that a dossier was kept on every union official. All those who stood for union office and were successful had a dossier kept on them. It was kept here in South Australia and in the security files in Canberra. It is incredible to think that each and every one of us was subject to such reporting. Every time we attended a meeting or travelled, we were under surveillance. I knew that, every time I got on an aeroplane and flew interstate for executive or other similar meetings—if we had a salaries dispute around the country, as we often had, involving our campaigns—we were photographed and dossiers were maintained on our activities. On many occasions quotes of our speeches were included in our files. The dossier keeping that was going on in this country was incredible and, as I have said, I am still not convinced that this legislation is the way to go. Anyone in public office and in the public eye—I accepted this 25 years ago—and anyone who is a public officer of an association must expect to come under scrutiny. I accepted that I would be subject to vetting by the various authorities and even my own employers concerning what I was doing.

I am also concerned now to learn that the Greyhound Racing Control Board is insisting that for all new applications for the registration of greyhound racing dogs a person signs an authority to allow the board to obtain their police record and the applicant must agree to be fingerprinted. Regarding privacy, the rights of the individual and civil liberties, on the one hand the Government wants this legislation but, on the other hand, it is seeking to subject the average working person—the greatest supporter of greyhound racing in South Australia, which is why we introduced the sport, to give the average worker a bit of a go—to some of the most draconian approaches that I have seen in many years.

We opposed such measures over the years for various industries and professions in South Australia. The member for Henley Beach criticised us as being the voice of the press barons. Does he really think Rupert Murdoch cares? Does Packer care? He does not give a damn. True, he is a right winger, no doubt, and Philip Adams is his best mate, and he is on the left, but Packer leaves it up to the editors and managers to run those newspapers. He invests money and expects a return on it. He expects them to get on and do their job. These people will not tell us what to do and they will not worry about us in the long term. Everyone believes in a fair go, the right of the public interest and freedom of expression. As I said, where there is smoke there is fire.

On many occasions people agree to be photographed or interviewed and probably some time later they have second thoughts about what they said or about what happened. Similarly, I am also concerned about auditing. I cannot see anything in the Bill to exempt auditors of companies or organisations. Auditors have a responsibility and duty to report to management about anything they see. If we want to look at the area of the greatest number of investigators who search out the activities of companies and organisations, it is auditors, who must ask the questions as I did when I worked in a bank.

If I was suspicious about a shortfall or a continual number of errors creeping into a system or operation day by day, I undertook my investigations to flush out what was happening so that I could correct any errors. Importantly, we watched closely the activities if there were any cash shortages. We do not want these people in any business or industry suppressed from carrying out their activities in detecting fraud at the early stage. The accountancy profession could have every reason to be concerned about the scope of this legislation if it is passed.

The member for Coles referred to the role of authors and writers, or anyone wanting to prepare or research any literary works. I have been advised that the Geneaology Society has advised its members to approach members of Parliament with their concern about this legislation, as people researching family trees and seeking old photographs in family books could also run into problems. We had our family history prepared and published about four or five years ago, and I know of the work undertaken by one of my cousins in preparing that, because I assisted him with it.

When one has something like 2 600 relatives on one side of the family, that is a tremendous amount of work. No-one objected to their name or details being used, published or printed in the book. However, of course, anyone keeping dossiers and looking for a way of building up a security file

would have found a wealth of information. As I said, I think there is a better way of handling this problem, and this legislation is not the way to do it.

The SPEAKER: Order! The honourable member's time has expired. The honourable member for Goyder.

Mr MEIER (Goyder): I oppose this legislation. I recognise that the Government has made an attempt to curb the activities of the press.

The Hon. T.H. Hemmings: There was a select committee report.

Mr MEIER: It is my understanding that the Government introduced this legislation.

The Hon. T.H. Hemmings interjecting:

The SPEAKER: Order! The member for Napier is out of order.

Mr MEIER: We do not want to—

The Hon. T.H. Hemmings interjecting:

The SPEAKER: Order! The member for Napier is not defying the Chair?

The Hon. T.H. Hemmings: No, Sir.

Mr MEIER: Thank you very much, Mr Speaker. I will seek to ignore the member for Napier's interjections and those of anyone else given that they are so innane. Every member knows that a select committee inquired into this matter. The Bill has been put forward in an attempt to overcome concerns as they relate to personal grief. If that were all this Bill sought to do, I would have no problems in supporting it. However, the Bill is much wider than that and encompasses a whole area that will, to a greater or lesser extent, impinge upon one's freedoms and democratic rights.

Let us consider the Bill as it is before us. I note that clause 3 provides:

> (2) 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:
>
> (A) by keeping the other under observation (either clandestinely or openly);
>
> (B) by listening (either clandestinely or openly) to conversations to which the other is a party;
>
> (C) by intercepting communications to which the other is a party;
>
> (D) by recording acts, images or words of the other;

If we think about that, it means that we would have to be very careful in respect of what we listened to and, perhaps, what we repeated, if it impinged in such a way that it could be taken to contravene the provisions of this Bill. In many cases it would also prohibit current affairs reporting of businesses such as 'Shonky Joe's Used Caryard' where allegations are made and a television crew seeks to ascertain whether they are true or false.

I recognise that the end of clause 3 provides:

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

Who will determine whether it is 'substantial and unreasonable'? What if the intrusion is such that no evidence is found against Shonky Joe's Used Caryard? Obviously, the television crew would then be in trouble. If, of course, evidence indicates that members of the public had been defrauded by Shonky Joe's Used Caryard, perhaps a judge in a court of law would find in favour of the investigating crew. However, we will have legal case after legal case. As the member for Hanson said, it will become a legal paradise. Certainly, I could not disagree with that. Why should we introduce legislation where there will be many more ifs and buts as to what can and cannot be done in our society?

Whilst having great problems with the area to which I have just referred, at the same time I freely acknowledge that in many cases the press oversteps the mark. I believe that greater accountability by journalists and the press generally is required. However, more importantly, there should be honesty in what is reported. I guess that we as members of Parliament regularly experience situations where items are not accurately reported—where they are either deliberately or inadvertently misconstrued. Members in this place would know that certain journalists quite clearly take advantage of situations and report items as though they were fact when, in fact, they are fictitious and are fable in many cases. Those journalists are not doing the industry any good at all. In fact, they are helping to lead this Parliament and legislative bodies around the country to introduce Bills of this nature.

Of course, if this Bill should pass, in many respects it is those irresponsible journalists that the media can thank for the creation of this unnecessary legislation. I say 'unnecessary legislation' because I believe those journalists need to be dealt with in a different way. I believe that their own self-regulatory mechanisms have to improve out of sight. It has been suggested to me and, I believe, to others, that self-regulating mechanisms already exist. However, they are minimal, they are flawed and, in many cases, it is like receiving a small hit on the hand—it does not really hurt and the journalist can go away and continue to do what he or she wishes to do.

Nevertheless, those areas of the Judicial Ethics Committee of the South Australian branch of the Australian Journalists Association and the Press Council can be tightened up and used effectively in the future. It is not necessary to have legislation such as that now before us to impose unnecessarily hard conditions on journalists and on many other people. Let us remember that, when we talk about the Judicial Ethics Committee of the Australian Journalists Association, that does not apply to people such as editors, sub-editors and owners, who are not members of the Australian Journalists Association. That is another problem. However, the Press Council, which relates only to the print media, could be strengthened to try to overcome some of those problems.

There is no doubt that further work needs to be done in this area. However, this Bill is not the way to go. It is too wide and takes in too many areas that may be in the public good yet would be restricted. I believe that, whilst many of our freedoms have been curbed and many of our rights have also been lessened, it is not the time to seek to continue down that track. Rather, we have to examine what is inherently wrong and to seek to correct that through a self-regulatory mechanism if at all possible. However, we should not try to impose laws that will make life more difficult.

It is certainly a strange case where we see, from time to time, an article with one heading reproduced in another publication under another heading. I was recently shown two identical articles. The headings on the articles totally contradicted one another. While that type of thing continues to happen, the press is its own worst enemy. It also seems strange to me that a Labor Government is bringing in this Bill that seeks to protect the rights of privacy for people when much of the privacy gets to the stage where a person does not know whether or not he or she can repeat something they have heard.

It was the same Australian Labor Party that sought to bring in the Australia Card, but I will not take up that issue tonight. So many arguments have been put forward by

previous speakers that I do not intend to go over them any further. I simply repeat that I cannot support the legislation as it is.

The Hon. G.J. CRAFTER (Minister of Education): I move:

That the time for moving the adjournment of the House be extended beyond 10 p.m.

Motion carried.

Mr GUNN (Eyre): I want to make it very clear from the outset that I do not have the same concerns as my colleagues do about this legislation. We live in a parliamentary democracy and one of the easiest ways for a Government to get into trouble is to try to hide information or to limit information to the public. Whenever a Government attempts to hide something, there is nothing surer than that information will become available to the public. Government is too big and there are too many people in it who from time to time fall foul of the system or have their nose put out of joint by some decision of Government. Whether it is legal or illegal, they will provide information to the media or to the Government's political opponents or even to someone in Government.

In a parliamentary democracy, it is essential that we have a free press. I do not think that anyone in this House and I hope that no-one involved in politics in this State or nation would want to put unreasonable, unfair or improper controls or restrictions upon the media. That in itself is undemocratic, unwise and unnecessary. However, in a free and decent society, the press have a responsibility to accurately inform the public, because that is their role. Unfortunately, most people make their judgments on the information they receive through the media, whether it is the print media or the electronic media. That is how 90 per cent of the public gets its information. Therefore, the press have a responsibility to be accurate.

In my judgment, the media do not have the right to interfere with people's privacy, to infringe upon their personal liberty or to infringe upon their homes or businesses in an unreasonable fashion. We have all seen examples at funerals of media people racing around with television cameras in a most disgraceful fashion, in my judgment, or at the scene of a motor accident and family members have their faces flashed across the television screens or in the newspapers of this country. They have not been asked whether they object. In many cases, it is impossible to get the injured person's view, but they are highlighted on the front page of the newspapers.

The Hon. E.R. Goldsworthy: They've got Polyukhovic hanged already.

Mr GUNN: I was going to say something about that at a later stage because I do not agree with that exercise. Newspapers are interested in sensationalism; journalism has sunk to sensationalism. Obviously people must be attracted to buy newspapers. What protection against these powerful monopolies does an individual have, an average person with limited means, if their privacy is breached or if they are photographed in an embarrassing or compromising situation. They might not have broken any law or interfered with anyone else. A member of the family may have been foolish enough, unfortunate enough or devious enough to have committed a criminal offence. In most cases the family rallies around that person to give support or assistance. Why should film of members of that family who have not committed any offence be flashed across television screens? They have not committed any offence.

In my judgment, the media have created a situation where the community is asking questions. If nothing else comes from this exercise, it will put the media on notice that the unfettered right which they believe they have is being questioned, not only by Parliament but by the community. The community wants to know what is happening but it does not want to know all the gory details. It does not want to see people harassed. It does not want to see innocent people chased down the street. It does not want to see grieving people at funerals. It does not want to see people embarrassed unduly.

Many members of the media have no conscience. Many of them have not had a great deal of experience in the real world and they do not distinguish between what is fact and what is fiction. However, they are intelligent enought to know what makes a good story. Therefore, from time to time they engage in what I believe to be quite irresponsible courses of action. Most of us in this place have suffered at the hands of one or two journalists.

About three years ago I entered into some commercial arrangements with members of my family. Unbeknowns to me, at a public forum, irresponsible and untruthful people made very serious allegations reflecting on my honesty and integrity and that of my brothers and other members of my family, suggesting that we were in receipt of concessional Government loans. An ABC journalist, Mr Astbury, who was at Port Lincoln at the time and whom I regard as less than honourable, rang me early one morning to ask me some questions. I had no idea what he was going to ask but it was obviously an attempt to embarrass me. He was untruthful and not only was it bad enough to ask me questions because I am in public life but to inflict that sort of criticism or suggestion upon members of my family was disgraceful. The media have brought this problem upon themselves.

