LEGISLATIVE COUNCIL

Tuesday 19 August 1986

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

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

PAPERS TABLED

By the Minister of Health (Hon. J.R. Cornwall), on behalf of the Attorney-General (Hon. C.J. Sumner):

Pursuant to Statute—

Industrial and Commercial Training Act, 1981—Regulations—Roof Plumbing.

Motor Fuel Licensing Board—Report, 1985.

By the Minister of Health, on behalf of the Minister of Consumer Affairs (Hon. C.J. Sumner):

Pursuant to Statute—

Trade Standards Act, 1979—Regulations—Jacks and Ramps.

By the Minister of Health (Hon. J.R. Cornwall):

Pursuant to Statute—

Seeds Act, 1979—Regulations—Noxious Weeds, Testing and Labelling.

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

Pursuant to Statute—

Adelaide Festival Centre Trust—Report, 1985.

MINISTERIAL STATEMENT: AUTOPSY REPORT

The Hon. J.R. CORNWALL (Minister of Health): I seek leave to make a statement.

Leave granted.

The Hon. J.R. CORNWALL: Honourable members may recall the detailed ministerial statement I made to this house on 31 July on the subject of legionnaires disease. In that statement reference was made to the death of an elderly woman at the Queen Elizabeth Hospital. At that time, I told the Council that the woman had been admitted to the hospital from a nursing home, and that she may have been suffering from legionnaires disease.

I said that I had been advised that if the woman was suffering from the disease the infection had occurred before admission to the hospital. I am now able to inform the Council that a post-mortem was undertaken and the pathologist considered it extremely unlikely that the patient had legionella pnuemonia during her last illness. The pathologist found the cause of death to be terminal hypostatic pnuemonia due to cardiac failure secondary to ischaemic heart disease and mitral valve disease. Although the patient had a high legionella titre this was falsely elevated by a rheumatoid factor present in the serum. After absorption of the factor the titre was much lower.

The lower titre was considered to be due to past exposure to legionella and not due to a recent infection, but unfortunately the patient died before further antibody testing could be undertaken. Cultures from the lungs were taken, including cultures for legionella, but all were negative to pathogenic organisms because of the antibiotic medication. The post-mortem found the predominant disease to be congestive cardiac failure due to ischaemic heart disease and mitral stenosis. The pneumonia was a terminal complication.

MINISTERIAL STATEMENT: LEGIONELLA ORGANISMS

The Hon. J.R. CORNWALL: I seek leave to make a statement.

Leave granted.

The Hon. J.R. CORNWALL: Since February this year I have made a number of statements to the Council comprehensively detailing developments in investigating legionnaires disease in South Australia and worldwide. I now propose to make a further report to the Council regarding the relationship between rubber tap washers and the prevalence of the legionella organism. It was recognised in Britain in 1984 that the material used in the manufacture of some tap washers could also support the growth of the legionella organism. An extensive study of the plumbing system in a British hospital was made over three years following an outbreak of legionnaires disease in 1980.

The introduction of chlorination and the raising of the water temperature controlled the outbreak at the time but failed to decontaminate water outlets in the wards. Legionella pneumophila was isolated to rubber washers in shower fittings, and laboratory experiments demonstrated the ability of the organism to grow in water in contact with these rubber components. Subsequently, all the components in the hospital's fittings were replaced with an approved type, and since then legionella pneumophila has not been isolated from water or components.

The National Water Council in England publishes approved lists of materials and that list was amended as a result of this discovery. These lists are used as the basis for approvals of new plumbing in South Australia. Further work has been done recently in Holland, and other organic substances which support growth were identified. This work was published in the *Lancet* on 26 July this year. It is expected that after confirmation by the British testing agencies, this information will be used in the compilation of the approved lists also used in Australia.

Natural rubber has in the past been used in the plumbing systems of high risks wards in Adelaide's major hospitals, but it is thought unlikely that much of this material would still be used. The South Australian Health Commission will consult with the Engineering and Water Supply Department on any other products that they may be able to identify as unsuitable, based on overseas experience. I have asked that this matter be referred for handling by the Governmental (Standing) Committee on the Health Aspects of Water Quality.

SELECT COMMITTEE ON COOBER PEDY (LOCAL GOVERNMENT EXTENSION) ACT AMENDMENT BILL

The Hon. BARBARA WIESE (Minister of Tourism) brought up the report of the Select Committee, together with minutes of proceedings and evidence.

Report received. Ordered that report be printed.

QUESTIONS

DEPO-PROVERA

The Hon. M.B. CAMERON: I seek leave to make a statement prior to asking the Minister of Health a question about the Oodnadatta Hospital.

Leave granted.

The Hon. M.B. CAMERON: I have been contacted by several people regarding the report on the use of the contraceptive drug Depo-Provera at Oodnadatta. The report followed allegations that injections of the drug had been given to schoolgirls, against their wishes, during 1978 and 1981. This led to severe trauma for those accused of administering the drug, and they are now waiting anxiously for the report to be made public. I seek leave to table two letters from people at Oodnadatta.

Leave granted.

The Hon. M.B. CAMERON: I will quote from one of those letters as follows:

> I can assure Dr Cornwall that the wounds caused by the Depo-Provera issue in Oodnadatta are still raw and weeping, so the release of the report would not be responsible for opening up 'old wounds'.
>
> If, as I believe, the report exonerates the particular sister and other health professionals here at the time, who were denigrated by association, then nothing less than both public and personal apologies are essential.
>
> If there is nothing in the report to be suppressed, do let us have it—it just might prove to be balm to those open wounds.

A further letter from one of the sisters accused at the time states:

> The wounds will never be healed until the truth is made known. The stigma of being 'one of these dreadful Sisters from Oodnadatta' is not one to be shunned easily.

Dr Cornwall has been quoted as saying there is nothing in the report he would wish to suppress. He is also quoted as saying he would take the matter to Cabinet for a ruling if I insisted on calling for the report's release. Frankly, I believe it is irresponsible of the Minister to leave those people accused of administering the drug with allegations over their heads, if there is any way of showing exactly what happened. The allegations have been made public; surely it is only fair that the report also be made public. Will the Minister now table the report?

The Hon. J.R. CORNWALL: The Hon. Mr Cameron seems determined to rake over the old coals. The wounds may perhaps be still raw and weeping, and certainly Mr Cameron is determined, by his behaviour in this place, that they ought to stay that way. I have said before, and I repeat, that the report neither exonerates nor blames anyone. Since the matter was raised in this place by Mr Cameron on one of his characteristically irresponsible muckraking exercises, I have taken it to Cabinet. As a result of Cabinet discussions, I have further taken up the matter with the Attorney-General and one of his senior officers. As a result of those discussions, Ms President, and having taken the advice of a senior officer in Crown Law, the report is currently being rewritten, removing the names of people who might otherwise be implied to be guilty, quite unfairly. I have never believed in trial by Parliament—

Members interjecting:

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: I have never believed in trial by Parliament. I do not abuse the forms of this Chamber. I do not, for example, make wild allegations about slave trading.

The Hon. M.B. Cameron: You'll hear more about that.

The Hon. J.R. CORNWALL: I do not, for example, make wild allegations concerning Rescue One when in fact the problem arose from the breakdown of a road ambulance. The Hon. Mr Cameron interjected that I will hear more about the slave trading. Let me assure him that he has not heard the last of it as far as the person whom he has maligned in this Parliament is concerned. He has not heard the last of it from a person whose good name and reputation he has tried to take away under parliamentary privilege. If he were half a man, he would go outside and repeat those allegations and he would get his just desserts. Let me come back to the question—

The Hon. J.C. Burdett interjecting:

The Hon. J.R. CORNWALL: Thank you for that help, Mr Burdett. As one of the more spectacularly successful politicians of our time, I could do with your assistance.

Members interjecting:

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: May I say that that has been redrafted to the extent necessary to protect innocent people, to remove the names of some of the principal players who would otherwise be maligned unfairly under parliamentary privilege. When that has been done—

The Hon. M.B. Cameron: Unreal!

The Hon. J.R. CORNWALL: I am not unreal at all. I happen to be a very fair-minded person, unlike Mr Cameron. When, acting on the advice of Crown Law, those names have been deleted to protect innocent people and to stop trial by Parliament, then it is my intention to table that report, and I anticipate that I will do that with an accompanying explanatory ministerial statement before the end of this week.

ARCHIVES

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Minister of Local Government a question about archives and public records.

Leave granted.

The Hon. L.H. DAVIS: In February 1985 in this place, the Government accepted the validity of a motion which I moved expressing concern at the state of the public records system of South Australia, the lack of educational courses for public sector staff in information systems/records management, the lack of space for the State's bulging archives, and the fact that the State's historic records were at risk. In responding to the motion, it was stated:

> The Government is aware of the problems raised by the Hon. Mr Davis and is acting properly and reasonably to achieve the aims of the honourable member.

The Government also acknowledged the Hon. Mr Cameron's interest in this matter. It was further stated, and this is 19 months ago:

> An invitation will be extended to the Hon. Mr Davis to participate in discussions on legislation and matters associated with the development of the Public Records Office.

Recently the Minister (Hon. Barbara Wiese) and Federal Minister Mr Cohen attended the opening of a repository for record storage. The Hon. Mr Cameron and I were pleased to read of this initiative, although surprised and a little disappointed that no-one from the Opposition apparently was invited to this opening.

However, in the Jubilee year when the State's heritage is in the spotlight, the Government has not seemingly made any progress in the introduction of an archives or Public Records Act and South Australia still has no appropriate education course for public sector staff and information systems records management. The archives still suffers from lack of space. Despite the promises made by the Government in 1985 no contact has been made with me in the past 19 months to participate in discussions on legislation and matters associated with the development of the public records office. When is the Minister going to get her act together with respect to a public records Act, education courses for public sector staff in information systems and records management and adequate staff and facilities for the archives? This matter is costing the State millions of dollars and is causing the State's heritage to be at grave risk.

The Hon. BARBARA WIESE: All the matters to which the honourable member has referred are in hand. As to legislation, late last year a draft Bill was prepared. That was sometime before the Public Record Office was established and that draft Bill was circulated to a number of organisations which have some interest in the matter, including the Australian Society of Archivists, the Friends of the Public Records of South Australia, and members of the joint State-Federal Working Party on Public Records Management Programs. I was not aware of an undertaking that was obviously given by a former Minister—that the honourable member should be consulted as well, but—

The Hon. L.H. Davis interjecting:

The Hon. BARBARA WIESE: Certainly, if that is so, I am quite happy for him to have a look at the Bill too. We are in a consultation phase and I am happy to hear from whatever individual organisations in the community that might have some interest in this matter. I might say that already we have received a number of very lengthy and constructive submissions from individuals and organisations that have some interest in this question. In addition, the Victorian Public Record Office has recently undergone a major review and legislation to reduce and modify its powers has been introduced to the Victorian Parliament. In New South Wales the role of the State Archives in relation to local government is now being discussed and reviewed as well. We are very keen to monitor the changes taking place in other States and, once we have more information about the way that policies are being formulated in those States, we will couple that information with the information we have collected ourselves with respect to the consultation that has been taking place in this State. I hope that soon we will be able to soon produce a Bill to Parliament—

The Hon. L.H. Davis: Why is it running a year late?

The Hon. BARBARA WIESE: These matters are not easy to resolve and several issues have required extensive consultation. We have undertaken that consultation and the matter is proceeding quite adequately, as I am sure people who are involved in this matter and who have a better working knowledge of these issues than the honourable member will agree.

The Hon. L.H. Davis: If you were going—

The Hon. BARBARA WIESE: I did not promise anything of the sort.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: There are no training courses in this State, as the honourable member indicated, for archivists and/or records managers. The Records Management Association has been working on a suitable syllabus for records managers and, when the best options have been put together, the association is planning to present them to education authorities for consideration. At present a course for archivists is run in Sydney and we are very lucky that a number of the staff presently employed in our public records office undertook that training course in Sydney. Thus we have been able to benefit from the courses available in other States. A joint statement was made last week by the Federal Minister, Barry Cohen, and me about the establishment of a joint archive facility which is to be built in this State. It is, in fact, currently under construction—

The Hon. L.H. Davis: Why didn't we get an invitation to that opening; do you know?

The Hon. BARBARA WIESE: There was not an opening. It has not yet been built, Mr Davis. You should listen.

The Hon. L.H. Davis: There was no invitation to the Opposition.

The Hon. BARBARA WIESE: There are very few occasions, I would have thought Ms President, when members of the Government or anyone else invites members of the Opposition to press conferences. Is the honourable member suggesting that his name should be on my mailing list for future press conferences? As I said, Ms President, the Federal Minister and I made a joint statement last week to announce that a joint archives facility is being built in South Australia. We hope that it will be completed in the next few months. The costs are being shared by the two Governments and we will have access to the facility under a leasing arrangement. The total costs of leasing will be about $450 000 a year, of which $228 000 will be met by the State Government.

This is an excellent facility, which will enable us to release considerable space that we are currently occupying, both at Somerton Park and at various city locations where Government records and other information are stored. A lot of that space can be released, effecting considerable cost savings. The question of facilities is also well in hand, and the honourable member should have made himself aware of that.

The function to which I believe the honourable member referred and about which he felt so peeved at not being invited was the opening of a national conference for conservation, but I cannot remember the name of the organisation. That national conference was held in Adelaide by an organisation that has branches in every State of the nation. The organisation has its own invitation list and I am sorry that it did not choose to invite a member of the Opposition, but that is the honourable member's problem.

CENTRAL LINEN SERVICE

The Hon. K.T. GRIFFIN: My questions to the Minister of Health are as follows:

1. Were all of the supervisors employed at the Central Linen Service taken recently to Wirrina for a training conference at the same time as the plant was operating?

2. What arrangements, if any, were made for adequate supervision in the workplace at the plant while the supervisors were absent?

3. Were those arrangements, if any, in compliance with any Department of Labour and/or Central Linen Service requirements for safe operation at the workplace?

4. How many people were involved, and what was the cost?

The Hon. J.R. CORNWALL: They are at it again with my Central Linen Service! Members opposite really cannot stand to see a successful public enterprise; they never let up. I understand that in the other Chamber there is a rock group called the Easybeats but, in this Chamber, there is a punk rock group called Curly and the Deadheads. I have never come across a group like them. It is really astonishing; here members opposite go again knocking the Central Linen Service, which is one of the jewels in the crown.

The Hon. M.B. Cameron interjecting:

The Hon. J.R. CORNWALL: Quiet, Curly, and I will get on with it. The reason why I am not in day-to-day contact with the Central Linen Service is that, to a significant extent, it is run along private enterprise lines. It combines the best elements of the private corporate sector with the more benign elements, in terms of employment, of the public sector. The work force at the Central Linen Service gets a rather good deal (and it appreciates it) *vis-a-vis* its opposite number in the private sector. It is because of that combination of the best elements of the private corporate sector

and the public sector that we have such a spectacular productivity rate at the Central Linen Service. That was, of course, before we started the major re-equipment that is currently proceeding at a cost of about $6 million at the Central Linen Service. When that re-equipment is complete—

The Hon. L.H. Davis interjecting:

The Hon. J.R. CORNWALL: In a moment I will tell you about sales tax and all the other servicing of debts on a commercial basis.

The Hon. L.H. Davis interjecting:

The Hon. J.R. CORNWALL: I will tell you about it in a moment.

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: When that re-equipment is complete, the CLS will be even more competitive. As I am sure members have read, quite recently one of the people from the private sector came to us and asked us to purchase his hospital linen service: he was unable to compete with us. Very fairly, we negotiated on a commercial basis and paid him for his linen, plus a reasonable factor for the goodwill of the business that he sold us. We are operating on a commercial basis.

The Hon. M.B. Cameron interjecting:

The Hon. J.R. CORNWALL: Who is the joke?

The Hon. M.B. Cameron: You are. Poll the public and see who is the joke. You will be—I can tell you that.

The Hon. J.R. CORNWALL: Mr Cameron, do not let your deep personal dislike for me get in the way of your political judgment. You have been in this place for about 15 years now and you have spent about eight months as a shadow Minister. You have never been in Government. You could not even make it on to the front bench in the Tonkin Government. Anyone who could not make it to the front bench in the Legislative Council during the Tonkin interregnum really does not have very much to shout about.

The Hon. M.B. Cameron interjecting:

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: The Central Linen Service is running, in many ways, as a commercial operation. It is my intention to take that a further step once the re-equipment is completed. I believe that it is desirable that it operate fully as a commercial operation, that it pay its way completely, that it pays all its rates and taxes and does not enjoy any concession. Once we have settled through the re-equipment—this major re-equipment that gives us the best state of the art laundry machinery in the world—it is my intention to recommend to my colleagues that we establish it as a separate statutory authority; that it should in its accounting be responsible in exactly the same way as a private enterprise company. In due course I will be making that recommendation to my colleagues.

In the meantime I repeat what I said previously: it is the pacesetter and specialist in the hospital laundry business and was able to contain its prices for a period of almost three years. In doing so it has saved the public hospital system in this State and, therefore, the taxpayers, somewhere between $2 million and $3 million every year for three consecutive financial years.

In regard to the specific questions as to whether or not supervisors were taken to Wirrina for a conference, that is perfectly normal procedure in the business world—in the world of commerce and industry. It is normal for training and staff development courses to be held. In fact, recently the Health Commission established a staff development council. We are about good management. If the supervisors were taken to Wirrina for a conference, I would have thought, given the new and exciting phase that the laundry is entering, that that would be entirely appropriate. I am not responsible for the management of the Central Linen Service, but I would be confident that arrangements would be made for supervision, in compliance with the regulations laid down by the Department of Labour and other authorities. However, I do not have those specific details at hand but will be perfectly happy to take the questions on notice and bring back a reply.

HEARING IMPAIRED CHILDREN

The Hon. R.I. LUCAS: I seek leave to make a brief explanation before asking the Minister of Tourism, representing the Minister of Employment and Further Education, a question about the education of hearing impaired children.

Leave granted.

The Hon. R.I. LUCAS: In South Australia there are estimated to be some 300 hearing impaired children spread throughout many State schools. For these children to reach their full potential specialised teaching from early childhood to adulthood is essential. Since 1975 this need was recognised by both State and Commonwealth Governments through the South Australian college, which had a full-time course for the training of teachers of the hearing impaired. However, this course was terminated in November 1985 meaning that there is now no course available in South Australia. The then Minister of Education at that time said:

> The college has also advised that it expects that an intake into the course will again be possible in 1987, although the course is likely to be in a different form from that of the past.

On 10 June this year the Australian Deafness Council and Parents of the Hearing Impaired South Australia wrote to the Minister of Employment and Further Education and the Minister of Education calling for a decision about the reintroduction of the course by the end of July. I am advised that some two months later those organisations have still not received a reply from the Minister. There is considerable concern in the community about delays in reintroducing this course and it has been put to me that any further delays will mean that the course might not be able to be reintroduced in time for the 1987 intake. That would be a tragedy for the hearing impaired children of South Australia. My questions are:

1. Does the Minister accept that there is a need for such a course in South Australia to be available in 1987 and, if not, why not?

2. Will the Minister actively work towards the reintroduction of such a course in 1987?

3. Will the Minister bring back an urgent report to the Parliament about this matter?

The Hon. BARBARA WIESE: Perhaps I can provide some information about this matter. I understand that discussions are already occurring between the South Australian College of Advanced Education and the Education Department about ways of satisfying the training needs for the relatively small number of teachers who need to be trained for this specialised work, and about finding the most cost-effective method of providing that training. I understand that a number of options can be considered in order to achieve this end. A meeting is being held this week, I understand, to discuss these matters further. I certainly hope that some resolution of the matter can be reached at that time. However, I will pass on the honourable member's questions to my colleague in another place and bring back a reply as soon as possible.

CIGARETTE PACKETS

The Hon. M.J. ELLIOTT: I seek leave to make a brief statement before asking the Minister of Health a question about warnings on cigarette packets.

Leave granted.

The Hon. M.J. ELLIOTT: I was pleased to see that the State Government is pursuing the matter of warnings on cigarette packets. Of concern to some people who have made approaches to me is the question that this State may take a slightly softer option than that which Victoria has opted for. At one stage there was, apparently, total agreement between all State Health Ministers in relation to what the warning should look like. It now seems that Victoria has followed to the letter that which was originally intended but it seems, according to literature I have received, that this State may adopt a slightly softer option, in particular, not having a border panel around the warning. I believe that a border would have more impact. I seek an assurance from the Minister that that is not the case. My questions are:

1. Was a border around the wording agreed to?
2. If so, will this be pursued?
3. Will the warning panels be the same as those adopted by Victoria?
4. Have threats been made to the Government by tobacco or associated companies in relation to employment in South Australia if we take such action?

The Hon. J.R. CORNWALL: Let me make it clear that no threats have been made to me personally—

The Hon. C.J. Sumner interjecting:

The Hon. J.R. CORNWALL: —or as Minister of Health on this particular topic. I have just taken some quick legal advice on the side, and I thought I should add that rider. The Hon. Mr Elliott can rest easy. I assure him that on Wednesday next week—and I will have to give notice on the Tuesday—it is my intention to introduce into this place one of the most comprehensive pieces of legislation to control tobacco products that has ever been introduced, not only in this country but in the world.

Members interjecting:

The Hon. J.R. CORNWALL: Let me say that that advice was given to me by Dr Simon Chapman, who is my appointment as Director of the Health Promotion Branch. He is a member of a number of WHO organisations and is regarded by his peers around the world—

The Hon. Mr Lucas interjecting:

The Hon. J.R. CORNWALL: —as a world leader in the anti-smoking campaign. His thesis has recently been published as a book and it will be my pleasure to launch it in the near future.

The Hon. M.B. Cameron: Have you given up smoking?

The Hon. J.R. CORNWALL: Yes.

The Hon. L.H. Davis: Have you given up smoking?

The Hon. J.R. CORNWALL: Yes, of course I have given up smoking.

The Hon. M.B. Cameron: Are you sure?

The Hon. J.R. CORNWALL: Yes, I am absolutely sure. If the Hon. Mr Cameron would like to jog 16 kilometres with me on the beach competitively down in my country I would be very pleased to take him on.

The Hon. L.H. Davis: Are you in the Corporate Cup?

The Hon. J.R. CORNWALL: I assure honourable members that I am a fairly fit little fellow for someone approaching his 52nd birthday, which is rather different from the state of my health 18 months ago. The legislation will be comprehensive. Among other things it will provide for rotating warnings. I cannot say from recollection whether or not they will have borders, but I am able to say that they will be the same as in Victoria and Western Australia. It is perfectly true that all health Ministers originally agreed that we should go in a particular direction in regard to rotating health warnings. Brian Austin went home to Queensland and got done by his Cabinet. John Cleary, the then Minister of Health in Tasmania, went back to the Apple Isle and got done by his Cabinet. The three of us across the bottom of the continent—my good colleague David White and my Western Australian colleague and myself—were able to hang in with our Cabinets and get their support. As a result of that we will be introducing legislation next week which, amongst other things, will provide for rotating warnings as agreed by the Health Conference.

SBS TELEVISION

The Hon. M.S. FELEPPA: I seek leave to make a brief explanation prior to asking the Minister of Ethnic Affairs a question about SBS television.

Leave granted.

The Hon. M.S. FELEPPA: There has been much speculation and discussion indeed over the past few days around Australia on doubts about whether or not SBS will survive in its own right. Tonight's Federal budget will give the last blessing on speculation. As part of the explanation, I will read a few points made in a brochure published in 1984 entitled 'SBS must be independent' which states, in regard to the reason why the amalgamation should not take place:

> The ABC has made numerous about-turns in its attitude towards the SBS and national multicultural broadcasting. In 1984, the ABC said it could not undertake the multicultural broadcasting services offered by the SBS, yet only 12 months later the ABC has announced its plans for a take-over bid. Their plan comes at a time when the ABC is still examining its own role in detail and attempting to overcome numerous internal problems. While the ABC attempts to sort out its own affairs, the SBS continues to operate as an efficient and respected multicultural broadcasting organisation. The SBS has not suffered from internal problems or self-doubts. The resources of the SBS may be limited, yet they are put to good and efficient use.