I know of other people who have been subjected to the same sort of disreputable behaviour. If members of this place have engaged in improper conduct, of course they should be made to account for it. I have no problem with that. I do not mind being questioned about any course of action that I take as a member of Parliament or about anything that might reflect upon me as a member of Parliament. However, I take strong exception to members of my family or anyone else's family being drawn into the public arena when they have not done anything wrong and do not want to be involved, simply because someone has set out deliberately to malign them. That is what happens.

I do not share the same concerns as my colleagues. I believe strongly in the rights of the individual. I believe that a person has a right to cooperate with the newspapers but I also believe in the right to refrain from commenting or to reject having their name or photograph published. That is a right, that is a freedom in a democracy. One is not compelled. Why should one be compelled to participate and create news for journalists? One has no obligation.

If there is a matter that this Parliament and other Parliaments should be addressing it is the concentration of media ownership in this country. That is the most important issue and, if journalists want my support, they should do something about it, because one of the greatest assets of democracy is not protecting people's privacy but protecting people's access to fair, accurate and impartial information. If there is anything that needs rectifying in this country, it is that concentration of ownership. There is an urgent need to establish another, independent chain and, if the big commercial organisations want to do something to protect democracy and freedom of information, they ought to put their funds together to start another newspaper chain. The sort of problems that the media envisage that will be imposed upon them by this legislation will pale into insignificance.

I do not believe that we are always given accurate information. I do not believe that journalism in many cases is positive; nor does it set out to portray stories as they happen.

A number of other matters are of concern to me. In my time in this place I have never received so much correspondence from the media. It is amazing. They are suddenly interested in me. I am a simple country lad. I look after my electorate. I am not particularly interested in the media in Adelaide. I do not need them. My electorate can be well informed without worrying about the so-called high powered media, but they have written to me at length and expressed their concerns. I have not yet met or had a chance to talk to them. I am surprised. I am always available. I am only a telephone call away. They know I am up on the second floor and they know where my electorate office is. I am surprised that they have taken such an interest in my well being, and I have been here over 20 years. I am not quite so interested in their welfare, because I believe they protest too much.

I was in this Parliament when the then Attorney-General (now Chief Justice King) brought his legislation before us. I well recall those debates. We had the same sort of crocodile tears. I do not believe that that proposal was as bad as it was painted, but the Government got cold feet and backed off. This legislation might not be perfect. There is a simple solution to the matter, in my judgment. Let us put a sunset clause on it and look at it again in two years. If it is so bad, let it float out of the window. I do not believe that it would interfere with the legitimate journalistic role of any person in this State.

I have read the code of ethics of the AJA very carefully. It interests me that we are to enshrine in the legislation and the regulations that code of ethics. Unlike lots of legislation before this Parliament, the regulations will have to lie on the table for 14 sitting days before they become operative. That is not done very often. It is a course of action which I entirely endorse, and I think there should be more of it. If the regulations are draconian or in any way interfere with journalists, either House of Parliament can disallow them. However, there is another protection. They can give public evidence, which is tabled, and everyone can see it. If it is tabled in this Parliament, it is a public document. No-one can stop them using it in the newspapers, on television, or wherever they like. If it is so bad, I would think that they can organise hundreds of witnesses.

The select committee took some time, but there was not any great overwhelming opposition to it. I have read with particular interest the recommendations in this document. I knew that there were people who would be expressing serious concerns about this legislation, so I thought that I had better do the right thing and make sure I did my homework. Therefore, I read the report again. I do not think that any reasonable person can take a great deal of objection to these recommendations. Recommendation No. 4 states:

> That the proper detection and prevention of insurance fraud should not be impeded by the draft Bill . . .

I think we all agree that insurance is too dear now and we should stop people defrauding whoever it is. Recommendation No. 8 states:

> That private nuisance should be included in the general concept of invasion of privacy.

Why should law-abiding citizens, who are living peaceably in their homes, have to put up with people engaged in harassing or annoying them? Why should they not be protected? I believe that a person has a right to complete privacy in his home, wherever it may be. If one does not want people to come there, one should have the right to ask them to leave and, if they do not, the law should offer some protection. Recommendation No. 7 states:

> 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.

What does this code of ethics really say? I do not think that many journalists have read their code of ethics or, if they have, they do not understand them. The media have set out to condition the public of South Australia into believing that this Bill is a thoroughly bad document, that we have sinister motives and we are going to deny the media their rights. That is not correct. From my experience in this place, I do not believe that in a modern society the Government can deliberately or by stealth deny information for any period of time to the public; nor can commercial organisations. When Governments try to do that, they get into trouble. When Governments continue to release information, they have a better chance of standing the test of time. The code of ethics provides:

> They shall report and interpret the news with scrupulous honesty . . .

Well done. I wonder what will be in the *Advertiser* in the morning.

Mr Atkinson: It won't be you.

Mr GUNN: That is right. I do not think that I will get the same amount of correspondence. They will not be quite so friendly to me. I am a rather nervous character, so if I see them I should perhaps step around the corner. This code of ethics is interesting. It continues:

> . . . by striving to disclose all essential facts and by not suppressing relevant available facts or distorting by wrong or improper emphasis.

I would say that there has been some improper emphasis on the description of this Bill. However, this is the code of ethics of that august and esteemed body, the AJA. Paragraph 2 states:

> They shall not place unnecessary emphasis on gender, race, sexual preference, religious belief, marital status or physical or mental disability.

Last week I was in my office at Ceduna. The Mayor came down protesting vigorously about a scurrilous article which had appeared in the *Advertiser* labelling that town as being racist and reflecting on all sections. The Mayor wrote a letter to the paper, but it would not print it. The community was outraged at the grossly inaccurate, misleading and thoroughly damaging report about that community. The council has taken strenuous steps to improve community relations in that town by various means and it has been commended by those people who reviewed the dry areas legislation. The Mayor asked, 'What can we do?' I said, 'You can go to the Press Council, but that is a toothless tiger. I suggest that you and the council should see the Managing Director of that newspaper.' What else could they do?

Paragraph 3 of the code states:

> In all circumstances they shall respect all confidences received in the course of their calling.

That is interesting. I wonder how many people in this House know when confidences have been broken. Paragraph 4 states:

> They shall not allow personal interests to influence them in their professional duties.

Being such moral people, it is a wonder that they have not also entered into an arrangement to disclose all their personal interests. They ran a campaign to ensure that we did it, but they have not done it for themselves. Paragraph 5 states:

They shall not allow their professional duties to be influenced by any consideration, gift or advantage offered and, where appropriate, shall disclose any such offer.

I have never once read where they have disclosed that. Paragraph 6 states:

They shall not allow advertising or commercial considerations to influence them in their professional duties.

It is left to their own discretion. Paragraph 7 states:

They shall use fair and honest means to obtain news, pictures, films, tapes and documents.

We know that they have not done that, unfortunately. Paragraph 8 states:

They shall identify themselves and their employers before obtaining any interview for publication or broadcast.

That is what we are asking them to do. The code continues:

9. They shall respect private grief and personal privacy and shall have the right to resist compulsion to intrude on them.

10. They shall do their utmost to correct any published or broadcast information found to be harmfully inaccurate.

We all know that has not taken place. If the newspaper proprietors, who are so concerned about this legislation, were to agree that, whenever someone has been maligned or interfered with, a retraction be placed in the same place in the newspaper in the same size as the heading, then half the battle would have been won.

The SPEAKER: Order! The honourable member's time has expired.

The Hon. H. ALLISON (Mount Gambier): Speeches from members on both sides of the House appear to have been concentrated this evening on the impact of the legislation upon the media and the impact the media has had upon the private lives of a number of individuals. I suggest that the speeches indicate clearly that all members recognise that it is the media which is clearly in the gun sights of this legislation. For its own part, the media sees this legislation in economic terms, essentially as a restriction on its rights. Each of the members who have spoken tonight—and I do not wish to decry any of the comments that have been made, because each member seems to have had a strong, subjective but very often somewhat different opinion from others—seems to have had different fears in relation to the Bill. I detected a degree of exaggeration in some cases, and a degree of misunderstanding or misinterpretation in others, and that applied to speeches from both sides of the House. Obviously, the topic has incited some passion, and many members have spoken subjectively.

I will try to be dispassionate and objective, although it is not easy with such a subject. However, to the media—the press, radio and television people in general—I make a plea (they are all decent folk in their own right and, regardless of what might have been said this evening, we all have our faults): I simply ask them not to exercise their rights at the expense of the rights of others. Under no circumstances should freedom of the press or freedom of anything be confused with licence, because licence leads to degeneration, as the downfall of past civilisations are adequate testimony.

As a member of the select committee, I did express concern to my colleagues—and they have acknowledged that—that the Bill was aimed essentially at the media. I believe I used the term that it was a sledgehammer to crack a walnut. Another concern that I expressed was the fact that this Bill exempted a large number of other organisations which day by day, week by week, year by year intrude upon all aspects of our lives, private and confidential, social and financial, health and business affairs. I also acknowledge the comments made by the member for Hartley when the report was handed down; that he chose to quote me selectively, and I do not blame him for that.

I was and am gravely concerned at the evidence of media intrusion, often belligerant, generally insensitive—evidence which was given to the select committee by families complaining of media intrusion at times of great personal grief. The names of those families have already been more than adequately acknowledged by the member for Hartley and others, and I do not intend to dwell on them again. I simply say to the media that I shall continue to express concern at such insensitivity by them, whether they be reporters, editors, subeditors or proprietors, if they use such tactics and practices to sell news.

I am not satisfied that an existing code of ethics—and I advise the member for Murray-Mallee that Bruce Muirden did represent the AJA, he did give information before the committee, and he did present the code of ethics of the AJA to the committee—

Mr Groom: He said we could use them: he said it was all right to use them.

The SPEAKER: Order!

The Hon. H. ALLISON: The member for Hartley keeps trying to add to his second reading speech by way of interjection, and he does it very well, too. However, I am not satisfied that an existing code of ethics, neglected by at least a few members of the media, can adequately resolve the problems in terms of ensuring a right of personal privacy, nor am I reassured by the existence of the Australian Press Council, which was very recently accused by Mr Kerry Packer during a television interview of being at best an ineffectual body; it does not instil confidence in the Australian Press Council to hear that from someone so vitally involved in the media.

The Deputy Leader surprised me—and I should not have been surprised—with one of his comments: he reflected upon the committee in relation to the fact that he thought it had brought down what he regarded to be an inadequate report. That was really a reflection on the media, because an amazing additional amount of representation has been made to all members of Parliament since the select committee brought down its report. One would have thought that we had not advertised that we were holding hearings at national level. As I said, I think the AJA was the only body representing the media which came before the committee. Where were all the others? We actually advertised in their organisations, their newspapers.

Obviously, the lobbying has been strong, it has proved effective, but what a pity that evidence was not presented to the select committee. We might have brought down a different report, but we did advertise nationally our intention to find on the possible need for a right to personal privacy. Most of the evidence now quoted by colleagues on both sides of the House has been received since the report was brought down. I simply point that out to the member for Mitcham, who took the select committee to task, quite improperly, I thought.

While all of us are extremely worried at the media's public intrusions on our private life, the odds would be fairly long on the average person's life ever being intruded upon. The member for Hartley did say that there were plenty of such instances and we did receive plenty of evidence from people whose privacy had been intruded upon. However, when one considers the millions of readers across the world whose rights are not intruded upon, one should put that into some sort of perspective. Of course, that does not diminish my concerns.

I believe there is an element of tragi-comedy contained within this Bill because, as I said earlier, there are a great many other intrusions upon our personal affairs. Let us consider just a few of them. The Federal Government has

all our financial affairs securely embraced behind tax file numbers in the Australian Taxation Office.

The Hon. Jennifer Cashmore: We hope it's secure.

The Hon. H. ALLISON: As the member for Coles says, 'We hope it's secure.' That reminds me that on more than one occasion large lumps of Federal information on private individuals have arrived on the desk of solicitors, quite improperly and by accident, in Mount Gambier. When I was asked what should be done with them, I said, 'Look, don't worry about reading them; don't take copies. Put them in an envelope and send them back to the source of origin.' However, at Federal level complaints were made that similar things had happened with people receiving information on private individuals which should have been retained absolutely securely by the Federal Government. So much for that guarantee of security!