Madam President, I wish to be heard in silence because this is an important matter. I seek your control over the House.

The PRESIDENT: The honourable member's question is perfectly audible to me, but I appreciate that it can be distracting to have background noise.

The Hon. M.S. FELEPPA: The article further states:

> Its dedicated staff believes strongly in the organisation and its objectives, and the building of a multicultural Australia. Recently, the SBS had its own industrial difficulties. Yet these difficulties concerned the wish of all staff to achieve permanent status at the SBS, allowing them to continue to provide Australia with this unique and important broadcasting service.
>
> If the SBS staff is under strain, it comes largely from the frustration of waiting for the Government to make a decision on the future of the SBS and to provide adequate resources to the SBS to achieve its true potential as a unique national television and radio broadcaster.
>
> The SBS is aware of the several alternatives which have been discussed regarding the future of the organisation. The principal danger appears to be an attitude in certain quarters that Australia should have only one Government funded national broadcasting body. This attitude is archaic and out of touch with the realities of contemporary society and broadcasting. In Australia's pluralistic society diversity is a necessity. To have just the national broadcaster to meet the needs of all Australians is unrealistic.
>
> The ABC is currently in the throes of uncertainty mainly because it exists in the old attitude of being a large national broadcasting organisation. The SBS is a perfect example of the future of national broadcasting, a small high-technology organisation with limited overheads, maximum flexibility and high efficiency. The SBS is adamant that amalgamation with the ABC should not take place for several reasons.

I will mention a couple of the several reasons, as follows:

The majority of Australians support the commendation of the SBS as a separate multicultural broadcasting organisation, a situation which would be destroyed by amalgamation with the ABC. The Connor report confirms this public support. The vast majority of the community holds the view that the ABC fails to provide a national broadcasting system reflective of our multicultural society. The Connor review felt the ABC had a less than adequate understanding of the fundamentals of multiculturalism and that it was necessary to 'sensitise' the organisation.

Further, I would like to quote the Minister, the Hon. Mr Sumner, in his submission on the review for the Special Broadcasting Service on 14 May 1984, as follows:

But, on the merits of the question, I do not believe it is appropriate for multicultural broadcasting to be handled by the Australian Broadcasting Commission. I do not think that the ABC really is the appropriate organisation for historical reasons. I do not think it has got the sorts of attitudes or the expertise in this area which would be necessary to have incorporated within it multicultural broadcasting and I think the ABC, in the Dix inquiry, was criticised for not, in fact, having picked up the changing nature of Australian society and having attempted to do something more about it earlier. I just think the whole structure of the ABC is not really designed to give effect to what, I believe, should be the policies in this area which, as I said, should reflect the multicultural nature of our community.

I have a newsletter released yesterday by two bodies in South Australia—the Ethnic Community Council and the United Ethnic Communities, which states:

Ethnic communities across South Australia have resolved to opposer the take-over of SBS by the ABC and will fight such a move. We are angered and disappointed by—
the abolition of the Australian Institute of Multicultural Affairs, the principal independent national structure committed to promoting multiculturalism.
—the severe reduction of funding for English as a second language programs.

The proposed take-over of SBS is a further attack on multiculturalism, a policy which works to end the position of migrants as second class citizens.

Multiculturalism opened up the rapport between minorities and Australian society and showed the capacity of contributing to the social, economic and cultural revitalisation of Australia.

The SBS gave a tangible public profile of multiculturalism and a reason for the ethnic and migrant communities to feel that Australia was beginning to acknowledge their full rights and role. The Minister for Communications, Mr M. Duffy, himself argued that 'The ABC was less than effective in carrying out its charter to respond to a multicultural society.' On 3 July 1985, he stated that there '. . . was no basis to any financial argument advocating any savings entailed'.

There are no logical reasons for the merger given that:

—the SBS has been renowned as a cost-efficient organisation.
—an ABC take-over would mean submerging the multicultural role of SBS under its troubled bureaucracy.
—the SBS represents an important diversification in a country with such strong private ownership of the media.
—the expansion of information technology is critical for Australia's cultural and economic development.

The Connor Report inquiring into SBS also supported the independence of the service.

We are not convinced there are savings to be made in taking such a step, but if there were, does it mean a multicultural Australia is only relevant in good economic times?

The Hon. M.B. CAMERON: A point of order. The Council gave leave for an explanation, but I think it is a little overboard, as it is now seven or eight minutes since the honourable member started explaining his question.

The PRESIDENT: I appreciate the honourable member's concern, but there is not really any point of order. The Council gave leave and quotations may be made, under Standing Order 109, provided that leave has been obtained from the Council. I point out that any member of this Chamber has the right to call 'Question' at any stage, and that ceases any explanation.

The Hon. M.S. FELEPPA: Thank you, Madam President. I am coming to the end of the explanation. The newsletter concludes:

If migrant organisations become increasingly critical of ALP Governments it is because they will be seen to have abandoned the interests of migrants and low socio-economic groups.

The two major umbrella organisations of the migrant and ethnic communities in South Australia, the Ethnic Communities Council and the United Ethnic communities, which represent the interests of 25 per cent of the State's population, adds its strongest voice of protest to that expressed in other major centres.

Given the Bannon Government's support for SBS, its previous representation to the Commonwealth for the extension of SBS services to South Australia and the Minister's personal interest and representation to the Committee of Review of the SBS chaired by the Hon. Xavier Connor, QC, will the Minister tell this Council what stand he has taken or proposes to take in relation to the amalgamation issue? Still the Minister believes that the demise of a unique and highly respected sector of the Australian media would result from any amalgamation, as he stated in a press release of 3 October 1985.

The Hon. C.J. SUMNER: As the honourable member has outlined, the South Australian Government and I as Minister have consistently supported the Special Broadcasting Service, and in particular have supported the extension of multicultural television 0-28 to South Australia. As the honourable member has said, I gave evidence to the Connor inquiry into SBS and advocated at that inquiry, successfully to date, that SBS should continue as an independent service. I am happy today to reiterate the Government's support for the continued independence of the Special Broadcasting Service in accordance with the evidence that I gave at the Connor Inquiry and statements made by me and the Government last year in October when this issue was in the public arena.

I do not know of any decision yet taken by the Federal Government to amalgamate the ABC and SBS. That at this stage is a matter of some speculation, and presumably we will have to wait until this evening to see whether or not that speculation has any basis to it. Nevertheless, the State Government has in the past and still does support retaining the present division of responsibilities between SBS and the ABC and continues its support for the continued independence of the SBS. I believe that an amalgamation would mean the demise of a unique and highly respected sector of the Australian media. SBS has played a special role in broadcasting and is reaching an ever-increasing audience that wants to learn about other cultures and traditions which now make up the South Australian community. It is vital that its programming policies remain independent so that it can continue to provide innovative quality viewing to meet the needs of a diverse society.

Madam President, the Government reiterates its support for SBS as an independent organisation, an independent multicultural service both in radio and television, and would regret any decision to amalgamate it with the ABC. I believe that that would not be in the best interests of the community. As I said before, I have asserted on a number of occasions in the past—the Connor inquiry and publicly last year when this issue was being debated; and I assert it again today—that I do not believe that the SBS should be amalgamated with the ABC and trust that speculation on this topic that has occurred before the budget will not in fact come to reality this evening.

ART GALLERY

The Hon. C.M. HILL: On 7 August I asked the Minister Assisting the Minister for the Arts a question about the security and insurance arrangements of the South Australian Art Gallery, especially following the theft of the valuable

Picasso painting from the Melbourne Art Gallery. I understand that the Minister has a reply.

The Hon. BARBARA WIESE: The Art Gallery has an extensive electronic surveillance system which was upgraded during 1985. When the gallery is open the equipment is operated by security attendants employed by the gallery. After hours, the system is linked to the Department of Housing and Construction's North Terrace security system. Whenever the gallery is open to the public, security attendants are stationed throughout the gallery, thereby supplementing the electronic visual systems. Whenever staff or workmen are in the gallery after normal working hours, a security attendant is on duty. These arrangements are considered to be sufficient for the gallery's needs.

The Art Gallery's collections are insured for fire, earthquakes, storms, floods, leaks, etc., and for burglary and theft. However, given the rapid escalation in the value of works of art in recent years, it is known that some collections are undervalued and that generally the insurance coverage has not kept pace with increased valuations. In effect, the Government is carrying some of the risk involved. Therefore, the current arrangements are being reviewed. In relation to works of art on loan to or from the Art Gallery, all risk insurance cover, up to the current valuation, is provided.

WASTE MANAGEMENT

The Hon. J.C. IRWIN: I seek leave to make a brief explanation before asking the Minister of Local Government a question about waste management fees.

Leave granted.

The Hon. J.C. IRWIN: Some councils have expressed grave concern about the manner in which country waste management fees were introduced. The Local Government Association circular dated 4 July 1986, it states:

> This response is not acceptable to the Association and the manner in which they were introduced—

that is, the fees—

viz, without consultation.

At a meeting in Mount Gambier on 24 June the Chairman of the Waste Management Commission replied to a question saying that the LGA was involved in the discussions on fees, and he went on to say that the LGA did not agree with what was prepared but that the LGA was involved. My understanding is that the Minister told the LGA in confidence what the new fees would be and the new arrangement relating to fees. The LGA objected but held its confidence; in other words, it did not make a press statement on the matter. The Minister made a public announcement embracing the LGA, therefore breaking the confidence. Can the Minister say exactly how much consultation there was with the LGA as to the waste management fees?

The Hon. BARBARA WIESE: First, the matter of whether country councils were to be included in the fee structure for the Waste Management Commission has been discussed in this State since the late 1970s. As anyone who has taken any interest in this matter knows, the original intention of the Corcoran Government when it was about to introduce legislation to set up the Waste Management Commission was to include country councils in the fee structure.

As history has recorded, the Government changed before the Bill was introduced. The matter was picked up by the new Minister of Local Government, the Hon. Mr Hill. He originally intended to include country councils in the fee structure as well, but there was so much outcry from various people that at that stage he decided to bow to the pressure, and he withdrew country councils from inclusion in the fee structure.

Members interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: It had been known since the late 1970s that this was a matter that the Labor Party, in Government, favoured. It has been discussed at various times during the intervening years. For councils to say, as they have been saying recently, that this change to the fee structure suddenly came out of the blue is really quite dishonest, because anyone who has followed the debate has known that this was very likely to happen at some stage.

With respect to the decision taken on this occasion and consultation with the LGA, it is true that I talked with representatives of the LGA prior to the Government's taking the decision that country councils would be included in the fee structure. I did that to let the LGA know in advance that this was something the Government was contemplating, so that I could get its views on the matter and feedback about how it felt councils would react to such a proposal.

The discussions that took place with the LGA were confidential. The LGA respected that confidentiality and we talked about the issues. I obtained the information I wanted from the LGA. It explained its point of view to me, we agreed to disagree, and the Government went ahead with the decision. I do not understand the point made earlier by the honourable member with regard to—

The Hon. J.C. Irwin: Confidentiality.

The Hon. BARBARA WIESE: Yes. That is all I can say. It was done on a confidential basis. The LGA respected that confidentiality. I cannot answer for statements made by people at public meetings.

QUESTION ON NOTICE

FRINGE BENEFITS TAX

The Hon. K.T. GRIFFIN (on notice) asked the Attorney-General: If the State Government intends to pay fringe benefits tax to the Commonwealth, what is the amount of such tax in a full year payable by the Government in respect of—

1. the Attorney-General's office;
2. the Attorney-General's Department;
3. the Courts Department;
4. the judges and magistracy;
5. the Department of Public and Consumer Affairs;
6. the Corporate Affairs Commission,

and in each case, what are the details of the benefits in respect of which the tax is payable?

The Hon. C.J. SUMNER: I refer the Hon. Mr Griffin to the Premier's answer to the Deputy Leader of the Opposition's question on fringe benefits tax on 7 August 1986, on page 180 of *Hansard*.

ADDRESS IN REPLY

Adjourned debate on motion for adoption.

(Continued from 14 August. Page 365.)

The Hon. C.J. SUMNER (Attorney-General): I thank members for their contributions to the debate. Obviously, a number of issues have been raised ranging across virtually every activity of government, and that is traditional. How-

ever, it is not possible for me to comment on every issue that has been raised by members.

However, I would like to address some issues. I should say that the Hon. Dr Cornwall dealt very comprehensively with the issues raised in the health area and also gave a full, detailed analysis of the considerable achievements in the health portfolio during his time as Minister. The issues I would like to address arise from the comments of the Hon. Mr Griffin, the Hon. Mr Hill and the Hon. Mr Lucas. I found the Hon. Mr Griffin's contribution most constructive and useful to the Address in Reply debate in comparison with some of the other performances, which one could only describe as carping and without any particular substance. Nevertheless—

The Hon. M.B. Cameron: Are you talking about me?

The Hon. C.J. SUMNER: I will not be sidetracked from my compliments to the Hon. Mr Griffin, because there is no doubt that the issues he raised about the administration of justice and the problems he posed are worthy of consideration, as indeed are the solutions that he outlined. Certainly, I intend to consider some of the issues that the honourable member raised and I look forward to working with him in so far as legislation is necessary to achieve the objectives he outlined in regard to a more efficient court system and more efficient administration of justice in this State generally.

Regarding the topics he raised, I respond first to the honourable member's comment about the proposal to refer powers to the Federal Parliament to legislate with respect to ex-nuptial children and to give the Australian Family Court jurisdiction in that area. That proposal has been supported by a number of States, but not by Queensland. It would enable most issues dealing with children in a divorce situation to be dealt with by the Australian Family Court. The honourable member asked whether this is necessary and he said that cross-vesting of jurisdiction between the Family Court and the State courts would achieve the same objective. That may achieve the same objective, although the advantage of referring powers to the Commonwealth is that the same law could be administered by the federal courts whereas, if the State courts retained power in regard to ex-nuptial children and if there was a cross-vesting of jurisdiction, there would be the somewhat confusing situation of State law being applied in the Family Court.

The other alternative, of course, is to establish a State family court, which administers the Federal Family Law Act and any relevant State legislation. That situation exists in Western Australia, but Western Australia was the only State that agreed to establish a State family court when the Family Law Act was being proclaimed. No other State took that action and, therefore, there are split responsibilities between the Federal Family Court and the State courts with respect to ex-nuptial children who are not covered by the Family Law Act. Legislation to refer powers on these topics to the Commonwealth will mean that the Commonwealth will be able to legislate and the Family Court can deal with disputes across the board in relation to families. Although there may be some merit in reverting to the Western Australian situation, I do not believe that that option would be accepted by a Federal Government, no matter of what political persuasion.

The other issue which was raised by the honourable member and to which I have referred is cross-vesting. I can advise the Council that, following the Constitutional Convention held in Brisbane last year, it was agreed that, to overcome problems throughout Australia (not in family law exclusively) of issues being raised in one court that cannot be dealt with fully because of the different jurisdiction of Federal and State law, it was proposed that the States vest State jurisdiction in the Federal courts and that the Federal Parliament vest Federal jurisdiction in the State courts, implementing a mechanism for deciding in which court the issue should be determined. It would then be possible for one court to determine the whole range of issues. For instance, where there was a mixture of Trade Practices Act issues and State issues, it would be possible for the one court to deal with all the issues raised, and which court that would be would be determined by the issue of law that was the most substantial. If a trade practices issue was the most subtantial, the matter would go to the Federal Court, the Federal Court having the capacity to deal with State law matters: if it was an issue where trade practices issues were very minor, the State court could make the decisions dealing with both Federal and State law.

That cross-vesting proposition was agreed to last year. Legislation has been developed and all States have agreed to it. The only question at present is whether or not the Federal Government will proceed with its original agreement. We are still waiting to hear from the Federal Government on that topic but, certainly, all States and the Commonwealth agreed with the proposition last year—there is now some doubt as to whether it should proceed because of questions raised by Federal Court judges. I strongly believe that it should proceed and I would support the comments made by the Hon. Mr Griffin with respect to the general question of cross-vesting, although I still believe that the only practical solution in the family law area is for the South Australian Parliament to refer powers on these issues to the Commonwealth Parliament so that it can legislate to cover all issues arising from family break-up. But I repeat that I felt that the honourable member's contribution was most constructive and I believe that many of the issues raised will have to be pursued over the next few years. I also indicate that the Government has announced that it intends to proceed with a courts efficiency package of legislation over the next few years which will involve an administrative appeals tribunal, a separate district courts Act and a number of other measures designed to increase the efficient administration of justice in this State.

The other issue on which I wish to comment is that raised by the Hon. Mr Hill. His contribution addressed a serious subject, but one wonders whether he was dealing with it particularly seriously. Certainly, the issues raised by the honourable member about the development of Adelaide are of great concern and great moment to everyone living in South Australia. The Government shares the concern about continued growth on Adelaide's fringe because of the economic, social and environmental costs that might be involved. The Government certainly wishes to protect from urban sprawl rural areas around Adelaide.

There are two ways to reduce fringe growth: first, decentralisation to regional towns and cities and, secondly, urban consolidation, that is, better use of existing urban areas both through increased density in existing and proposed residential areas and through infill housing on under-utilised land. Decentralisation to country towns is supported by the Government, but I should say it is not always easy to achieve. Such decentralisation reduces the sprawl of Adelaide and brings much needed community facilities to country areas.

Clearly, proper planning is also needed to ensure that many of the disadvantages of large cities are not imported into our country areas. In addition, it must not be assumed (and this is an important point) that growth of regional towns is any cheaper than growth on the Adelaide fringe. The Hon. Mr Hill suggested decentralisation and I think it

was implicit in his statements that decentralisation was a cheaper option than development on the fringes of the metropolitan area. That is far from established and, indeed, decentralisation policies may be more expensive in monetary terms than further development in Adelaide. Water and power supplies are demonstrably more expensive in many rural towns than is the case on Adelaide's fringe. However, the Government supports the growth of towns and cities throughout South Australia and that has already happened in a number of areas, particularly those closer to Adelaide, such as the Barossa Valley, Victor Harbor and Goolwa and, further away, in Port Lincoln, Mount Gambier and Port Augusta. There has been development in those areas, but the policy of decentralisation is very easy to state and everyone can agree with it, but the implementation of it is something that cannot be done simply, and it requires considerable thought.

It is probably worthwhile reiterating that there may be a cost penalty in policies of decentralisation, because many of the facilities in rural areas are more expensive to deliver. That, however, may be offset by improved social living circumstances in the country areas, but it is not something that can be resolved simply. Even if we adopt the whole policy of decentralisation, that of itself will not stop Adelaide's growth. It syphons some of the growth and delays fringe development. In fact, I am advised, Madam President, that the magic 1 million will be passed in the next six months in Adelaide. So I do not know how the honourable member expects to retain Adelaide's metropolitan area at 1 million when that figure is likely to be met within the next few months. Given that that is about to be met, there is a clear need to plan Adelaide's growth and, while one may have alternative policies of decentralisation or alternative policies to try to get higher density living in the Adelaide metropolitan area, there is still a clear need to plan Adelaide at what is now its fringes.

In February 1986 the Government released for public debate a report setting out options available to accommodate Adelaide's future growth. This report identified fringe growth and consolidation (the two I have mentioned) as two options in the existing areas. The Government has now adopted urban consolidation as a key aim and has established working groups to advise on implementation strategies. Further work is also being done on the fringe options.

On 14 August 1986 the Deputy Premier and the Minister for Environment and Planning placed on public exhibition an amendment to the State's Development Plan for the five fringe areas. This plan redefines the boundaries of the option areas to avoid sensitive rural areas such as the vineyards of the Southern Vales and Barossa Valley and watershed areas. It aims to retain the options for long-term growth. The Government is proceeding now with further work assessing the economic, social and environmental implications of each option. Market demands are also being given attention and it was one characteristic of the Hon. Mr Hill's speech that he not only completely ignored the market place, but in fact also ignored what individual South Australians might want to do in relation to where they live. He seemed to create a structure that ignored the wishes of individuals as well as the market in which Adelaide and South Australia might develop. Market demands must be given attention in any planning as, clearly, while governments can influence the market, it is difficult and generally unacceptable to act completely contrary to market demand. It seemed to me that what the Hon. Mr Hill suggested was that one could ignore the market situation.

Placing an artificial limit on the size and/or extent of Adelaide would clearly distort this market. Where would the children of the current generation live and, indeed, what would happen to land prices and individual choice? Accordingly, the Government is adopting a strategy to minimise urban sprawl but recognises that, as further fringe growth is almost certainly inevitable, it is necessary to guide and direct that growth to maximise the benefits and to minimise the costs. Whilst the issues raised by Mr Hill were worthy of further discussion (and he raised some important issues), I think that his approach to it was far too simplistic; it ignored realities. While we can support decentralisation, it is not always easy to bring that about. We can certainly support consolidation in the metropolitan area, but that again, as the honourable member knows, is not easy to accomplish.

As the honourable member would know, because he lives in North Adelaide, the debate about high density living in North Adelaide is always one of the major issues before the City of Adelaide, but it could be argued that, unless people living in the inner metropolitan area are prepared to be more flexible about the planning of their environment, then it is very difficult to get consolidation—and that is higher densities—in the existing metropolitan area. If one cannot get those higher densities in the inner metropolitan area, then there must be planning for the fringe areas and that is what the Government has done. Rather than taking an irresponsible attitude and saying that one should just ignore what might be the growth of the city, we have said that there will continue to be growth of the city, as I am sure the honourable member would concede and, if there is, then it ought to be planned insofar as that is possible, but that does not decry the importance of decentralisation, where that can be achieved, and it does not decry the importance of urban consolidation, where that can be achieved.

It might well we worth noting that it was the honourable member's Government that sold all the land that had been purchased at Monarto. That land may have been an alternative option to development in the south or in the north, but for the moment that option has been destroyed. Even if the Tonkin Government did not wish to go ahead with Monarto, I firmly believe (and I believed at the time and said so in the Council) that it ought to have retained the land in that area for the possibility of future development because, if it is not out there on the other side of the Hills that the development will occur, it may be in the Southern Vales and that will put enormous pressure on the existing rural activities in that area, or it may be further north towards the Barossa Valley. I think that perhaps the Hon. Mr Hill might concede now that the decision to sell off the land at Monarto was a very grave mistake and a very shortsighted approach to the future planning of this city. Even if the land was not to be used now, one really asks: in 20 years time, where will the development occur? There is no capacity to develop in that area, because the land no longer exists there and, if it is to be developed, it would have to be repurchased. Nevertheless, the issues raised by the honourable member are important and I believe that they are being addressed by the Government. The other contribution—

The Hon. Peter Dunn interjecting:

The Hon. C.J. SUMNER: That is a different issue that is being raised by the honourable member.

The Hon. L.H. Davis: It is a valid point: it is about the future.

The Hon. C.J. SUMNER: The honourable member raises a different issue.

The Hon. L.H. Davis: A valid issue.

The Hon. C.J. SUMNER: It might be a valid issue, I do not know. The advice that the Government had was that

the north-south corridor would not be necessary at the present time and indeed in the immediate future and that there ought to be other options in terms of Adelaide's transport, but that is not the issue that the Hon. Mr Hill addressed: he addressed the development of Adelaide. I think it was regrettable that the Tonkin Government sold off the land that had already been purchased at Monarto. Even if the land was not to be used immediately and even if the plan had been put in mothballs for 10 years, there would at least have been the capacity—

An honourable member interjecting:

The Hon. C.J. SUMNER: No, not since Tonkin sold it off. There would have been the capacity to possibly use that land for the further development of Adelaide instead of the pressure that now exists west of the Mount Lofty Ranges, and what will be pressure south and north on very sensitive areas for the economy of this State.

The Hon. C.M. Hill: I'm not very impressed with your response.

The Hon. C.J. SUMNER: The honourable member should be impressed, because it was a very good response.

The Hon. C.M. Hill: You have no real bold plans at all.

The Hon. C.J. SUMNER: Well, the honourable member had no plans at all. He ignored—

The Hon. C.M. Hill: I said we should expand the regional cities. What's that got to do with Monarto?

The Hon. C.J. SUMNER: How will the honourable member expand regional cities?