The Federal Health Department has our more physical human frailities registered upon its vast tape records. The Credit Retail Association reported about 11 million items of information on record for exchange within member organisations, which could have more sinister connotations, of course—and more of that a little later. To give it credit, the Credit Retail Association did say—and I believe it—that anyone wishing to obtain their file could obtain it *in toto* and have the right to register corrections if information was found to be incorrect. It is one of the few organisations that acknowledges that possibility.

The banking institutions have complex dossiers on customer transactions. The South Australian Justice Information System, at a cost of about $60 million or $70 million, the South Australian police themselves and the South Australian courts system all have information on alleged or proven miscreants. Interestingly, if an allegation were made and not proven—and that could be an allegation against any of us in this Parliament—such a matter, we were told by the police, would remain. Two statements were made, one that it would remain forever in the police files and another corrected version was that it would remain in the police files for possibly a decade.

I believe it would remain there until someone asked that it be expunged. It could remain there forever, with little or no public access to those records. It makes the retention of such information more significant. The right to expunge may be denied members of the public, especially since allegations against what one would consider to be the criminal element of society. However long the retention period is, it is certainly there.

The Road Transport Department has extensive records. Private investigators have massive holdings on the private conduct of our personal affairs, and all of those acknowledged within the Bill to be activities and occupations carried out quite legally in the pursuit of justice. The irony of this legislation is that, while the public face of media intrusion is under fire, the committee and the proponents of the Bill were willing to accept the need to legitimise other gross intrusions on our personal affairs by so many Government and private organisations.

Here is the dilemma: all of us surely accept the need for information to help prevent fraud, to apprehend criminals, to prevent abuse by other individuals upon the average citizen but, in accepting that need, we as members of the committee and Parliament in general will probably exempt a range of institutions from the wider scope of the Bill. In other words, we have legitimised the already existent intrusions, which can be insidious, silent, universal or all pervasive and not necessarily secure, and frequently collected for legitimate exchange between organisations. It is often collected by Government, financial and private inquiry organisations.

The sum totals of those holdings, and the material perhaps exchanged widely or simply within Government institutions for legitimate purposes such as checking on the accuracy of taxation refund claims, these tens of millions of items of confidential information, are held against each and every one of us here, including everyone in the general public, parliamentarians and the like.

Moreover, it worries me that the Federal Freedom of Information Act allows departments to withhold specified information. Under the Freedom of Information Act I sought a dossier on behalf of an elector about two or three years ago and obtained from about 20 pages just a handful of paragraphs, the rest of the material having been expunged, quite legitimately, we were told, because it was not proper to release that information. It may have been personal comment or actionable against the applicant, but the sad thing was that the applicant did not receive a complete file by any means.

If one is in a hurry, the Federal Government allows itself at least 90 days during which it can obtain the information and beyond which it is not infringing any rights. It can hold information for three months before it has to let people have it. I mentioned that Federal documents have been sent to people in Mount Gambier in error, but they were returned promptly.

We have legitimised the massive collection, holding and exchange of personal data. I suggest that few of us would have any idea—I certainly have no idea of the magnitude of the holdings against any of us. The interests of the public in crime prevention and justice have to be protected, and I have acknowledged that. However, what an irony that billions of dollars have been lost in the past 18 to 24 months but not by those in the taped files, not by those millions of clients whose details are recorded in the files of a variety of organisations, but by some of the largest and supposedly most secure individuals and organisations, that is, the institutional entrepreneurs who have gambled away public funds.

We have those in South Australia, where the losses have been massive and where the man in the street, who is under scrutiny already, will now have to pay by way of increased taxes, by losses on investments and by falsely maintained and excessively high interest rates, especially as interest rate reductions have been slow.

At this stage recorded information is not even protecting the public. Your character—that is, of each and every member—and your reputation could well be maligned and ruined by incorrect information already lodged in some agency's records or even by someone else's records being lodged if that person had the same name. Certainly, there were two Harold Allisons in South Australia. My father and I only could afford one name between us. That was the problem of being born during the depression. We could afford but one name between two people.

Perhaps a person of the same name has his or her information lodged on another person's file, their credit file or police file. People may never know why credit has been refused to them or why they did not get that job. That applies to anyone out in the public arena. In terms of George Orwell, 1984 and Big Brother, I suggest that Big Brother is alive and well. Orwell's book certainly carried a relevant message.

When we have satisfied the strong and recently emergent media lobby and when we have satisfied every other body that appeared quite properly and early before the select committee seeking exemption for various reasons that they considered to be perfectly legitimate and in the finest and

best of public interest, I am left to ask whether the public will be that much more secure in its need for privacy.

Having seen the plethora of additional material, having gone through the evidence presented to the committee, I still doubt it, and perhaps in the long run the devil you see—the media's published intrusion upon our lives about which we can at least complain—may well be the lesser evil. Big Brother is watching you all!

The Hon. T.H. HEMMINGS (Napier): I listened with great interest to the contribution of the member for Mount Gambier, which I found to be fairly balanced. I still cannot work out how the member for Mount Gambier will vote on the Bill. We have heard contributions from members opposite who said they would vote against the Bill. We had a courageous contribution from the member for Eyre, who expressed his intention, for valid reasons. I will touch on some of them and will have to plead guilty to plagiarising some of the points raised by the member for Eyre in his contribution. I have yet to determine how the member for Mount Gambier will vote.

I would like to think that, having been a member of the select committee and having gone through the evidence, the member for Mount Gambier will vote for the Bill, but I may be proved wrong. In paraphrase, the member for Mount Gambier said that, because only a few people had their privacy violated (my word) and paraded before the world, compared with the millions of people elsewhere, as a legislature we should get it into perspective.

I find that incredible. That is no defence whatsoever. I say to every member in this House, 'God forbid that it should ever happen to you.' If it did happen to members opposite they would forget all those pompous, pious statements most of them have been making in this Chamber about the freedom of the press and the right to present news in the human interest. If it happened to them, they would be the first to cry 'foul'. The member for Eyre gave us an example relating to his own honesty and the correct way in which he dealt with that situation. That was not his sole reason for voting on this piece of legislation, but—

The Hon. Ted Chapman interjecting:

The Hon. T.H. HEMMINGS: I look forward to it, Ted. I will give this House an example of a very ordinary person in a very ordinary family that is part of my parish church. Unfortunately, a few years ago a young girl was murdered. Mr Deputy Speaker, I will not give the names involved, but you are aware, given that you come from that area, that there was a murder in the family. The young girl was found in the usual way that these youngsters are found when they have been attacked. Some of her clothing was removed and other things were evident. It was an ideal case for the media to get its lecherous grip on the family and to make news. That family was hounded day in and day out by the television crews and the newspapers for no other reason than to sell their six o'clock news stories and their newspapers.

They fought like animals over who could scoop the best story from that family until a few of us started to provide some protection for the family. We could not be there all the time. One television channel—and I will speak in general terms—managed to get through our defence and to get a statement. Within an hour another television channel was there demanding that because another television channel had managed to get an interview so should they. They even accused the lady concerned of accepting money, until they were sent packing.

I tried to get a number to ring the Chief of Staff because he was at home, but his staff refused to give me his telephone number. Why? Because the Chief of Staff was entitled to a private life. The Chief of Staff could send out his hounds against the rest of the community because this was a news story, but his staff refused to give me, the elected representative of that lady, his telephone number so that I could make a complaint on her behalf. Eventually, because I am a pretty tenacious person, an agreement was reached that I would give him my private number so that he could telephone me. I complained about that to him. I asked why he would deny me the right to talk to him when he was hounding this lady. He said that it was in the public interest, and the more exposure there was of that lady and that family's grief, the better the chance the police would have of bringing the perpetrator to book. That person was not even known at the time, and I find that hypocritical.

I then mentioned to the Chief of Staff another person (who gave evidence to the select committee) and asked why they had given that family a certain amount of protection, and he had no answer. Even at the memorial service, the television crews were present with their cameras and, because I was there with my wife as a member of the church attending the memorial service, the crews suddenly zoomed in on me. Why me? Why not anyone else? It was because I was the member of Parliament and I was considered to be newsworthy. In quite colourful language I told them what they could do with their television cameras, lenses and microphones. Thankfully, because I went down that track, I did not appear on the telecast the following night. However, they wanted their pound of flesh all the way through and they had their pound of flesh at the funeral. Did that contribute one jot to the arrest of the person later convicted? No. It was considered by the media to be newsworthy and yet if we look at the code of ethics it states:

> They shall respect private grief and personal privacy and shall have the right to resist compulsion to intrude on them.
>
> They shall use fair and honest means to obtain news, pictures, films, tapes and documents.

That is the code of ethics they were supposed to be working within. It is not the code of ethics recommended by the select committee: that was the existing code of ethics that the select committee has now adopted, and it is part of this legislation—it is their own code. It was not one journalist; it was every television station. Why? Because the girl who was murdered was a church server and that had a connotation; she was left in a certain position so many metres from the church. That was a recipe for a nice, juicy story.

Even to this day, every time something happens to the person incarcerated in gaol for that crime, I get a telephone call from the family to say that the media is on the telephone again and want a comment. Even now they will not give that family peace and it has been going on for five years. They are the people who have been writing to me and to every member of this Parliament. The member for Eyre quite adequately covered this matter. Suddenly, they want to put their point of view. I see from the select committee's report that these people did not appear before the select committee.

Mr Groom interjecting:

The Hon. T.H. HEMMINGS: The member for Hartley interjects—and I know I should not respond—that they knew that if they appeared before the select committee there would have been quite a few pertinent questions. The kinds of concern I am expressing to the House tonight were the same as those expressed by the member for Mount Gambier in the select committee. I am not trying to put the member for Mount Gambier on the hook.

The Hon. H. Allison: Be my guest.

The Hon. T.H. HEMMINGS: I am not trying to. However, the sentiments expressed by the honourable member in relation to the evidence given by Mrs Kelvin were exactly

what I would have said. I would have expressed complete horror. Someone's private life has been turned upside down. The media do not worry about people's personal grief. It is done simply to sell a television program or a newspaper. There is no respect for the individual. The member for Mount Gambier may say, 'Let us put it all into perspective; it really does not affect most people', but it could affect anyone in this House at any given time. It is not just that kind of grief. The majority of us in this House are very lucky, considering the life we lead, to have a fairly stable family life. Yet, if there were the slightest sniff that one of us was carrying on some activity outside of our marriage—

An honourable member interjecting:

The Hon. T.H. HEMMINGS: That is right, they would be onto us in a flash. No-one would give us a chance. Not all marriages come from Mills and Boon. All marriages go through their ups and downs but why is it that we would be considered fair game? In two years the member for Kavel, the member for Alexandra, the member for Light and I will retire from Parliament. Already the media have carried out an exercise on what we will get when we retire. I well remember the member for Kavel saying to me that they have got the figures hopelessly wrong. I prophesise that in two years time—

Mr Such interjecting:

The Hon. T.H. HEMMINGS: The member for Fisher may think it is funny, but I do not care what the media write about me. They have had a fair go in the past. However, I know that the member for Kavel resents the *Advertiser's* telling all its readers an inflated sum that he will supposedly receive when he leaves Parliament. However, the *Advertiser* will do it again. In a way, that is trivial compared with the abuses against privacy that I have been talking about. The member for Mount Gambier shares my concern about personal grief. The member for Goyder said that, if this Bill dealt only with personal grief, he would support it. But, because of its other measures, he will not do so.

Mr Groom: It is a cop out.

The Hon. T.H. HEMMINGS: Yes, it is a cop out by the member for Goyder. If members opposite agree with me about the invasion of people's privacy and understand the real grief that causes in some families, they will support the Bill. If they are not prepared to do so, there is a lot to be said for their sense of values. I assure the House that, if it ever happened to any member opposite, that person would be the first to stand up and scream foul.