The Hon. C.M. Hill: Well—

The Hon. C.J. SUMNER: He does not know. What I have said is that the Government supports decentralisation.

The Hon. C.M. Hill interjecting:

The Hon. C.J. SUMNER: If one expands—

The Hon. C.M. Hill: You are going along like a cork on the ocean, not knowing where you are going.

The Hon. C.J. SUMNER: Not at all. If one expands regional cities—

The Hon. C.M. Hill: You don't know where you are going on the question of planning. While you are going along, the city is getting bigger and bigger and you're happy to sit by and see that happen.

The Hon. C.J. SUMNER: The honourable member's Party sold off Monarto.

The Hon. C.M. Hill: That has nothing to do with it.

The Hon. C.J. SUMNER: It has a lot to so with it. That is a fact. The honourable member now talks about expanding the regional cities.

The Hon. C.M. Hill interjecting:

The Hon. L.H. Davis: Why spend all the money building another city instead of building on—

The Hon. C.J. SUMNER: That is an interesting approach from members opposite. I assume that they will press-gang people into living at Oodnadatta because they think it is a nice place to have a regional development. They will press-gang people into living at Mount Gambier. Whether or not there are jobs there, is of no consequence to them. They will just force people out to the regional centres.

The Hon. C.M. Hill interjecting:

The Hon. C.J. SUMNER: What else is the honourable member's proposition? He ignores people's choices and the market forces.

The Hon. L.H. Davis interjecting:

The Hon. C.J. SUMNER: At least Monarto had the advantage of being close to the metropolitan area.

The Hon. Peter Dunn: Is that an advantage?

The Hon. C.J. SUMNER: People basically want to live in the metropolitan area—and that is the fact of the matter—although the honourable member may not. If one is to have a decentralisation policy, as I said, it is not a matter of the honourable member coming in here and saying that we should develop regional centres. Everyone agrees with that. I have just asserted it in my response. The question is how one does it.

The Hon. C.M. Hill interjecting:

The Hon. C.J. SUMNER: I have just outlined the plan.

The Hon. C.M. Hill: You don't have a plan. Your plan is to expand metropolitan Adelaide.

The PRESIDENT: Order!

The Hon. C.J. SUMNER: The honourable member does not want a plan.

The Hon. C.M. Hill: That's a sprawl.

The Hon. C.J. SUMNER: There are strategies for urban consolidation, as the honourable member knows. I know that he lives in a high-rise unit, so probably it will not worry him. However, I suggest that he talk to a few of his North Adelaide neighbours and ask whether they want to live in the same sort of house he does. If they are all prepared to live in the same sort of house as he does, one can get consolidation and high density closer to the city. However, while we have the attitude in Australia—which is fair enough and which has existed for a long time—of people wanting to live on a quarter acre block, where else does one go?

The Government has taken action with respect to these issues. It supports decentralisation but it is not easy to achieve: it supports consolidation in the existing metropolitan area, but unless the honourable member intends to press-gang people into living in other places, that also has some difficulties. The Government accepts those as desirable objectives. However, we also say that there must be planning for the outer metropolitan area. The final contribution I wish to address is that of—

The Hon. C.M. Hill: My problem with the Public Works Standing Committee.

The Hon. C.J. SUMNER: No. I will certainly not talk about the honourable member's problem with that committee. That is something I will let him—

The Hon. C.M. Hill: I asked you some questions in the proper manner.

The Hon. C.J. SUMNER: I suggest that the honourable member address those questions to the Chairman of the Public Works Standing Committee and have the Chairman, on his behalf, take it up with the relevant authorities.

The final matter on which I wish to comment is the Hon. Mr Lucas's contribution to this debate. I confess that I found it the least impressive performance in this Address in Reply debate. There is no doubt that it was characterised by a major ignorance of what has occurred in this Parliament over the past three years. I can only assume that that ignorance was conditioned by the fact that the honourable member did not think he would be a shadow Minister in his first three years in this Chamber. In fact, he repudiated the notion of having any Ministers in this place, and I therefore assume that, during those first three years in this Chamber, he took no interest in the proceedings of this Council.

Had the honourable member taken any interest in those proceedings he would not have displayed the blatant ignorance he displayed during his Address in Reply contribution. By way of response allow me to give the honourable member a brief summary of the legislative changes that were introduced by me as Attorney-General on behalf of the Government and passed in this Chamber. There is no question that anyone examining this list would conclude that it is as constructive a record of legislative achievement in this Parliament as any in the past 15 years.

First, the Juries Act was completely amended to provide that a wider cross-section of people should be obliged to accept jury service; to permit a trial to continue despite the fact that the number of jurors was reduced (that is, in the case of the sickness of a juror); and to provide that at the option of an accused a trial could proceed by judge alone, without a jury, as recommended by the Mitchell Committee. That was a significant change to the Juries Act.

The Evidence Act was changed to provide for the competence and compellability of spouses in criminal proceedings. Significant changes were made in relation to the provision of suppression orders in the courts. There was a major revamp of the old Police Offences Act, the Summary Offences Act. The offences of vagrancy were removed. Changes were made to the offences of loitering. There were a number of updating provisions including modernisation of police powers of arrest and clarification of those powers.

Changes were made to the Criminal Law Consolidation Act to deal with child pornography. A new Bail Act was introduced to provide that those people who should be in prison, even though on remand, were in prison and that the Crown had the right to have a decision to grant bail reviewed. It also provided mechanisms to ensure that people were not held in custody only because they had insufficient financial means to meet the sureties that might be imposed. Evidence was that many people who should not be there were held in custody on remand principally because they did not have the money to put up the necessary surety. Therefore, a completely new Bail Act was introduced that had those two objectives, and I believe that was a significant change to the law.

Provision was also introduced for the interstate transfer of prisoners and parolees. A new Magistrates Act was enacted to provide that magistrates are independent and outside the Public Service, an action that the previous Liberal Government refused to take. In the area of administration, the Legal Services Commission expanded its offices to Noarlunga and Tea Tree Gully, and there will be other developments in that area. With respect to the law relating to sexual offences, the unsworn statement was modified, initially on the initiative of this Government. The admissibility of evidence in relation to prior sexual history when cross-examining a victim of a sexual assault or rape was tidied up and restricted quite significantly. The necessity to give a corroboration warning in sexual cases was abolished, and that is now a matter for the trial judge, depending on the circumstances of the case. The definition of rape was expanded considerably, thereby covering not just simple sexual intercourse but other forced acts surrounding a sexual assault.

A completely new Equal Opportunities Act was introduced which had a number of innovative measures including sexual harrassment provisions. In the area of victims of crime the legislation introduced was the first such legislation in Australia and is generally recognised internationally as having been a significant contribution towards asserting the rights of victims in the criminal justice system. I have taken a personal interest in the matter through addressing both the United Nations Congress on Crime and the Rehabilitation of Offenders and having been asked to participate in seminars this year when international experts have been developing proposals to ensure that the declaration on the rights of victims of crime has been fully implemented in countries throughout the world. That was a significant development—certainly an innovative development—in Australia that has been recognised as such in overseas countries.

Constitutional links with Great Britain were finally severed after negotiations, and legislation was introduced on that topic. The Constitution Act was amended dealing with the length of the Parliament and, in effect, establishing a fixed term for the Parliament ensuring that it must, unless there are special circumstances, run for at least three years and may run up to four years. A completely new Electoral Act was introduced modernising the law and removing the outdated provisions that existed hitherto. Legislation dealing with the declaration of the pecuniary interests of members of Parliament was introduced and passed, and is now operating successfully.

In the area of consumer legislation, a Fair Trading Act will be introduced in this session of Parliament. The Builders Licensing Act updating consumer protection in that area was passed earlier this year. There was a major Bill to assist relationships between commercial landlords and tenants and to assist small businesses in that area. A new Secondhand Motor Vehicles Act was passed—a completely rewritten Act that upgraded consumer protection in that area. A completely new Licensing Act was passed to deregulate and make the obtaining of licences easier. It amounted to a considerable liberalisation of the liquor licensing laws in this State—again a completely new piece of legislation.

Travel agents legislation was passed earlier this year to assist people caught by the defalcation of travel agents. The Associations Incorporation Act and Cooperatives Act were completely rewritten and passed by the Parliament. With respect to the Associations Incorporation Act, we should remember that it was first proposed in 1978 and finally passed in an amended form by the Parliament, having been introduced by this Government in the past three years. So, that short recitation of some of the legislative achievements of this Government gives the lie to criticisms that the Hon. Mr Lucas made of the Government and myself in relation to the legislation reforms introduced into the Parliament.

The other issue on which he commented was that of freedom of information legislation and that, no doubt, will be the subject of debate in the Parliament and this place in future. I do not wish to canvass that further at the moment except to reiterate that the Government supports the principle of the notion of freedom of information, but it has to be properly examined. It would be prudent to examine reviews of the legislation being carried out in Victoria and the federal Parliament, and also in the present climate to note the financial difficulties that exist. I noticed a press report from Victoria stating that the legislation cost the Victorian Government last year $4 million to administer.

The Hon. R.J. Ritson: Do they charge for the information?

The Hon. C.J. SUMNER: Yes, some of it. It said that the Deputy Leader of the Opposition made a request for information to the value of more than $14 000. I suppose the Deputy Leader of the Opposition could be charged, if that is the sort of request he wishes to make. It is a serious issue and the question of the cost of this administration must be addressed when we are considering that Bill, but I will leave further debate on that matter until later.

Finally, the Hon. Mr Lucas mentioned some tardiness in proceeding with legislation on computer related crime. The reason is simply that there is a dispute in the community, amongst lawyers and people involved in this area, as to which way we ought to proceed in dealing with the obtaining of computer information. There are two schools of thought. On the one hand, it is argued that it is undesirable to treat computer related crime in a significantly different manner from similar behaviour not involving a computer. On the other hand, it is argued that, because of the ability of

computers to store large amounts of information which can be rapidly accessed, it is necessary to criminalise activity which would not be a crime if no computer were involved.

The question is whether, because we are dealing with information that is electronically held, it ought to be dealt with by the law in a manner different from other information held. Some questions, for instance, are whether mere unauthorised entry into a computer should be an offence. The question is whether harmless tresspassers breaking into someone else's data base ought to be subject to criminal penalties. Such conduct would not be criminal at present, if no computer were involved. It is not an offence, for instance, to read someone else's material.

Another question is whether unauthorised entry into a secure data bank which resulted in a breach of the privacy of persons to whom the data related should be a criminal offence. Once again, if the material were not stored on a computer no offence would be committed. The question is one of privacy and not a computer question and, therefore, it is a matter of whether unauthorised access to private information, however stored, should be an offence. That is another issue involved in this area. Another issue is that of theft of computer time. At common law the borrowing or using of another's property is not considered a theft since there is no intent permanently to deprive the person of their property.

Again, the question is whether or not, with respect to computers, there should be a distinction between non-electronically held information and information held electronically by a computer. There is the question of whether one criminalises the use of computer time. A number of issues have to be resolved in this area. I personally take the view that legislation should deal with the issues that I have just mentioned, and there are a number of others as well on which one has to decide whether or not criminal penalties should be attaching to the obtaining of information held by computer.

Another school of thought says that we should deal with those issues only where there is a clear case for criminal offences. It says that all we are dealing with are situations in which the computer holds information and, if access were gained, it would not be a criminal offence in another area, for example, if one were to look at a file. Therefore, it ought not to be a criminal offence to gain access to a computer. That philosophical debate must be resolved and, when legislation is introduced into this Parliament, it will be examined and addressed by honourable members.

I raise that matter because the issue is not as simple as the Hon. Mr Lucas apparently made out and there are two philosophical viewpoints. Personally, I accept that legislation is necessary and it may need to cover those issues that I have mentioned to date, as well as other issues. It is worth noting that most Attorneys have taken the view that we should wait for the Tasmanian Law Reform Commission Report on this topic. That has now been produced and recommends that a legislative response to computer misuse should be adopted by all Australian jurisdictions and that the appropriate forum to initiate such a response is the Standing Committee of Attorneys-General. We will continue to deal with that problem through that forum.