The member for Mount Gambier informed the House that he will keep on at the media if they abuse their code of ethics. With all due respect to his powers of persuasion, they could not care one jot about the member for Mount Gambier's views. The only thing that will make the media sit up and work within their code of ethics is if this Bill gets through this House and, ultimately, through the other House. That is the only thing that will pull them together. You can have all the codes of ethics in the world but, if they do not want to abide by them, they will not.

If my recounting the story of the grief suffered by one of my constituents and one of my friends is dismissed, so be it. The values that I hold dear are perhaps not shared by members opposite. However, at least one member on the other side has put on the record at the select committee stage where he stands in regard to this legislation. I should like to think that he will carry that through to its natural conclusion and support the Bill; but I will wait.

To listen to some members opposite, one would think that this issue is being debated only in South Australia. The member for Hartley pointed out to the House that that is not the case. I was interested to read an article in the *Spectator* of 3 August 1991. I will not read it but merely refer to it. It concerned the case of Sandy Gall, a very good journalist who had built up quite a following. Because he was so popular, certain sections of the tabloid press in the United Kingdom decided that Mr Gall should not be seen as so popular. There was a little bit of a hitch in his marriage, the kind that most if not all of us experience at one time or another. The press attempted to lower his popularity in the community, and they did such a job that they ruined his marriage. Yet the same media are crying out for protection against a number of private members' Bills that are being considered to give the kind of protection that this Bill provides. That shows the double standards of the English press.

We have seen the same kind of knee-jerk reaction from all sections of the media in South Australia. All mine has been torn up and put in the wastepaper basket but not because I have followed the Caucus line, as the member for Murray-Mallee suggested. I shall support this Bill for the one reason that I have outlined to the House. I saw one family ruined, as if they had not already been ruined by the death of one of their children. It started five years ago, and it continues. Why? As I said, it had all the connotations of a nice church murder. For that reason and that reason alone, I will support this legislation. I sincerely hope that my ability to put a case to this House will sway some members opposite.

The SPEAKER: Order! The honourable member's time has expired.

The Hon. E.R. GOLDSWORTHY (Kavel): This is one of the more interesting debates that has come before the House and it is notable for a number of reasons. The first is that the hysterical campaign of the media has been most unimpressive. The latest missive to hand, which I got from my box this morning, addressed to me as 'Dear Roger' from my friend Tony Hull, whom I cannot place but I am told works for the ABC (another favourite institution of mine), states:

> After careful examination, the anti-secrecy committee of the South Australian branch of the Australian Journalists Association rejects the Government's amendments to the Privacy Bill. They do nothing to address the committee's fundamental opposition to the creation of a tort of privacy.

He goes on to make this amazing statement:

> Putting the onus of proof on the plaintiff . . . that is to prove that a report is not in the public interest . . . still requires the media's legal council to put a point of view. Besides, the committee has not changed its view that the courts of this State, given their track record, will narrowly interpret public interest.

The anti-secrecy committee is wiser than the courts! That was an incredible claim for Mr Hull to make: that he no longer has any confidence in the courts of South Australia. He goes on to regale us with a few cliches like, 'We ought to do this thing to death immediately.' He also says, 'We hold to our conviction. The only salvation of this Bill is its swift death. The committee stresses that these are the concerns of rank and file journalists.' I am sorry, Tony, but I found your submission one of a number of quite unconvincing letters that we got in support of this hysterical campaign by the media to knock this Bill on the head.

The Bill does not address some of the matters that concern me about the operation of the media, and I will elaborate on them briefly. I did not read them all. We were so deluged with this bumf from the media that I did not read them. If I have ever been deluged with overkill, with every man and his dog writing to me, 'Dear Roger', it was this campaign by the media. I was signally unimpressed by all that.

The only submission which to me sought rationally to come to terms with the Bill was from the *Age* in Melbourne. We got a couple of letters from the *Age* which I did take the trouble to read. They had not got their marching orders from higher up saying, 'We have to knock this Bill on the head. Use every trick in the trade to coerce politicians not to go with it.' The *Age* sought to analyse what was in the Bill rationally, so I read its comments, although it does not mean that I believe this Bill does what it ought to do.

The Bill is about privacy, of course. I abhor a fair bit of what is done by the sensational media. To think that this idea is death to democracy is also quite laughable. One of the matters on the Commonwealth Parliamentary Association agenda in India was the role of the press in a democracy. It was an interesting session. For those who are not well up in the affairs of the Commonwealth Parliamentary Association, and I am now something of an expert—

Mr Ferguson: You are our representative.

The Hon. E.R. GOLDSWORTHY: Yes, I am your representative. I have the majority support of this House. I am in the role of Government nominee. It is the first time that it has happened for a long time, but that is by the by. One of the more interesting panel sessions which was quite well attended was led by Bob Catley, Federal politician, and a newly created Labor Lord from Britain who struck me as being a highly intelligent young lady, I suspect in her 30s. She had been made a life peer in Britain and she was the British panelist.

This lady from Britain, whose name escapes me, and who is a delightful person, was the second person on the panel and the third person was somebody from one of the developing countries whose accent I could not understand. The point is that the lady from Britain was most impressive. The burden of what she was saying was that all political Parties in Britain are fed up to the back teeth with the cheap press—I think somebody called it the tabloid press—which goes in for sensationalism and now sells papers to a large extent in Britain, and both major political Parties were determined to do something about it.

An honourable member interjecting:

The Hon. E.R. GOLDSWORTHY: I did not pursue that point. It was not constraint of privacy; it was that people were fed up to the back teeth with the operation of the cheap press and the sensationalism which was aimed at selling papers. During the course of these submissions, as the member for Eyre interestingly mentioned, we received the code of ethics from that well-known journalist, Bruce Muirden—one of those unbiased political commentators who formerly worked for the Labor Party. Bruce sent us this code of ethics. At the risk of boring the House I want to refer to the first one. The member for Eyre went through them in some detail, so I do not want to be repetitive, but I intended to refer to clause 1 of the code of ethics, which states:

> They shall report and interpret the news with scrupulous honesty—

gosh, this is highfalutin stuff—

> by striving to disclose all essential facts and by not suppressing relevant available facts or distorting by wrong or improper emphasis.

I guess that my beef with the media is personal. We are in a public arena and we are all going to get clobbered from time to time. I have been advised to roll with the punches and I tend to do so, but every now and again I jack up. It is not a beef about the press in general; it is usually someone in the media who I think is a crook.

The Hon. Jennifer Cashmore: Have you got anybody special in mind?

The Hon. E.R. GOLDSWORTHY: Yes, I have a couple. I think the problem is that they do not like me. I do not mind people not liking me, but I object to their telling lies. The problem is that these journalists have a political agenda and that political agenda leads them, in my judgment, to make a joke of code of ethics No. 1. They are to report with scrupulous honesty and if they make a mistake No. 2 states that they will fix it up at the first opportunity. We know in this day and age, when not only political Parties but many people in the media have a political agenda, that is garbage, and we have all been on the receiving end of that. I can give an example of somebody who sits in this House. Members have heard it before but I am going to tell it again. This is the AJA's code of ethics. The Hon. Mr Rann was a press secretary. This is the sort of thing in the media which I despise. When he worked for the Premier, as a member of the AJA, his job was to feed information to the media. Unfortunately, nowadays it is often a pack of lies.

The Hon. Jennifer Cashmore: The Premier was then Leader of the Opposition, wasn't he?

The Hon. E.R. GOLDSWORTHY: Yes, he was the Leader of the Opposition. I will recite this again unashamedly because it is something that I cannot forgive in people. I cannot abide liars. I am not allowed to call people here liars, but I cannot abide liars. It is just the way that I have been brought up, I suppose. Anyway, to cut a long story short—a story which some members have heard before—when the Labor Party was hell bent on defeating Roxby by hell or high water, that member of the AJA got hold of a report into Roxby to help the Labor Party defeat that legislation. It was a report on Roxby from some guru in Victoria, or the National Library. Western Mining had a refutation of all the points on the back, so he tore off the refutation, stamped it confidential—a big secret—took it to his mates in the media and said, 'Here's the latest.'

The Hon. Jennifer Cashmore: A leak.

The Hon. E.R. GOLDSWORTHY: Yes, a leak, and it got on the front page of the *Advertiser*. We had to work like fury to get it off. We got onto it. That is the sort of activity to which ethic No. 1 applies: report the news with scrupulous honesty!

The Hon. Jennifer Cashmore: He is now a Minister.

The Hon. E.R. GOLDSWORTHY: He is a Minister. He is also, I suggest, the leader of the pack when it comes to some of the tactics which lead to reports in the paper which are designed purely and simply to do the Liberal Party in the eye when they have no basis in fact. I have had two run-ins with the media. One was with the ABC when the *7.30 Report* had a different name. It got hold of some of the dark greens, a couple of leaked Cabinet documents, put two and two together and came up with about 17. It said that Goldsworthy and Western Mining had conspired to flout the environmental laws of the nation. I went on the next night. I thought that I would roll with the punches and I said that it was a load of garbage and smiled sweetly. Western Mining refused to comment, took it to court, and the taxpayer coughed up about $300 000 when the ABC settled out of court. The ABC has a great history in this, and it is our money. The ABC will not allow the facts to get in the way of a good story. I decided it was no skin off my nose, but people were saying that Goldsworthy had done a lot of damage. My reputation was being questioned.

The Hon. Jennifer Cashmore: Besmirched.

The Hon. E.R. GOLDSWORTHY: Besmirched, no less. I hate going to the courts, and I have told the House this, too. The only redress is to go to court. If one gets into the hands of lawyers and goes to court, we can bet our bottom

dollar that the only people who will not lose money are the lawyers. I am very nervous about going to court. Western Mining had cleaned up in the courts, so I thought, 'I can't lose this time.' I telephoned Western Mining and I said, 'I don't want your high priced QC from Melbourne: I want your leg man, the cheapest bloke you have in Adelaide. Can I use him?' Western Mining said, 'Yes'. So, we got him, and I said, 'Skip, these are the ground rules. I have to get an apology, I do not want to appear in court and I have to get enough to cover your fees. Anything above that is clear profit.' He understood the ground rules, and I got an extension to my holiday house and an apology from the ABC.

My other experience was just prior to the last election. My friend Randall Ashbourne telephoned me on a Saturday morning. He had not telephoned me for about five years since I telephoned his editor and complained that he was biased. Randall interviewed me for about a quarter of an hour—it may have been longer. After talking to him, I wrote a transcript of what Randall asked me, as well as my response, just in case I needed it. And sure enough, that night, Randall—who, for once, appeared on Channel 7 news and who never worked on weekends—said, 'Goldsworthy is in favour of burying nuclear waste at Roxby Downs.' The next day in the *Sunday Mail* there was a banner story saying, 'Goldsworthy is in favour of burying waste at Roxby Downs.' Total fabrication! He had gone on and on to a point where he must have thought that he would get away with it. The member for Coles would know about this, because I checked with her the night before when he tried to stitch up Martin Cameron the previous day.

Then the Premier—Mr Clean—got on the bandwagon—and I think the brains behind this was the Minister of Employment and Further Education—and had us trundling nuclear waste around the streets of Adelaide, so I took a writ out on them. In the event, we won the election but lost because of the lousy boundaries, so I cooled off a bit and thought, 'What the hell! I'm not going to spend my money.' That sort of activity by journalists gives me a pain in the neck. Journalists have the right to hold a view, but I do not believe they have the right to have a political agenda. When journalists start telling lies and misrepresenting the facts to make a point, and when Mr Clean gets on the bandwagon and he knows it is crook, it gives me a pain in the neck. My beef with the media is really a personal thing. Given the way that some journalists operate, we may as well tear up the code of ethics. For the media to write to us and say that all is well, that God is in his heaven, that the sun will rise tomorrow, that they have the code of ethics so there is nothing to worry about and that we should trust them is a load of garbage.

I think the media's campaign has been laughable. In the *News* there is the following 'public commitment':

> Newspaper readers are entitled to have news and comment presented to them honestly and fairly and with respect for the privacy and sensibility of individuals.

All great stuff! On balance, having said all this, I do not think we are as bad as Britain yet. I have respect for most journalists, because most of them do the right thing. There is a bit of editorial interference in some instances because newspaper proprietors have a view of their own, and they tend to impose that view. When they support us politically we are pleased: when they support the Labor Party politically, we are not pleased. That is the way it goes. I do not mind people having an editorial policy but, when it comes to telling lies and misrepresenting the facts, I get a real pain in the neck. It has happened to me occasionally.

The ABC is notorious for wasting public money by having a go. Many of the ABC journalists have an agenda. One would think that they would learn, because it cost taxpayers a lot of money. This Bill has given me a chance to let off a bit of steam. However, when it comes to the crunch, I do not really think it will do what it purports to do. One of the features of modern corporate life which also gives me a pain in the neck is the use of the courts by individuals, such as Bond, to put off the day of reckoning. There is no doubt about that. If people have money—and it does not matter from where it comes (in the case of Bond it is from the shareholders)—they can use the courts for their own purposes to delay justice. That is wrong. It is disgusting.

John Sulan was given the job of investigating Bond—and I think the member for Henley Beach mentioned this. He was hauled off the case. The Australian Securities Commission was supposed to have taken over the matter. Why have not any of these corporate crooks been nailed yet? We are having a trial 50 years after the event to try to line up poor old Polyukhovic, when all the witnesses are either decrepit or dead.

The Hon. J.P. TRAINER: I rise on a point of order, Mr Speaker.

The Hon. E.R. Goldsworthy: It is not relevant. Sit down, you mug, I will finish.

The Hon. J.P. TRAINER: In spite of the abuse from the honourable member, it may well be that he was verging into the area of *sub judice*.

The SPEAKER: I take the point of order, and I do uphold it. The matter is before the courts at this stage, and I rule that it is *sub judice*.

The Hon. E.R. GOLDSWORTHY: I heard a commentary from America in the public arena on this very war crimes trial where a very valid point was made. I have finished. I do not think the Bill will redress my gripes. I think the media has a fair bit to answer for in relation to privacy, and I think some of the examples given by the member for Hartley were convincing. There is a morbid interest in people's difficulties and their grief, and that is overdone by the media in many instances. There is a lack of taste and a lack of judgment in some quarters of the media. I found the media's campaign to be quite amusing and totally unconvincing. However, having judged the Bill on its merits and having read about the only sensible submission from the *Age*, on balance. I do not think the Bill does the job that needs to be done.

Mr ATKINSON (Spence): Privacy should be a legal right: it is a right whose time has come. I have faith in the wit of this Parliament to create a sensible, balanced right of privacy. I also have faith in the ability of the courts to shape that right, case by case, in accord with public values and customs. This is the genius of our common law. What I intend by voting for this Bill is the creation of a common law right actionable by individuals. I hope that, when all the members of this House and I have gone to join the great majority, the statutory origin of this right will be forgotten or of no importance and that the right will continue as common law, shaped by the values of each succeeding generation.

This Bill does not create any regulatory agency or give any agency more power. It is not part of the post-war legislative and bureaucratic explosion. In clause 3, the Bill asserts that persons have a right to privacy. Subclause (4) lists exceptions to the right. These exceptions are: first, anything done by police in the course of their duties; secondly, anything done by a person who is authorised by statute to investigate and inquire; thirdly, anything reasonably done by an insurer to detect fraud; fourthly, anything reasonably done in commerce to inquire into the credit worthiness of a customer; fifthly, action lawfully taken for

the recovery of a debt; and, sixthly, medical research approved by an institutional ethics committee. Most of these exceptions were recommended by the select committee, and all of them are sensible.

In addition to these exceptions are four defences. The first defence is that the defendant's intrusion was to protect his lawful interest. That is a broad defence. The second defence is that the intrusion occurred in the conduct of litigation or contemplated litigation. That will curtail many privacy suits.

The third defence is qualified privilege. Qualified privilege attaches to communications made by persons having a duty to make them or to persons having an interest to receive them. This alone would protect all the family history publications that the South Australian Genealogy and Heraldry Society is so keen to foster. It seems to me that the society has no real quarrel with this Bill. The society's problem is the information privacy principles promulgated by Cabinet in 1988. These principles apply to access to and use of State records.

The fourth defence is for the media. This allows the media to fend off a privacy action merely by showing that they acted in accordance with their own codes. In passing, I should add that as a former *Advertiser* reporter I am amused by the media's rejection of all amendments, however accommodating, and their insistence that no law should apply to them. I have spoken on the media aspects of this Bill on another occasion and have nothing to add.

Before a plaintiff runs the gauntlet of those exceptions and defences that I have mentioned he has first to establish that the intrusion was substantial and unreasonable and that the intrusion was not justified in the public interest. I repeat: the plaintiff must prove that the intrusion was not justified in the public interest. This is a remarkable reversal of the burden of proof. Under the Privacy Bill the plaintiff must not only establish his case on the balance of probabilities but he also bears the burden of negating the main defence and of leading evidence relating to that defence when the evidence may be known only to the defendant.

I do not understand how the member for Bragg can use the stale metaphor 'a sledgehammer to crack a nut' when the proposed law puts all the procedural advantage with the metaphorical nut. I do not understand how the member for Goyder can maintain that the Bill is too wide: if anything, it is too narrow, as the member for Mount Gambier suggested. Infringements of privacy are defined in clause 3 (2). This definition is a most difficult job for the draftsman. It is inevitable that the definitions will be misinterpreted by people opposed to the Bill and used to make absurd examples. If it were my choice, I would not attempt to define infringements of privacy in the Bill and I would leave that to the commonsense of the common law.

The definitions we have are hedged about with qualifications such as 'without the express or implied permission of', 'intentionally intrudes', 'substantial and unreasonable' and 'not justified in the public interest'. Even so, the member for Bragg trotted out the example of the spectator at the football whose face in the crowd appears on the television replay. The member for Bragg claims that the spectator would have an action for breach of privacy against the television station. This is quite wrong. For a start, if one attends the footy, one gives implied permission to have one's dial on the television. Indeed, as the ball goes out of bounds on the wing, generations of South Australians have waved to their families via the television replay. Secondly, replays of football matches are in the public interest and, if one's beak is televised incidentally to the replay, no court is going to let someone sue a television station. Thirdly, the televising of a spectator's face in the crowd is not a substantial and unreasonable intrusion. Let us have no more fanciful examples from the Opposition.

I think the Opposition has stumbled on a few valid criticisms of the Bill, but none of them fundamental. I do not understand the usefulness of clause 4 (8), which tells courts what they should take into account in assessing the nature and extent of a remedy for infringement of privacy. The court will take those matters into account along with much else. Clause 4 (4) tells the court to take into account material published by State and Federal authorities after the Bill becomes law. I am told that this kind of clause is in vogue amongst draftsmen and that judges welcome the guidance it provides. It does not seem ideal to me if we aspire to rule of law principles.

In my opinion Parliament should write the statutes and the judges should interpret them in the course of adjudicating individual cases. I am sceptical of the value of this kind of extrinsic aid to interpretation. I also think there has been some duplication in the amendments circulated by the Minister. One feature of the Bill that appears to have been killed by the proposed amendments is the proposal that lower courts should be vested with power to grant injunctive relief for private nuisance.

Mr Groom interjecting:

Mr ATKINSON: The member for Hartley disagrees. Members who heard my remarks on the select committee report know that I will not be weeping about that. I am disappointed that so many Opposition speakers have not studied the Bill or the committee's report. I am amused by so many of them using this evening's debate to make their confession to influential interest groups. I support the Bill because it is in the public interest, because many of my constituents believe that the law protects or should protect their privacy and because the Bill will fulfil their expectations. I believe that the Bill, if it becomes law, will work well because it reflects the customs and values of South Australians.

Mr S.G. EVANS (Davenport): Most members would know that I find myself in a difficult position in having to disagree with the majority of my colleagues. I do not know why that is because my own Party platform clearly states that we believe in the individual and, if ever a piece of legislation looked at the individual, it is this Bill. It looks after the interests of the individual citizen in this State. I am concerned that people from the media and other sections of society have told me that this Parliament, with all the clever people in it, and those who object to the present legislation, cannot find the wisdom to put words together to produce a Bill that will protect the privacy of the individual and the personal grief of individuals.

If we are admitting as a Parliament that we cannot do that, and if the media is saying that they cannot do it (with all the intelligence they claim to have, and they often criticise us for having little intelligence), I am amazed. The media, like every other organisation, uses its immense power when Parliament tries to make laws that might impinge on some of its operations to try to destroy the Bill. The Bill needs some amendment, and I will come back to that later. When Parliament sought to draft laws in respect of used car dealers, land agents, land brokers, door-to-door salespersons and the like, to make them more responsible in having to act within a more reasonable code of ethics than some of the ratbag elements were doing, the media praised it as a great move.

Members acknowledge that the vast majority of people in the media act responsibly, but there has to be a way of

curtailing those who want to act irresponsibly. Parliament has the power and it should have the responsibility to act. It now has that opportunity. I have no doubt that the vast majority of people in the community believe that this Bill relates only to the media and nothing else. That is the unfortunate situation. As I said previously, if the Bill had exempted the media and included all other areas within its scope, the media would have run the headline, 'Government/Parliament/select committee has recommended the correct procedure to attempt to protect the right to privacy of the individual and personal grief'. I defy the media to deny that.

That is the truth of it. Instead of doing what the *Age* in Victoria did in attempting to come to terms with it and to find some solutions, our local media took another course. One group came to see the member for Mount Gambier and me and gave us an absolute guarantee that we could trust them in communicating on this subject. I do not think that has proved to be the case.

Before going back to the issue of the media, I will pick up one or two points in other areas. I have heard some members say in this debate that this Bill would stop a shopkeeper from having surveillance cameras to deter theft or crime. That is a total fallacy. I am not a lawyer and I may not have as great a grasp of the English language as do many other people, but I have asked about this and I believe it is a fallacy. I believe that those who have made that claim have not read the report, the Bill, or both, or they are deliberately fabricating that story. I can say nothing other than that because, quite clearly, the shopkeeper has a right, in running his or her business and as part of that business, to install surveillance equipment. People in the shop are not really in a private situation. It is the shopkeeper's shop and that person has a right to protect the goods. The Bill proposes that shopkeepers have a right to be watching for fraud or to detect people who may be acting irresponsibly. It disappoints me that educated people are using that argument. I am not sure whether or not that is the case, but it has to be one of the three explanations I have mentioned. Why is that line taken? I do not know the answer.

Reference has been made to the code of ethics. I believe there should be an amendment—that is, if we want one, because I believe the Bill already provides for it—to provide that corporate bodies have no privacy. A corporate body has no privacy. There have been discussions about amendments that may be moved to ensure that corporate bodies are not covered. I do not object to that. I will support the Bill through the second reading stage. I will see what amendments eventuate, and it will take a very good person to convince me that I should not support it, even if it is amended only slightly.

I received a letter from the Australian Journalists Association and I respect what the association is trying to say. I will quote the letter objectively: I will try to step aside as a person who has just come from the moon or from Mars. The Anti-Secrecy Committee states that the proposed amendments:

> . . . do nothing to address the committee's fundamental opposition to the creation of a tort of privacy which impacts on the free press.

I believe that attempts will be made to do that. But, nowhere does it say that the free press also has a responsibility. It can be a free press only if it is a responsible press. I am sure that we all agree with that aspect. The letter goes on to state:

> Putting the onus of proof on the plaintiff . . . that is, to prove that a report is not in the public interest . . . still requires the media's legal counsel to put up a counter argument that it is.

Is that not the case in all examples? When they go to fight a suppression order and want to publish people's names, do they not argue that it is in the public interest? Do they not put up a legal argument? Is there anything wrong with that? The association goes on to state:

> Besides, the committee has not changed its view that the courts of this state . . . given their track record . . . will narrowly interpret 'public interest'. So, despite the amendment re onus of proof, journalists continue to feel wary about their prospects in court.