However, I expect that once the legislation has been examined in that forum, it will be possible to introduce legislation in the South Australian Parliament. I should say that, because of the technology involved in this area, it would be highly desirable if legislation were uniform throughout Australia. That is another area where the Hon. Mr Lucas displayed his considerable ignorance. I indicate that the matter is being addressed and at the appropriate time I anticipate that legislation will need to be introduced into this Parliament to complement the already considerable initiatives by way of legislation that have been passed here in the past three and a half years at the instigation of the Government through the portfolio of Attorney-General. Any objective observer looking at those matters that I have outlined would see that there has been, as I have already said, a considerable legislative program of reform in the South Australian Parliament during the period of the Bannon Government. I support the motion.

Motion carried.

The PRESIDENT: I inform the Council that His Excellency the Governor has appointed 4.15 this afternoon as the time for the presentation of the Address in Reply. I therefore ask honourable members to accompany me now to Government House.

[Sitting suspended from 4.8 to 4.51 p.m.]

The PRESIDENT: I have to inform the Council, as all members know, that we all proceeded to Government House and there presented to His Excellency the Address in Reply to His Excellency's opening speech adopted by this Council today. His Excellency was pleased to make the following reply:

I thank you for your Address in Reply to the speech with which I opened the second session of the Forty-sixth Parliament. I am confident that you will give your best consideration to all matters placed before you. I pray for God's blessing upon your deliberations.

GOODS SECURITIES BILL

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill for an Act to provide for the registration of security interests in prescribed goods; to amend the Bills of Sale Act 1886, the Consumer Transactions Act 1972, and the Sale of Goods Act 1895; and for other purposes. Read a first time.

The Hon. C.J. SUMNER: 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

It provides the legislative basis to establish a system for registering security interests in motor vehicles and enabling enquiries to be made of the register to ascertain whether a motor vehicle is subject to a security interest. The Bill is related to section 36 of the Consumer Transactions Act. Section 36 provides that where a person, other than a dealer, purchases goods for value, in good faith and without notice of the prior interest of the third party under a consumer mortgage or lease, the purchaser acquires title to the goods notwithstanding the interests of that third party. As the credit provider, who is the owner or mortgagee of the goods, is liable under this section to lose his title or interest to a third party, a system of 'title insurance' was devised to enable the credit provider to ensure against that risk. In order to ensure that only reasonable premiums for such insurance were passed on to consumers, the amount of the title insurance premium that a credit provider may re-charge to a consumer is limited by a scale of premiums fixed by the Commissioner for Consumer Affairs.

Under this system, where a consumer disposes of goods which are subject to a consumer mortgage or consumer

lease and the credit provider has taken out title insurance in respect of the transaction, a credit provider will claim the amount of his loss from his insurer. Where such a consumer disposes of the goods to a dealer and the credit provider becomes aware of this while the goods are still in the dealer's hands, the credit provider may seize the goods from the dealer as a dealer does not obtain title under section 36 of the Consumer Transactions Act. Where the dealer has already sold the goods to another person, the other person obtains good title but the dealer is guilty of conversion. In that situation, the credit provider may claim his loss from the dealer in a claim for conversion or he may claim on his title insurance. If he claims on his title insurance, the insurer will then usually exercise a right of subrogation to recover the loss from the dealer. Motor vehicle dealers have faced an increasing number of claims for conversion as they have no way of ascertaining whether the vehicle is the subject of a security interest and therefore no effective means of protecting themselves from these claims. The essence of this Bill is to enable those who hold security interests to register them and for enquiries to be made of the register as to the existence of security interests.

When the register is operational, its first function will be the recording of security interests in motor vehicles. The Bill allows for the expansion of the system to permit the registration of security interests in goods other than motor vehicles; for example white and brown goods. The present provisions of section 36 of the Consumer Transactions Act will, at this stage, continue to apply to goods other than motor vehicles, in other words, all goods other than those 'prescribed'. The credit provider will be able to register his security interest on application to the Registrar. The definition of security interest is widely drawn to take into account not only consumer mortgages and consumer leases but a wide variety of conmmercial transactions.

Security interests are accorded priority according to the time of registration. It must be noted that there is no obligation on security holders to register their security interests. However, the Act gives priority to a registered security interest over an unregistered security interest. To this extent, the Bill amends the Bills of Sale Act 1986, so that registered security interest will take priority over a registered or unregistered bill of sale. Unlike the Bills of Sale Act, a registered security interest which is an unregistered bill of sale is not void against the Official Receiver of trustee in insolvency. This measure will actively encourage credit providers to register their security interest in motor vehicles. A considerable lead-in period will be provided to allow those with existing security interests to record them on the security interest register and provision is made to maintain any priority interest which exists by virtue of the Bills of Sale Act.

Once a security interest is registered all dealings in the secured chattel are subject to that interest. However, in recognition of the significance of section 36 of the Consumer Transactions Act, a person purchasing from a dealer will not be required to check the register. Rather, the dealer who offers the vehicle for sale will be required to make the appropriate enquiries to ensure that the vehicle is unencumbered. If there is a registered security interest in the vehicle, it would be the dealer who failed to search the register, not the purchaser, who suffers the loss. The purchaser will obtain good title to the motor vehicle. On the other hand, all people who purchase vehicles privately would be required to check the register in order to ensure that the vehicle was unencumbered. Anyone who then purchases goods subject to a registered security interest takes those goods subject to that interest; those who do not register their interests may lose title. The requirement of a private purchaser to check the register represents a reduction in the level of protection presently conferred by section 36 of the Consumer Transactions Act. However, this disadvantage needs to be weighed against the following advantages:

1. The system will be cheaper for the consumer as title insurance will no longer be required.

2. Eventually, with the establishment of a national register system, details of stolen vehicles and encumbered interstate vehicles can be entered on the register making the disposal of stolen vehicles and interstate encumbered vehicles more difficult; and

3. The system will be more comprehensive in that it will not matter whether the security interests arose under a consumer lease or mortgage or under any other type of commercial transaction and is less anomaly ridden than section 36.

Any purchaser wishing to make enquiries of the register may do so by telephone or by making a written application to the Registrar. Upon written application, the Registrar will issue a certificate which will set out all relevant details of security interests registered against a particular motor vehicle. If, for any reason, an error has been made on the certificate the security holder who has suffered loss as a result may make an application for compensation. On the other hand, compensation will not be payable for purchasers making enquiries of the register by telephone. It is important to note that, if a consumer is issued with a certificate which does not disclose a registered security interest, the consumer obtains good title to the motor vehicle and it is the security holder who will have to apply for compensation.

The Commercial Tribunal will have exclusive jurisdiction over applications for compensation and applications to review the Registrar's decisions. In all other matters arising under the Act, it will be a concurrent jurisdiction with the courts. There has been extensive consultation in the formulation of this Bill and it has the active support of the Australian Finance Conference and the South Australian Motors Traders Association. Finally it should be noted that the Government is actively participating in discussions with all other States for the establishment of a national security register. To this end, it may be necessary at some future time to review this legislation to accommodate the development of a national scheme.

Clauses 1 and 2 of the Bill are formal.

Clause 3 is an interpretation provision. Attention of honourable members is drawn to the following definitions: 'prescribed goods' are defined as motor vehicles registered under the Motor Vehicles Act 1959, motor vehicles that have been so registered but are not currently registered under that Act or under any law of another State or a Territory of the Commonwealth, and any goods prescribed by regulation. 'Security interest' is defined in relation to prescribed goods as a mortgage of the goods, a bill of sale over the goods, a lien or charge over the goods, the title to the goods held by a person who has hired out the goods under a goods lease, the title to the goods held by a person who has hired out or agreed to sell the goods under a hire purchase agreement (which is in turn defined to include a sale by instalment), or any other prescribed interest in the goods.

Part II provides for a register of security interests in prescribed goods.

Clause 4 provides that the Registrar (a person employed in the Public Service of the State to whom the Minister has assigned the functions of Registrar) shall keep the register which shall contain such information as required by the Act and as the Registrar thinks appropriate.

Clause 5 establishes the mode of registration of security interests: on application by the holder of a security interest in prescribed goods the Registrar must register the interest by entering in the register identification details of the goods and the holder of the interest, the type of security interest and details of the debt or other pecuniary obligation secured and the date and time of entry in the register. The clause requires the Registrar to register security interests in the same goods in the order in which applications for such registration are lodged.

Clause 6 enables the holder of a registered security interest to vary the particulars of registration.

Clause 7 enables the holder of a registered security interest to cancel registration of the interest. It also provides that the holder must apply to cancel registration within 14 days after discharge of the interest and that it is an offence to fail to so apply. A defence is provided where the failure is not attributable to any lack of proper diligence on the part of the defendant.

Clause 8 deals with correction, amendment and cancellation of entries in the register at the instance of the Registrar. It provides that the Registrar may correct any particulars incorrectly entered in the register and may, where a change occurs in circumstances to which a particular entered in the register relates, amend the entry to accord with that change. It further provides that the Registrar may require a person entered in the register as the holder of a security interest to show cause why registration of the interest should not be cancelled where it appears to the Registrar that an entry in the register should not have been made either because the interest to which it relates does not exist or, is not registrable under this Act, or that the interest has been discharged. Where a person fails to show cause the Registrar may give that person notice of a proposal to cancel registration. That person is given 7 days within which an application may be made to the Commercial Tribunal for a review of the Registrar's decision.

Clause 9 provides for the issue by the Registrar, on the application of any person, of a certificate containing the particulars (other than details of the debt or other pecuniary obligation secured) of all registered security interests in specified goods or, where there are no such interests, a statement to that effect. It further provides that in any legal proceedings, a certificate is admissible as evidence of the matters specified in the certificate.

Clause 10 sets out the mode of making applications under the Act and requires payment of the prescribed fee for each application. Differential fees may be prescribed and the Registrar may waive payment of a fee in appropriate cases.

Part III regulates the discharge and priority of security interests in prescribed goods.

Clause 11 provides that where prescribed goods are purchased from the owner or apparent owner of the goods any unregistered security interests in the goods are discharged. Registered security interests in the goods are discharged if the goods are purchased from a dealer or if the purchaser obtained a certificate from the Registrar that did not disclose the registered interest. Where a person acquires an interest in prescribed goods from the owner or apparent owner of the goods, subclause (2) provides that the person acquires an interest that is valid against the holder of any unregistered security interests in the goods and has priority over such unregistered security interests. Registered security interests in the goods are similarly affected where the interest in the goods is purchased from a dealer or where the person acquiring the interest obtained a certificate that did not disclose the registered interest. Where title to or an interest in the goods is purchased from a dealer and a registered security interest is consequently affected by the operation of the clause, subclause (3) requires the dealer to compensate the holder of the registered security interest for the loss. Subclause (4) ensures that no security interest is affected by the clause where the parties to the transaction are related (this term being defined in subclause (5)) or where the transaction is subsequently rescinded.

Clause 12 establishes the following order of priority of security interests in prescribed goods: a registered security interest has priority over an unregistered security interest (except where the holder of the unregistered security interest has taken possession of the goods in pursuance of rights arising from the interest); registered security interests rank in priority in order of registration (except where an interest is postponed by the holder and this is noted on the register). The clause also provides that where particulars of registration of a security interest are varied to include debts not contemplated in earlier particulars, the order of priority in relation to those debts shall be determined as if the interest had been registered at the date of the variation. The clause provides that a security interest that is a registered charge under the Companies (South Australia) Code is, for the purpose of determining the order of priority of security interests, a registered security interest.

Clause 13 gives the Commercial Tribunal (which may be constituted solely of the Chairman or Deputy Chairman) jurisdiction to determine any questions relating to the application of clauses 11 or 12 to a security interest in prescribed goods and provides that the jurisdiction is not exclusive of any jurisidiction of any court.

Part IV deals with compensation.

Clause 14 provides that a person who suffers loss or damage in consequence of certain administrative errors relating to entries in the register or the issue of certificates, may apply to the Commercial Tribunal for compensation not exceeding the lesser of the amount secured by the security interest and the value of the goods.

Clause 15 provides for the establishment of a fund out of which any order for compensation is to be satisfied—the Security Interest Registration Compensation Fund. The clause requires all fees paid under the Act to be paid into the Fund (after deduction of the costs of administration of the Act) and provides that the Treasurer may advance money to the Fund. It also gives an investment power in relation to the Fund.