I say to the media and to the journalists that there is not one person out in the streets who is an ordinary citizen who is not wary of what happens in the courts. Of course, anyone is wary of what happens in the courts, but what the association is saying is that it would like to be above the courts. It believes that it would arrive at a better interpretation than an independent court, and it has a vested interest. Surely, the association is not logically arguing that. Does it really believe that it is superior to the courts? Is that what the association is saying—that we should not trust the courts but we should trust it? That is what the association is saying and it goes on to say:

> The amendment concerning the inclusion of the AJA's code of ethics as a defence is one the committee feels very strongly about. As a responsible industrial organisation, the AJA believes it is the body to police the code of ethics, not the courts.

It has not policed the code of ethics up until now and it knows that it has not. In the *News* in recent times, at least once a week if not more—today it is on page 14—under the heading 'A public commitment' it has been stated:

> The *News* fully supports and abides by the principles and standards of the Australian Press Council. These principles are:
> 1. Newspaper readers are entitled to have news and comment presented to them honestly and fairly, and with respect for the privacy and sensibilities of individuals.
> 2. A newspaper has an obligation to take all reasonable steps to ensure the truth of its statements . . . not distorting the facts in text or headlines.

It does distort the facts with headlines and it does not abide by those commitments, the principles and the Press Council. However, it has just started publishing that commitment in recent times, and it is because, like others, it knows it has been caught out—not often, but it has been caught out. The letter from the association also states:

> This committee has already flagged its intention to see an upgrading of the AJA's internal disciplinary procedures. Where unwelcome intrustions into private grief are committed by journalists or photographers, then the union can deal with them.

I ask, 'Will it?' Of course it can, but will it? They have a vested interest. If one of their mates who had gone through the system ended up being on the committee that will make a judgment, would they not have a greater sympathy with the journalist's attitude than with some poor individual out in the community? Surely they would never say that we as a Parliament should be trusted to decide about all the aspects of what happens to us, and we do not. In private life, we might be able to.

I am amazed that a body of people who are intelligent, trained to research and trained to seek out information can say, 'Trust us.' They are not saying 'Trust the committee'; they are saying, 'Trust the union.' I ask members to think about that very seriously. I could not do it. I would not even trust a group to which I belonged in relation to quarries: I would not have trusted those people to make a decision as to what was right or wrong with respect to what they did in practice because, automatically, when someone's back was turned, they were trying to cut one another's throat with regard to prices or operations. It was obvious that they did it to survive. The same applies here. We should not say that we accept their attitude.

The committee's suggestion that we include it in a code of ethics was a way of saying, 'We don't want you to do

anything else other than abide by your own code of ethics.' I believe that that provision has been included in the Veterinary Surgeons Act for a number of years. The letter continues:

> The committee is sceptical of an amendment which talks of safeguarding the free media and its dissemination of information. This is a far cry from enshrining freedom of speech as an inalienable right *vis-a-vis* the American constitution.

It further states:

> If the past is anything to go by, they will not give it much weight at all.

He is referring to the judges and the courts. In other words, he says that the courts of this country would not protect the freedom of speech, but I believe they would, but will the media protect the freedom of speech of individuals? I will give a good example of where they will not. There will be many speeches on this subject, and I do not care if they do not print one word of mine, but many speeches will support the Bill either in its present form or in an amended form. To the present time, many people have commented in that regard. There are people out in the community who support the concept that we are arguing for, but have the media been prepared to pick it up and publish it? Have they been prepared to say that those people have the right to freedom of speech to have some of their comments printed in the media on a 'par for par'? No, they have not, and that is an example of the fact that they do not believe in freedom of speech unless it is a particular speech or words that they want to promote. The letter further states:

> As long as the damages for a breach of privacy are proportional to the plaintiff's financial standing . . . then this is a law to which the rich and powerful will resort.

That is exactly what the media have done for years. They know that the individual cannot afford to fight them. They are the rich and powerful, not the individual journalists; the media know that quite often the individual cannot afford to fight them. It further states:

> As a result, a dangerous trend of self-censorship could easily appear.

That is what they are asking us to do by saying, 'Leave it to us.' The very thing they say will develop from the Bill is what they are asking us to do. Without having a Bill, they want to have self-censorship. That is what they are saying.

I did not want to talk about the media for as long as I have because I believe that the Bill goes deeper than that, but the media took up the fight and decided they would not promote the other aspects of the Bill that the committee believed would benefit society. One of my colleagues said tonight that it is a pity the committee did not come down with some reasonable recommendations. I resent that, because the committee advertised all over Australia for people to come forward and give evidence. All these groups that suddenly came out of the woodwork after the media started a campaign did not bother to come forward earlier.

If the truth be known, if people were prepared to tell it, some individuals sat down and thought: I wonder whether this will affect the conservation group; I wonder whether this will affect the heritage group; I wonder whether this will affect the National Trust or somebody else? They went out and said, 'If you want to make a comment, we will help you write the articles.' Did somebody do that? I wonder, because none of them came forward when we advertised asking for people to give evidence.

The committee honestly brought down a report on the evidence that was available to it at the time. More evidence has come out since then, and I believe that the Government is seeking to amend the Bill. We will make a judgment then. What a scandalous situation that those who run the media got the money for the advertisement that went into some of their papers asking people to come forward to give evidence before the committee, saying what it was all about. They knew about the Bill that was brought before the Parliament in the 1970s. They knew all that history.

What did they do? I give credit to Mr Muirden who put a view on behalf of the Australian Journalists Association in the way that he was asked to do, and he referred to the code of ethics. Why is there an attack upon the committee? The attack should be on those ever vigilant organisations called the media. If they wanted to, they could have stirred up all the witnesses in the country, not just in South Australia, and the select committee would still be taking evidence today. That is what the media could have done if the Bill was so bad. However, like the second-hand car dealers, the landbrokers and the land agents, they will have to front up a bit more responsibly than they have in the past if this Bill goes through. One snide paragraph in a letter I received from one section of the media said that they will not be pushed into a corner—

The SPEAKER: Order! The honourable member's time has expired.

Mr QUIRKE (Playford): I will touch on a few elements that are not related directly to the media. As the member for Davenport argued, in general there has been a preoccupation with the impact of this Bill on the media. However, there are a number of other sides to this measure which need further exposition. It is 17 years since this House tried to come to grips with the issue of privacy and with the role of privacy within some body of law. I must say that it was a great pity that in many respects some of these issues were not laid to rest in 1974. We have been given examples by the member for Eyre, the member for Hartley and others of what can only be described as media atrocities since 1974. It would have been quite proper 17 years ago for this House to have put in place legislation which may have curbed the media excesses which have caused a great deal of grief to many people in this State. However, there is another angle.

The technology that is available to Government departments, private organisations, credit referencing organisations, other organisations and individuals was not available in 1974. In 1974, it would not have been possible to envisage the role of the computer in storing and recalling information. That development has created real dangers for our society and, if this Bill does not solve the problem or if this Bill fails, there will be problems with media intrusion and with the enormous quantity of information that is stored on and can be recalled from files and how the use of that information will affect the lives of individuals.

There are two areas of grave concern in this regard. The first concerns increases in the amount of information, accurate or otherwise. The member for Mount Gambier made an interesting point about whether or not some of these files contain inaccuracies. He drew the example of a constituent who, several years ago, got to see only 10 or 20 per cent of a particular file.

I am sure there are many other examples of files which are held on people by all sorts of organisations about health and a whole plethora of items which could be damaging to individuals and may be extremely inaccurate. I have no doubt that the current wave of technology which allows the storage of information and its immediate recall will continue. Unless we take a stand here and put in place a body of law, I have no doubt that will be a much greater problem 17 years from today, as indeed it is today, given the fact

that in 1974 we had only some glimpses of where technology was taking us.

Some of the other levels of technology—the ability to record telephone conversations and a whole range of such things, although in part impinged upon by other statutes at Federal level—have also increased since 1974 and they pose a real threat to the privacy and wellbeing of the citizenry of this State and nation.

Having made those remarks, I should like to return to angles which other members have canvassed, but not in as much depth. The media have also littered my mail box with all sorts of submissions. In fact, I have received them from all the different media organisations in different States. As recently as tonight, I received a communication from one of the interstate newspapers, the *Age*, which I thought had a few more problems than were being dealt with in this House. Towards the end of that letter, under the heading 'Conclusion', over the signature of the editor, Michael Smith, it says:

> I am still of the view that the supporters of the Bill have not adequately shown the need for wide-ranging privacy legislation in this country. In addition, I have attempted to set out some of the specific problems I have with the latest draft of the Bill.

There are a couple of pages of analysis and all the rest of it. I am no lawyer, but it is obvious to me that a number of things are going on in the media that would not lead to the conclusion that Mr Smith has reached.

The member for Eyre made a point that I want to re-emphasise. The media have brought this on themselves. They have persistenly broken into situations and intruded into areas of grief, they have hounded innocent people and committed acts which have made this legislation not only necessary but, in the interests of all the people of this State, absolutely essential.

Human Rights of Australia and the Privacy Commissioner, under their letterhead, sent a communication to the Chairman of the select committee that this House appointed to inquire into this matter. The letter states:

> May I simply indicate my personal support for the creation of statutory tort of privacy. I gave a speech on 26 April 1990 to the Communications and Media Law Association in Sydney on this issue.

I will turn to that speech in a moment. In this communication the Privacy Commissioner, Mr Kevin O'Connor, goes on to say:

> Possibly the most frequent line of attack on the statutory tort has been that 'privacy' is nebulous and difficult to define. I regard this as a faint-hearted approach which gives little attention to the many other seemingly nebulous terms that the courts have had to grapple with, for example, 'negligence', 'nuisance', 'misrepresentation', 'deceptive conduct in trade or commerce'.

He goes on to make the following key point:

> I was pleased to see your [the committee's] emphasis on the importance of privacy within the democratic framework. This point is, in my experience, all-too-easily forgotten. There is a tendency to trivialise privacy concerns with arguments such as the innocent have nothing to fear and privacy only protects rogues and cheats.

It is quite clear that the rogues and cheats of this world need to be exposed by the media, by Parliament and by all the other institutions in a free society. It is my view that when this Bill is passed into law the media will be able to go about their tasks not only unfettered but with more protection than they have had before. I think some of the excesses of the media will be curbed as a result of this legislation.

There is no doubt that in other societies the problem of privacy has been very difficult to deal with. The United States has a body of law, similar to that which is being presented here tonight, that deals with the particular problems within that country's jurisdiction. Privacy has also—and this is well beyond the scope of my contribution tonight—been the subject of parliamentary scrutiny in New Zealand. The National Party Government in New Zealand has gone considerably further with its Bill than does this Bill in South Australia. In fact, it is my view that the New Zealand Bill has gone too far. What will happen in New Zealand will be not only the enshrining of rights of privacy but the creation of privacy police, a privacy inspectorate that will have wide-ranging powers enabling it to get hold of evidence, files and information and to investigate much more widely alleged abuse of privacy than is envisaged in South Australia. Indeed, New Zealand journalists who quite often have sources of information that they wish to protect will be unable to do so.

Other societies in the western world have been grappling with this problem also. Mr O'Connor, the Privacy Commissioner of Human Rights Australia, said in his speech:

> As of June 1989, I understand that there were 16 private members' Bills before the United Kingdom Parliament.

That speech goes on to detail that shortly before Mrs Thatcher was deposed she had favourably looked at one of those Bills and had indicated her approval to a parliamentary committee at that time. I understand that that Bill mirrors very much the Bill that is now before us.

Before I finish tonight, I want to make a couple of comments about a particular media organisation that I think needs special treatment. The member for Kavel detailed tonight his rather chequered history with the ABC. I have not had the sort of involvement that the honourable member has had with the ABC, but I have watched from a distance. In 1922, the British Broadcasting Corporation was set up as a force for civilisation in the United Kingdom. As an organisation, it intended to bring about renewed standards in journalism in Britain, a role that I believe it faithfully fulfilled for many years.

Shortly thereafter, the ABC was set up by Federal statute in Australia and was to pursue the same role. I am a fan of the ABC, although I must confess that is has become somewhat tarnished over the years, and I am not as big a fan now as I was 20 years ago. Much of the reason for that concerns the humbug and hypocrisy that emanates from it. It would be interesting to hear what Neville Wran has to say about the ABC and the way it conducted itself in destroying his career. It is quite clear that the ABC showed an absolutely abominable level of sensitivity, and it pursued Neville Wran to the point where it besmirched his reputation and damaged it beyond repair, and eventually forced him to make the ultimate sacrifice.

I have a communication from the ABC which tells me a couple of things. It tells me, first, that we need not worry about passing this Bill because it will not have any impact upon it. A couple of paragraphs later, it goes on to say that it might be a good idea if we actually put in a clause which says that we exempt the ABC. I have to say that the ABC is one of the main organisations I want to see bound by this Bill. What is more, unhappily for it, the Federal Government has a similar view, because it holds the view that the ABC ought to be a good corporate citizen in every State of Australia and it has tailored its Acts of Parliament to ensure that that is the case. The Commonwealth Privacy Act of 1988 makes this position clear. Under 'Saving of certain State and Territory laws', it states:

> It is the intention of the [Federal] Parliament that this Act is not to affect the operation of a law of a State or of a Territory that makes provision with respect to interferences with the privacy of persons and is capable of operating concurrently with this Act.

It goes on to say:

Notwithstanding this provision, even when a Federal law does not evidence an intention to cover the field exhaustively, there may still be a direct inconsistency where a particular provision of a Federal law is impinged upon or derogated from by a State law.

The member for Hartley has just pointed out to me that in the ABC submission to the privacy select committee set up by this House, that aspect was curiously missing. Indeed, it was also curiously missing in all the communications that the ABC has had with me. I have no doubt that it was missing in what it said in mail to every other MP. Quite clearly, the ABC's role on this matter has not been a good one. It has not been one of the brighter pages of its history. The ABC has been at the forefront of some of the campaign to destroy this measure, because it does not front nicely with some of its shoddier attempts at supposed investigative journalism. It is frightened as regards its own code of conduct, which has been referred to by so many members here tonight and to which I do not need to refer again, because of what this legislation will do.

This exercise will enshrine into law the AJA's code of conduct which, so far, clearly has been misleading in relation to the role of the media over the past 16 or 17 years. I single out the ABC because I think that it, in particular, should have done a lot better. It has a responsibility with public money. I have seen this organisation go downhill steadily over the past 10 or 15 years pursuing political agenda, unable to come to grips with its own budgetary restraints and becoming less and less relevant. That force for civilisation, which the ABC was meant to be set up for, sadly has been lacking lately. I have no problems in supporting the Bill. It is essential that the citizens of this State have their right to privacy enshrined in law.

Dr ARMITAGE (Adelaide): This Bill worries me for a number of reasons, not the least of which is the inconsistency that I perceive in the Government's sponsoring a Privacy Bill while, at the same time, being gung ho about the information utility component of the MFP with its obvious potential for the invasion of privacy. That clearly demonstrates that the Government is having five bob each way.

We have heard a lot about what this Bill may or may not do, but the one thing its passage clearly would do is stop some of the best investigative journalism that has brought to light the excesses and disasters in society. Investigative journalism has looked into issues such as the problems with many of Australia's financiers, and has been the prime mover in the exposure of corruption in very high places in many of the systems in Australia. Investigative journalism has been a leader in bringing to the notice of the public the excesses of corrupt police, politicians, and so on, and that would clearly be stopped if this Bill passed.

The passage of the Bill would also have disastrous effects on law-abiding citizens in history societies and on biographers, genealogists and so on, all of whom I am sure this Bill was not meant to impact upon. We all know of instances where people have had their private grief invaded, and that is a concern to all of us. I am sure that all members would abhore those instances. What I am keen to bring to the attention of members opposite is that, whilst the examples they quoted in their speeches tonight were invasions of someone's private space and were devastating to the individual, those people will not be affected by the passage of this Bill.

The member for Playford talked about the New Zealand journalists and said that, under New Zealand's privacy laws, about which I am not as familiar as he, journalistic sources would be in trouble. I believe that if this Bill were to pass not journalistic sources but the journalists themselves would be in trouble.

Earlier the member for Henley Beach mentioned a medical questionnaire that prospective employees of a number of companies had to complete. He went into great detail about the invasion of privacy not only of employees but also of prospective employees in filling out this questionnaire and about how the record was maintained, and so on. Conveniently, he ommitted any reference to the complete invasion of the privacy of people about whom credit reference organisations keep records, often people with the most amazingly good credit history, yet nevertheless they are on file. The member for Henley Beach omitted that in his debate.

Coming back to the survey of prospective employees that he mentioned, the first point I want to make about the survey—and I have partaken in many surveys like this, in my previous profession—is that the reason employers ask prospective employees to undergo those surveys is because employers cannot afford to be hit by the huge medical bills caused by people who may be dudding the system. It is a reasonable expectation of employers to indeed ascertain whether prospective employees have some degree of impairment of their hearing or some previous back injury. That is a completely legitimate question to ask of an employee.

The second point I wish to make about those surveys, having partaken of them as a medical examiner myself, is that those in which I was involved had a disclaimer and they were all signed by the prospective employee indicating, 'I am happy for this information to be provided to my employer.' If the employee signs that disclaimer, surely that is not an invasion of their privacy. Thirdly, and the most important point about these health questionnaires that the member for Henley Beach was discussing (this is certainly the most important of the three points I wish to make about those surveys), is that none of them would be affected by this Bill. That is one of the features of the debate of members opposite, who have quoted many emotive examples but, unfortunately, many of them would not be affected by the passage of this Bill.

The member for Hartley quoted many examples from South Australia's recent and not so recent history, most of which were known to us as people who are keen consumers of media items and, of course, we abhor all of those as a body. I wish to draw further attention of the House to the ABC and, despite what the member for Playford said a minute ago about Federal legislation, I would like to quote to the House the letter I received (I am sure all members received a copy), from the Controller, ABC Television News and Current Affairs. One paragraph states:

... the ABC has obtained a legal opinion that suggests any South Australian Privacy Act would not apply to the corporation.

Even if we accept the proposals that the member for Playford put to us about the ABC, clearly the lawyers do not, because the ABC has a legal opinion suggesting that this Bill would not apply to the corporation. I am saying that this Bill, at best, if it was passed, would be a bonanza for lawyers because there would always be legal dispute. At worst, the ABC would be totally unaffected by this legislation, which means that the legislation would be ineffective.

One of the instances of potential for change in the behaviour of the media in my view has been the recent example where the name of the university student who was murdered was released. I actually wrote a number of letters to a number of people from the media outlets as to how this might have affected their position in relation to what they would have done. I will quote a letter from Mr Stavros

Pippos, the Managing Director of the Ten Network. He states:

> ADS 10's usual practice, followed in this particular case, is not to release the name until advised to do so by the police.

That is very appropriate. In other words, this particular network is not happy to go ahead until advised by the police. Its policy is to wait until the police say, 'Yes, you can go ahead and do it.' That seems to me to be completely reasonable. It puts the onus on to the police who, presumably, would have spoken to relatives and would know about the case. I believe that that is a completely appropriate methodology and that it would protect privacy. Unfortunately, it was a different network that released the name of the university student prior to the relatives being told.

I also asked what the media believed was a valid intrusion upon personal grief. Indeed, as they so correctly pointed out, there is no absolutely specific answer to this question. However, they pointed out that if the Privacy Bill becomes law there would still be no absolutely specific answer to the question. On this matter, Mr Stavros Pippos stated:

> Indeed, arguably the position would be more ambiguous and confused than it is now. I say this because there is an obvious lack of definition of various terms in the Bill, including the right of privacy, what is meant by substantial and unreasonable intrusion and what is meant by 'so as to ensure distress, annoyance or embarrassment'.

So, in fact, there are real problems with that, but at least this network is addressing the matter in a constructive way. I believe that we can expect, because of this Bill's being in the public domain, that that will happen with other networks.

Amongst other inquiries, I wrote to the networks and asked them what they believed was an appropriate method of covering funerals. I was distressed that one particular person wrote back to me and said that that particular station would get together and respect the rights of privacy of people and would send only one camera crew. That is absolutely ludicrous. However, if we look at Channel 7, the response from Mr Dennis Earl, Managing Director, in relation to that particular problem, stated:

> With regard to your inquiry relating to the television coverage of funerals, our station policy is that such coverage is only done where the funeral would be of specific public interest and permission has as been obtained from the immediate family or through an intermediary, such as the police.

Again, we have a completely valid methodology for the handling of private grief at funerals without stopping investigative journalism.

Mr Groom interjecting:

Dr ARMITAGE: The member for Hartley is saying that they turn up at funerals. I accept that they do at the moment, but what I have said is that there are completely reasonable and valid ways of getting around these problems without using draconian measures and stopping investigative journalism. Other media outlets have responded on this matter. The Managing Director of the News states:

> Where grief is personal, they [the journalists] are instructed to respect the wishes of the families.

That, again, seems to me to be completely appropriate—involve the families; do not just go ahead and do it, ask the families and respect their wishes. As an interesting aside, the Managing Director of the News stated in his letter to me:

> You may wish to lump the excesses of the television news entertainment business in with the profession of journalism, but I for one do not.

So, clearly there is some petty jealously between the two. Equally, there is some way to go along that line. I have other letters, which I would like to quote, from the Federation of Australian Radio Broadcasters indicating that all media outlets are interested in this question. The letters came in response to my letters to them about the invasion of personal grief.

Debate adjourned.

ADJOURNMENT

At 12.1 a.m. the House adjourned until Wednesday 13 November at 2 p.m.

HOUSE OF ASSEMBLY

Tuesday 12 November

QUESTIONS ON NOTICE

RED LIGHT CAMERAS

25. **Mr BECKER (Hanson)** asked the Minister of Emergency Services:

1. How many motor vehicle crashes have occurred at intersections where red light cameras are installed for the year ended 30 June 1991 and how do these statistics compare with the previous year?

2. What estimated saving in insurance premiums will have resulted from this activity?

3. How many red light cameras will be installed at intersections in the 1991-92 year?

The Hon. J.H.C. KLUNDER: The replies are as follows:

1. Red light cameras were installed and operational as from 1 July 1988. The Office of Road Safety is unable to provide road crash statistics to 30 June 1991. Data for the most recent 12 month period available—1 April 1990 to 31 March 1991—is compared to the corresponding period in the preceding year and also the previous full year prior to the introduction of red light cameras.

	1.4.90-31.3.91	1.4.89-31.3.90	1.7.87-30.6.88
Fatals	1	1	1
Personal Injury	46	42	120
Property Damage	303	294	451

2. This information is not available from police sources.

3. It is proposed to double to 30 the sites at which red light cameras operate. Five cameras (with one spare) will alternate between the sites.

PUBLIC SERVICE CLASSIFICATIONS

54. **Mr BECKER (Hanson)** asked the Minister of Education, representing the Attorney-General:

1. For each department or agency under the Minister's control, how many new classified and reclassified positions have been created in the past 12 months and, if any, why?

2. Is there any evidence of 'rorting' being undertaken by creating new or reclassified positions prior to the offer of redundancy packages and, if so, what action is being taken to prevent excessive redundancy payments and, if none, why not?

The Hon. G.J. CRAFTER: The replies are as follows:

1. State Business and Corporate Affairs Office—Twenty-nine new positions were created following the transfer of staff from the Department of the Corporate Affairs Commission (formerly 106.8 FTEs) which ceased to operate from January 1991. Of these, seven were reclassified as a result of the restructuring of that office.

Equal Opportunity Commission—Twelve additional positions were created as a result of the requirements to administer the aged and overseas qualifications amendments to the Equal Opportunity Act.

Attorney-General's Department—Fifteen point two additional positions were approved in the 1990/91 budget and 6.2 positions were to maintain JIS applications that had been brought into operation during the year. The other nine positions were created as a result of additional prosecution and legal workload within the Crown Solicitor's Office. There were also 11 reclassifications which occurred as a result of a review following changes in the duties of the positions.

Legal Services Commission—One new position was created to provide procedural training in the operation and use of the Commission's Computer System. Four positions were reclassified on the basis of the duties being undertaken by the officers concerned.