Clause 16 is an accounting provision in relation to the Fund.

Clause 17 requires an annual report on the administration of the Fund to be submitted by the Registrar to the Minister who must lay each report before both Houses of Parliament.

Part V deals with miscellaneous matters.

Clause 18 makes it an offence to make a false or misleading statement in any application lodged with the Registrar.

Clause 19 makes it an offence to sell prescribed goods subject to a security interest without the consent of the holder of the interest. It provides a defence where the defendant did not know and could not by the exercise of reasonable diligence have ascertained that the goods to which the charge relates were subject to a security interest.

Clause 20 provides that offences constituted by the Act are summary offences, except the offence constituted by clause 19 which is a minor indictable offence.

Clause 21 provides that section 27 of the Stamp Duties Act 1923 does not apply in relation to entries in the register.

Clause 22 gives the Governor regulation making power.

Schedule 1 amends section 28 of the Bills of Sale Act 1886 to provide that security interests registered under the

measure are not void, as provided in section 28, by reason of not being registered under the Bills of Sale Act 1886. The schedule amends section 36 of the Consumer Transactions Act 1972, which deals with the indefeasible title of a bona fide purchaser for value of goods subject to a consumer lease or consumer mortgage. The amendment excludes prescribed goods from the ambit of section 36. The schedule amends section 25 (2) of the Sale of Goods Act 1895, to provide that the subsection does not operate to defeat an interest that is registered under the Goods Securities Act 1986.

Schedule 2 contains transitional provisions. The schedule provides that where a bill of sale or a charge registered under the Companies (South Australia) Code is registered under this Act during a period declared by proclamation, the date and time of entry on the register shall be the date and time of first registration of the interest under, respectively, the Bills of Sale Act 1886, or the Code.

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

CRIMINAL LAW CONSOLIDATION ACT AMENDMENT BILL

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Criminal Law Consolidation Act 1935; and to make related amendments to the Justices Act 1921, and the Summary Offences Act 1953. Read a first time.

The Hon. C.J. SUMNER: 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

It is identical to a Bill that was introduced in the last session to provide considerable and sensible rationalisation into the criminal law dealing with offences of damage to property and unlawful threats to persons or property. It also makes a number of consequential amendments to the Justices Act 1921 and the Summary Offences Act 1953. In its fourth report entitled 'The Substantive Law' the Criminal Law and Penal Methods Reform Committee of South Australia (the Mitchell Committee) considered that reforms were necessary and desirable with respect to the criminal law of damage to property.

At present, the main statutory offences are to be found in sections 84-129 of the Criminal Law Consolidation Act 1935 and sections 43 and 46-48 of the Summary Offences Act 1953. The main common law offence is the felony of arson—the malicious and voluntary burning of the house, or certain other types of buildings, of another. The Mitchell Committee had highlighted at least five defects in the present law:

(1) most offences are defined in an unduly complex and repetitious manner, a legacy of the drafting practices of past times;

(2) there is no rationalization for the variations among the maximum penalties for certain offences;

(3) the mental element in many offences is formulated obscurely or without precision;

(4) this part of the law is inadequate in its coverage of at least three areas of relevant conduct; i.e. conduct which renders property inoperative, or otherwise effects a material alteration, without necessarily damaging or destroying the property; conduct preparatory to the act of damage or destruction of the property and conduct only amounting to threats to damage or destroy property;

(5) there are some offences which would be more appropriately classified elsewhere in the law.

The Mitchell Committee examined the Criminal Damage Act 1971 of the United Kingdom as a model for reform and concluded it was:

> a major step towards the simplification and clarification of this part of the law. It could well be adopted in its entirety in South Australia.

The Mitchell Committee's discussion then proceeded to canvass a number of suggestions for the improvement and clarification of the United Kingdom Act. As a consequence the recommendations made by the Mitchell Committee with respect to Offences of Damage to Property included the following:

(1) that any reform proposed for this part of the law follow the scheme of the Criminal Damage Act 1971 (U.K.) in enacting one basic general offence in replacement of numerous more detailed offences;

(2) that an owner of property not be criminally responsible for destroying or damaging it;

(3) that, as a matter of general principle, mere interference with property which does not amount to damage or destruction, should not be a criminal offence·

(4) that the mental element of offences in this part of the law be drafted in subjective terms of intention and recklessness as elsewhere in the criminal law;

(5) that the offences proposed in this part of the law be indictable, but triable summarily with the consent of the accused.

One recommendation by the Mitchell Committee was that the separate offence of arson not be retained. However, section 1(3) of the 1971 (U.K.) Act provides that an offence committed by destroying or damaging property by fire shall be charged as arson and a person guilty of arson shall, on conviction on indictment, be liable to imprisonment for life. The Government has considered that the view of the 1971 (U.K.) Act with respect to the offence of arson is preferable to that of the Mitchell Committee. This preference is based on the familiarity and popular acceptance of the offence as well as the assistance it would give in keeping records on pyromaniacs. The knowledge that someone has proved to be an arsonist in the past can be of assistance to the courts if the same person comes before them again.

The Mitchell Committee in its fourth report stressed that in its opinion the law relating to damage to property should not include an offence of damage to property 'aggravated' by the circumstance that danger to persons is involved also. The committee argued that an offence of this kind is an unsatisfactory combination of damage to property with danger to persons. Be that as it may, in reforming the law relating to damage to property some consideration must be given to the issue of damaging property in such a way as to endanger persons. If for no other reason, it is obvious that where the 'aggravating factor' is present, a greater penalty should be available. (The Mitchell Committee considered this issue and proposed two offences: damage to property and danger to persons). An examination of the Criminal Law Consolidation Act 1935 indicates that sections 20 to 38a are concerned with acts causing, or intended to cause, danger to life or bodily harm. Some sections deal with offences such as wounding with intent to cause grievous bodily harm and malicious wounding. Other offences are concerned with specific acts intended to endanger life or inflict injury, but these do not provide a conclusive group of offences. Accordingly, as part of the exercise at hand, it became necessary to make some amendment to provide an

offence of damaging property with intent to cause personal harm. However, the present offences are an unsatisfactory pastiche of sundry offences and were understandably criticised by the Mitchell Committee. That committee recommended the repeal of them all.

It has appeared appropriate to enact a general offence that would deal with this whole topic, including the endangering of a person by damaging property. The reforms that are the object of this Bill are long overdue and remove anachronisms from the law of this State. This measure has received the long and detailed consideration of the Judiciary, the Law Society and prosecutors and defence lawyers. Its gestation has been painstaking, careful and measured. Finally, the Bill also includes a minor amendment to section 285c of the Criminal Law Consolidation Act 1935, that is consequential upon the passing of the Evidence Act Amendment Act 1985.

Clause 1 of the Bill is formal.

Clause 2 provides for the commencement of the measure.

Clause 3 inserts a new definition of 'property'. The clause also makes special provision for the situation where the Act refers to an indictable offence but does not then classify the offence as a felony or misdemeanour. Some sections of the Act rely on the classification of offences within this dichotomy. It is therefore proposed that an indictable offence for which a maximum penalty of imprisonment for 3 years or more is prescribed will, for the purposes of the Act, be classified as a felony.

Clause 4 proposes a new section 19. As part of the review of the law of criminal damage to property it was necessary to address the topic of threats. This led to an examination of section 19 of the principal Act (a section relating to threats to kill or murder) and it was decided that the most efficacious procedure was to repeal section 19 and enact a new section dealing generally with unlawful threats. This new section provides that it will be an offence, punishable by 10 years imprisonment (or, in the case of a threat that relates to a child, by 12 years imprisonment), to threaten unlawfully to kill or endanger the life of another and also an offence, punishable by 5 years imprisonment, to threaten unlawfully to cause harm to the person or property of another. Furthermore, the section is expanded to cover not only written threats but also threats communicated by the spoken word or by conduct.

Clause 5 effects various reforms advocated by the Mitchell Committee. Various sections, dealing with neglect, the abandonment of children where life is endangered, actions intended to cause harm to others and interfering with railways and railway equipment, are repealed and replaced by two all-embracing sections. Proposed new section 29 provides that it will be an offence, punishable by 14 years imprisonment, to perform an act knowing that the life of another will be endangered and intending or being reckless in relation to that consequence. A similar offence is created for acts intended to cause grievous bodily harm. Proposed new section 30 will make it an offence to be in possession of objects intended to be used to kill or harm another.

Clause 6 repeals section 47 (3) of the principal Act, a provision that 'reinforces the old rule that a court of summary jurisdiction may not try cases of certain kinds of common law where a dispute as to title to real property is involved' (See Mitchell Committee, 4th Report, page 208). The Mitchell Committee submitted that the rule is anomalous at the present day and accordingly it proposed that it be removed as a restriction on justices.

Clause 7 contains the most significant reforms to be effected by this measure. The clause proposes the repeal of the whole of Part IV of the principal Act and the insertion of a new Part that will implement several recommendations of the Mitchell Committee. For the purposes of the new Part, 'damage' to property is to include action that depreciates the value of property or renders property useless or inoperative. It is also proposed that the offences will relate to damaging property of 'another' and that a person who damages property will not be regarded as the owner of the property unless he is wholly entitled to the property both at law and in equity. Central to the new Part is proposed section 85 which enacts two basic offences—damaging property by fire or explosives and damaging property generally. The crime of arson is to be retained. It will be a defence to a charge of an offence against the section for the accused to prove an honest belief that the act constituting the charge was reasonable and necessary for the protection of life or property. New section 86 will make it an offence to be in possession of objects intended to be used to damage property of another without lawful authority. Offences against the new Part will be indictable offences except where the damage does not exceed $800.

Clause 8 makes a minor amendment to section 285c to pick up an amendment consequential on the passing of the Evidence Act Amendment Act 1985 (abolishing the unsworn statement).

Clause 9 amends a cross-reference.

Clause 10 provides for amendments to the Justices Act 1921, and the Summary Offences Act 1953, as contained in the schedule to the Bill. The amendment to the Justices Act provides for the abolition of the rule of law preventing a court of summary jurisdiction from trying an offence where a dispute to title exists. The amendments to the Summary Offences Act provide for the enactment of a new section dealing with interfering with or destructing railways, tramways or similar tracks and a consequential amendment relating to interfering with boats.

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

PLANNING ACT AMENDMENT BILL (No. 2)

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Planning Act 1982. Read a first time.

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

That this Bill be now read a second time.

This Bill is designed to expedite the workings of the Planning Appeal Tribunal. At the present time, appeals which were lodged with the Planning Appeal Tribunal in February 1986 are being listed for a September hearing—a delay of some seven months. The rate at which the Planning Appeal Tribunal has been able to hear and determine appeals is substantially below the rate at which appeals are now being received. This has resulted in a backlog of appeals. Delay in the planning jurisdiction is of particular concern as potential development may be abandoned if the appeal processes are drawn out.

An informal *ad hoc* committee comprised of three commissioners of the tribunal, two legal practitioners who work regularly in the planning area and one senior practitioner from the Crown Solicitor's Office, has made some suggestions concerning improvements in the planning appeal mechanisms. The committee's recommendations were based on two factors: first, the fact that many planning appeals deal with limited issues and do not justify consideration by a judge and two commissioners, and second that the current backlog of appeals could be reduced if the need for a judge

and two commissioners to determine an appeal was dispensed with in a significant number of cases.

This Bill encompasses the suggestions for reform made by the committee. The principal change effected by the Bill is that matters coming before the tribunal may be heard and determined by a single judge or commissioner or, as is presently the case, by a full tribunal comprised of a judge and not less than two commissioners. This additional flexibility in the constitution of the tribunal should result in more appeals being heard simultaneously thus reducing delay.

The conference provided for in section 27 is given an expanded role by these amendments. The conference, chaired by a judge or commissioner, will continue to address matters preliminary to the full appeal and, in addition, will be the forum in which it is decided whether the matter should be heard by a full tribunal or a single judge or commissioner. If the parties to the appeal request, the appeal must be heard by a full tribunal. If a section 27 conference is not held or if the conference chairman cannot or does not make a determination on the constitution of the appeal tribunal, the decision as to the constitution of the tribunal for the appeal will be made by the chairman of the tribunal.