Courts Services Department—Three new positions were created as part of the courts computerisation program. One new position was created following a review of requirements of the Magistrates Courts Division.

Four positions were reclassified as a result of a review of the duties of the positions involved. Fourteen positions were reclassified as a result of personal applications on the part of the incumbent officers. These applications were initially rejected but then granted as a result of appeal under Section 48 of the GME Act.

2. There is no evidence of any 'rorting' in relation to these new and reclassified positions.

SOUTH AUSTRALIAN SPORTS INSTITUTE

126. **Mr BECKER (Hanson)** asked the Minister of Recreation and Sport:

1. Who are the members of the Board of Management of the South Australian Sports Institute and what are the respective reasons for their appointment?

2. What fees and allowances are paid to board members?

The Hon. M.K. MAYES: The replies are as follows:

1. SASI Board Members

Member Name	Start Date	Expiry Date	
Barnes, Peter, Dr	01/05/88	30/06/92	Sports Medicine
Bowen Pain, Peter	17/09/85	30/06/92	Sport
Burton, Chris	27/06/90	30/06/92	Sport
Daly, John, Dr	27/06/90	30/06/92	Junior Sports Council
Haslam, Juliet	27/06/90	30/06/92	Scholarship Holder
Hill, Yvonne	17/09/85	30/06/92	Sport
Phillips, Karen	27/06/90	30/06/92	Sports Media
Rathman, David	11/10/91	30/06/92	Aboriginal Community
Tyzzer, Roger	01/07/89	30/06/92	Sports Coach
Williams, Jenny	27/06/90	30/06/92	Acting Women's Advisor

The South Australian Sports Institute Board is an advisory board to the Minister of Recreation and Sport. The members of the board are selected for the various skills, knowledge and expertise which they bring to the board.

2. No fees and allowances are paid to board members.

WATER RATES REMISSION

133. **Mr S.J. BAKER (Deputy Leader of the Opposition)** asked the Minister of Water Resources: How many households were receiving the maximum pensioner remission of $180 on water and sewer rates at 30 June and how many were receiving that remission on 1 July 1991?

The Hon. S.M. LENEHAN: As at 27 June 1991 (week 52 for 1990-91), 66 456 customers were receiving the maximum remission of $85 per annum on water rates (including additional water rates) and 66 730 customers were receiving the maximum remission of $95 on sewerage rates. Reports containing the maximum pensioner remission of water and

sewer rates are produced once every quarter, and as at 25 September 1991 (week 13 for 1991-92), 16 317 customers were receiving the maximum remission on water rates, and 67 845 were receiving the maximum remission on sewerage rates. The remission on water rates applies first to the access charge (former base rate) and then to any additional water charges up to the maximum remission.

The initial reduction in the number of customers receiving the maximum remission on water rates is because, under the new residential water rating system, except for those customers paying the minimum water rate, all residential customers are now paying less each quarter for water than they would have under the former rating system. It will not be possible to provide a true comparison between last financial year and this financial year of the number of customers receiving the maximum remission on water rates until 30 June 1992 when the additional water rate billing process has been completed.

PUBLIC SERVICE CLASSIFICATIONS

149. **Mr S.J. BAKER (Deputy Leader of the Opposition)** asked the Treasurer: Why have the classifications EL-1, EL-2 and EL-3 been created, what do they represent and how is their establishment consistent with the simplification and reduction in Public Service classifications?

The Hon. J.C. BANNON: In April 1990, Cabinet approved the introduction of a new three level classification structure for Executive Officers using the classification codes EL-1, EL-2 and EL-3. The new structure replaced the old six level Executive Officer structure, which had been in place since 1976. Details regarding this change were contained in the Commissioner for Public Employment's Annual Report 1989-90 tabled in Parliament last year. The Commissioner advised at page 7:

> A significant change to the classification of the senior management group in the South Australian Public Service took place during 1989-90. Following extensive negotiations with the Public Service Association a new three level executive officer structure has replaced the six level structure. This new structure is more attuned to modern management practice which seeks to have flat organisational structures and avoid unnecessary levels of management.

During 1990-91 there was a reduction in the number of executive officer positions in the Public Service.

PRISONERS

175. **Mr BECKER (Hanson)** asked the Minister of Correctional Services:

1. Do Department of Correctional Services officers remove privileges (namely items purchased through a prison canteen) from prisoners transferred from one division to another and, if so, why and on whose authority?

2. Do prisoners lose remission, or not be awarded remission or lose privileges for breach of regulations other than under sections 43 and 44 of the Correctional Services Act and, if so, why and on whose authority?

The Hon. FRANK BLEVINS: The replies are as follows:

1. The possession by prisoners of items in cells, dormitories or in other designated accommodation in correctional institutions other than items provided by the department as part of cell equipment and furnishings is a privilege. Any item that requires the special approval of a manager for use in a particular institution or division of a prison does not provide a prisoner with a right to transfer that item to another and must be disposed of before transfer to another prison or division of a prison unless approval has previously been obtained. If a prisoner moves to a prison or division of a prison of higher security, the more restricted rule would apply, and a prisoner cannot possess items which are not prescribed for that institution or division. Such items which cannot be admitted must be disposed of prior to transfer. The relevant authorities for such action are contained in section 83 and regulations 5, 6, 30, 41, 44 and 46 of the Correctional Services Act 1982. The Department of Correctional Services policy on this matter is contained in Departmental Instruction No. 115—'Items Permitted in Cells'.

2. Managers of institutions can deal with prisoners' misconduct, other than by charging them under section 43 of the Correctional Services Act 1982 (the 'Act'), by either exercising power under section 79 of the Act, which has been delegated to them by the Chief Executive Officer of the department, to refuse to grant up to 15 days remission in relation to each month of imprisonment served by prisoners, or by acting administratively in withdrawing privileges from prisoners which are linked to the respective acts of misconduct. Such administrative acts are taken for the safety of prison staff and the good order of the prison.

WATER RESOURCES

177. **The Hon. D.C. WOTTON (Heysen)** asked the Minister for Environment and Planning:

1. Over the past five years, what has been the annual expenditure on water related data collection programs undertaken by State agencies including E&WS and the Department of Environment and Planning?

2. What stragegies have been adopted by Government agencies to upgrade the availability of water related information to assist in the management of water resources?

3. What levels of funding have been allocated within the budgets over the past five years to the introduction of information technology in the water resources management area?

4. What progress has been achieved in the development of an intergrated State water resources information system similar to that existing in other States and, in particular, Western Australia?

5. What progress has been achieved in establishing an information system through which South Australia can make use of information held by the Murray-Darling Basin Commission?

The Hon. S.M. LENEHAN: The replies are as follows:

1. Department of Environment and Planning: average expenditure $50 000 per annum. Engineering and Water Supply Department: average expenditure $6.5 million per annum.

2. Government agencies have adopted compatible software systems to assist with the transfer of data between organisations. A catalogue of water related data has been produced.

3. Department of Environment and Planning: approximately $70 000 per annum. Engineering and Water Supply Department: $1.8 million over the past five years.

4. The development of the State's land information system, of which the geographical information system in the Department of Environment and Planning is the environmental node, addresses the issues of data integration for applications such as water resources and their management. In addition, a proposal was developed during 1989 for a similar system to that used in Western Australia. A decision on its implementation and final form will be deferred until it is known what mainframe computing environment will be purchased by government. Coordination of activities

between agencies is ensured by the South Australian Water Resources Council and the National Resources Management Standing Committee.

5. The Murray-Darling Basin Commission is developing a basin-wide geographic information database. The system used is identical to that used by South Australian agencies so information can be readily transferred. Similarly, the commission has established a water quality monitoring program which facilitates the supply of information to the other States and the community. New South Wales, Victoria and South Australia all use the same hydrometric database system so information can be interchanged easily between States.

LEVEL CROSSING COMMITTEE

181. **Mr VENNING (Custance)** asked the Minister of Transport:

1. When will the South Australian Level Crossing Committee be reconstituted and reactivated?

2. What criteria and what input from local councils and other local bodies will be used to assess the priority status of crossings on the list to receive flashing lights?

3. When will that list be reassessed and updated and when will the details of the updated list be available to local councils and local bodies concerned?

The Hon. FRANK BLEVINS: The replies are as follows:

1. The South Australian Level Crossing Committee has been reconstituted and will next meet on 12 December 1991.

2. The Local Government Association is represented on the committee. The data for assessing and determining the priority status of crossings to receive flashing lights is held by the Department of Road Transport and Australian National. The established criteria used are: the amount and speed of road traffic; the amount and speed of trains; accident history at crossings; and sight distance at crossings.

3. The Department of Road Transport and Australian National are currently updating the train and traffic numbers for the meeting, which will discuss the cost-effectiveness of flashing lights at candidate locations.

SEAFORD RAIL LINK

182. **The Hon. D.C. WOTTON (Heysen)** asked the Minister for Environment and Planning: Is the extension of the rail link to Seaford to pass through a large section of the proposed Onkaparinga estuary wetland and, if so, what action is proposed to alieviate this situation?

The Hon. S.M. LENEHAN: The route of the road/rail link to Seaford was selected because it avoided the need to cross large sections of the Onkaparinga estuary wetland. The crossing of the estuary is made at the narrowest point of the floodplain leaving the main areas, which include the Oxbow lagoon in the western half and the existing freshwater wetlands in the eastern half, untouched.

ENVIRONMENT AND PLANNING COMMITTEES

188. **The Hon. D.C. WOTTON (Heysen)** asked the Minister for Environment and Planning: What decisions has the Minister made following requests from the Conservation Council of South Australia to ensure that membership of committees and authorities under the control of the Minister is determined as a result of a more open and democratic process than is currently the case?

The Hon. S.M. LENEHAN: Specialist committees and authorities are selected on the basis of known specialist ability of individuals or on the nomination of bodies, including the Conservation Council. The Minister for Environment and Planning implemented a public advertisement process for persons interested in joining consultative committees. This is being progressively implemented throughout the various committees and aims to broaden the base of representation and access to membership.

TREE RETENTION

189. **The Hon. D.C. WOTTON (Heysen)** asked the Minister for Environment and Planning: What action is proposed following the release of the discussion paper 'Options for promoting tree retention and proposed legislative provision' and, if it is intended that legislation be introduced, when?

The Hon. S.M. LENEHAN: Following a review of public submissions received in response to releasing the discussion paper, 'Options for promoting tree retention and proposed legislative provision', the matter of appropriate regulatory mechanism to control tree removal has been referred to the planning review for further consideration. It is hoped that this will allow a full integration of any controls, if required, with other similar Acts and regulations. A decision on whether and when to introduce legislation will be made following release of the final report from the planning review next year.

LITTER CONTROL

195. **Mr BECKER (Hanson)** asked the Minister for Environment and Planning: What action is the Department of Environment and Planning taking to clean up rubbish and litter in the Patawalonga and on the beaches of West Beach and Henley Beach South following recent heavy rains and, if none, why not?

The Hon. S.M. LENEHAN: Under the Marine and Harbors Act the foreshore is under the care, control and management of local councils, which includes cleaning up rubbish and litter. This applies to the beaches of West Beach and Henley Beach South. The cleaning of rubbish and litter from the Patawalonga is the responsibility of Glenelg council under the South West Drainage Scheme Act.

DRIVER ONLY TRAINS

200. **Mr MATTHEW (Bright)** asked the Minister of Transport: Will any trains other than those fitted with power doors be used as driver only trains?

The Hon. FRANK BLEVINS: There is no policy for driver only trains at present.

ABORIGINAL EDUCATION

207. **The Hon. D.C. WOTTON (Heysen)** asked the Minister of Aboriginal Affairs: Will the Minister make available to the member for Heysen the replies to questions asked by the member for Albert Park during the Estimates Committee (*Hansard* page 53) relating to Aboriginal students, their education and specific programs to assist them?

The Hon. M.D. RANN: In response to the questions raised by the member for Albert Park during my Estimates

Committee hearing in relation to Aboriginal students, I advise that a reply was forwarded to the member for Albert Park by letter dated 4 October 1991. I will arrange for a copy of that reply to be forwarded to the honourable member for his information.