These amendments recognise that there are planning appeals which can be determined by a single judge or commissioner but it is expected that the full Planning Appeal Tribunal will continue to play an important role in the determination of planning appeals in this State. I seek leave to have the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clauses 1 and 2 are formal. Clause 3 makes a consequential change to section 24. Clause 4 replaces section 25 of the principal Act. Under the new provision the chairman of the tribunal has power to give directions as to the constitution of the tribunal. This power, however, will be subject to the requirement of subsection (1) that the tribunal be constituted in one of the ways set out in that subsection. The chairman's power is also subject to a determination of the chairman of a conference under subsection (3). Subsection (7) will enable a judge to whom a question of law has been referred to finally dispose of the matter. Clause 5 is a transitional provision.

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

AGENT-GENERAL ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 13 August. Page 276.)

The Hon. L.H. DAVIS: The Opposition supports this amendment to the Agent-General Act. Section 6 of the Act as it now stands provides that the Agent-General should cease to hold office at the end of five years after the date on which an appointment takes effect. In other words, it commits the Government of the day to appointing an Agent-General for a minimum of five years. Most certainly, it is an important position. All States of Australia have an Agent-General in London. Increasingly, that Agent-General and supporting staff have been used not only to recruit migrants from England and elsewhere in Europe but they have increasingly been used to attract business investment and trade to the respective States of Australia. Agents-General and their staff have also been active in tourism promotion for their respective States.

Clearly, in this day and age when we are looking for Agents-General to have a much more active role rather than the ceremonial role that was perhaps more a feature of the office in the 1960s and 1970s, it is important that we have active and competent professional business leaders who can directly have an impact on the English and European communities to which they directly relate.

South Australia has recently appointed a new Agent-General to follow the successful career of Mr John Rundle, who was appointed by the Tonkin Government. To provide Governments of the day with the greatest scope for the selection of this important position of Agent-General, it is commendable to have this Bill to provide that the Agent-General should be appointed for up to five years. This provision opens up opportunities for applications from a larger range of people than was the case with the existing provision, which locked potential applicants into a commitment for a five-year posting to London.

We on this side are conscious of the importance of the post, notwithstanding the fact that increasingly trade, business, investment and tourism promotion is also being directed to the Asian and American markets. We support the amendment and wish to be associated with it. We believe it is a commonsense measure that will be helpful in ensuring that future appointments to the position of Agent-General will take in a large range of applicants who may perhaps be anxious to serve the State for two or three years but not for as long as five years.

The Hon. K.T. GRIFFIN: I take this opportunity to say that, notwithstanding some of the criticisms that have been made about past Agents-General in London as being responsible more for ceremonial functions than for trade and commerce functions, I believe that that view tends to belittle the tasks that have been undertaken by successive Agents-General in London.

The Hon. C.M. Hill: And their staff.

The Hon. K.T. GRIFFIN: Yes. London is still a major financial and trading centre of the world. Some of the most important financial decisions affecting the Western world are still made in the City of London and some of the major trading corporations of the world are still based there. London is still very much the focus for Europe and its role as a doorway for South Australian produce, manufactured goods and services should not be underestimated. I hope that the Agent-General in London can be used effectively to promote opportunities for South Australian exporters of goods and services to the European area of influence and that the office will be able to work effectively with the Australian Trade Commission in London.

Some people say that the Australian Trade Commission ought to be the body responsible for promoting South Australian commercial and trade interests, but my experience with Commonwealth agencies is that they tend very much to be oriented towards the eastern seaboard and that, unless there is a body exerting influence specifically in favour of the less populous States such as South Australia, those with less electoral pull, they suffer some disadvantage in comparison with New South Wales and Victoria. South Australia can provide goods and services that are the equal of if not better than those promoted from those States. Therefore, I am pleased to support the Bill in the hope that it will allow us to expand the opportunities for South Australian exporters and for us to get into the trading and commercial communities of London, Europe and the near Asian areas.

Notwithstanding that, I still believe it is important for us to develop our trade links with our near northern neighbours. That should also be a priority, as it is a priority to trade with Japan and promote opportunities in the United States of America. I have pleasure in supporting this Bill, which I see as really a recognition of the need to make some fine tuning changes to the way in which appointments are made to the office of Agent-General and the way in which the office will be able to exploit opportunities for South Australia in the future.

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

STATUTES AMENDMENT (RURAL AND OTHER FINANCE) BILL

Adjourned debate on second reading.

(Continued from 13 August. Page 276.)

The Hon. J.C. IRWIN: The proposal before us is to consider the cessation of new lending to the rural sector under the Advances to Settlers Act 1930, the Loans for Fencing and Water Piping Act 1938, and the Student Hostels (Advances) Act 1961. These Acts were enacted to provide loans for special purposes to particular categories of rural borrower. The State Bank administers the Acts as agent for the Government. I understand that funds are available from the State Bank and other banks for advances of the nature covered by the three Acts amended by this Bill. It has been decided to discontinue new loans under existing arrangements. The State Bank will continue to act as the Government's agent for the administration of existing loans. The Opposition is satisfied, following consultation, that there is support for this measure and accordingly we support the Bill.

I understand that there has been a continuous decline in the amount of money made available under the three Acts in question. Over the past three or four years, the three Acts plus two other Acts have resulted in little or no new loans being approved. In fact, only under the Advances to Settlers Act have any loans been approved in the past three or four years, and I understand that those loans totalled $35 000. I also understand that total outstanding loans attributable to the three Acts total $2 million. These loans are protected by the Bill. When all loans are finally wound up, the money will be returned to general revenue.

The Premier in his second reading explanation in the House of Assembly acknowledged the amalgamation of the State Bank and the Savings Bank and said that this amalgamation should provide access to a much broader financial base. I note that the State Bank has stressed that it will be able to provide adequate support from its own resources. If this does not happen, the Opposition will ensure that the Government is pressed to make the Act work, and the first recourse should be to the bank and its policies. This is not the time to talk about rural assistance in general.

The Hon. M.B. Cameron: There will be time tomorrow.

The Hon. J.C. IRWIN: That is right. Thank goodness the present weather pattern in South Australia at least takes the thought of drought assistance from our minds.

The Hon. L.H. Davis interjecting:

The Hon. J.C. IRWIN: And thank goodness the Prime Minister cannot do that. No Government can interfere with the weather. The general rural climate is bad enough due to man-made efforts without compounding the situation with drought problems, due to nature. It is interesting and worth noting that the three Acts to be amended are somewhat outdated. New problem areas are emerging, not always connected with agriculture but connected with rural living, and I can instance education for isolated children, and the shortage of medical and hospital facilities, doctors, and specialists in rural areas. Loan moneys as distinct from grants and other arrangements should be considered on a low interest basis if and when the demand is demonstrated to at least enable people living in rural areas to enjoy the same advantage as those living in urban areas. The Opposition supports this Bill.

The Hon. PETER DUNN: In supporting this Bill, I want to bring to the notice of the Government a couple of issues that we must not lose sight of, because they will be eliminated from the Statutes. I refer first to the Advances to Settlers Act. I believe that we have come to the end of the period to which this Act applies. If the problems that are now arising in connection with vegetation clearance controls are any indication, people want vegetation retained: quite obviously, that part of South Australia's development is finished.

The Loans for Fencing and Water Piping Act is slightly different and I suggest that, in my area, perhaps there are still cases for retention of the second part of that Act, namely, that dealing with water piping. In my area, 13 farmers wanted the Engineering & Water Supply Department to provide a scheme whereby those 13 properties which did not have a pipeline running through them would get water. They inquired and were given a quote that suggested it was uneconomical to do so. Those farmers took it upon themselves to provide their own water pipeline over a distance of some 15 miles. They borrowed the money and laid the pipeline. They banded together and took out a common loan which they are administering themselves. I believe that concessional rates are attached to this method of lending and, if that is the case, then they probably are wise to have used it.

Let us be honest about it: in South Australia, this very dry State of ours, if people do not have water, their operations are very much curtailed, particularly when they involve sheep and cattle. Those problems become more significant when one looks at the problem that appears to be around the corner with the wheat industry. Those people will run stock on their properties. Generally, they incur very great costs by carting water, which is a very time consuming and non productive method of keeping sheep, so there will be demands for money in order to establish water piping and water reticulation schemes in some small sections of the State.

This second reading explanation indicates the bank support will be adequate, and I hope it is. In the past we have sometimes seen banking being not terribly progressive and I hope that the banks will not change their emphasis, as they have done in the past few years. In previous times, one went to the bank and put forward to the bank manager one's program for the year. The customer would suggest that, at the end of the season, he would be short of money to the tune of $1 000, or whatever was indicated in the budget. The bank manager then said, 'Well, you can have an overdraft for that amount.' That amount did not attract interest until it was triggered off, or until the account was overdrawn. I am afraid, however, that the method now is that, when money is required at the end of the season, the bank manager suggests that a fully drawn advance be taken out early in the season. Interest is payable on the full amount from the day that the advance is taken out. It is thus costing people using that method considerably more than an overdraft, because sometimes, even though the

facility of the overdraft was available, it did not necessarily have to be used. I hope that the banks honour the commitment given to us by the Government in this second reading explanation and that, when the cause is legitimate, they allow people to borrow funds at reasonable rates in order to carry out those extensions.

Finally, in relation to the Student Hostels (Advances) Act, at the moment there would probably be more pressure than in the past 20 years to have the Government, private individuals or institutions establish student hostels. If the information and the pressure that I have received from the Isolated Children's and Parents Association are any indication, there is a very good case for the Government to establish some residential accommodation somewhere in the State. I believe that the Minister has made statements along those lines, particularly in the northern towns of Port Augusta and Whyalla.

There may be a case whereby, under concessional rates or under a special system, people can receive money from banks in order to establish student hostels. This would be an ideal situation, particularly if it were private enterprise that wished to establish the hostels. As the Minister has indicated, home units are more likely than hostel accommodation. I would think that private individuals setting up such a scheme could use the method of borrowing envisaged. I hope that the banks ensure that funds are available for such cases because, in this State, education at a distance is becoming enormously expensive. Although private schools provide for such cases, they are extremely expensive and no tax concessions are available. I have a son who is doing matriculation this year and, for board and tuition, it costs me about $10 000. That figure is beyond the reach of many people in this State.

The Hon. C.J. Sumner: Why doesn't he go to a local high school?

The Hon. PETER DUNN: I dare say that my son could do that but, when a person lives at Marree, Oodnadatta or somewhere in the bush, it is not possible to do that.

The Hon. C.J. Sumner: A lot of them go to the high school at Port Augusta.

The Hon. PETER DUNN: Where will they go to obtain board and lodging?

The Hon. C.J. Sumner: Plenty of people would take them in.

The Hon. PETER DUNN: You try.

The Hon. C.J. Sumner: I used to live in the bush.

The Hon. PETER DUNN: What—up at Wallaroo or Bute? Come on, you can do better than that! I am talking about people who have a distance problem.

The Hon. C.J. Sumner: They can board at Port Augusta.

The Hon. PETER DUNN: Where?

The Hon. C.J. Sumner interjecting:

The Hon. PETER DUNN: The Minister does not understand the system. Has the Minister ever tried to board his child with another family and, halfway through the year, the family decides to shift, get another job, or the interrelationship between the boarder and the people with whom he is boarding is not as it should be? One can imagine what that does to a student in year 11 or year 12.

The Hon. C.J. Sumner interjecting:

The Hon. PETER DUNN: It is all very well for the Minister to sit there and say that people will take in a boarder. Would the Minister take in a boarder? I suggest that he has not answered that question because he does not want to take one in and I also suggest that other people are in the same boat.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—'Payment of money to the Consolidated Account.'

The Hon. PETER DUNN: Are any concessional rates involved in any of the lending in relation to this Bill?

The Hon. C.J. SUMNER: I will discuss this matter with the honourable member, find out what information he wants and let him have a reply.

Clause passed.

Remaining clauses (3 and 4) and title passed.

Bill read a third time and passed.

LEGAL PRACTITIONERS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 13 August. Page 277.)

The Hon. K.T. GRIFFIN: The Opposition supports this Bill. It comes before us with the concurrence of the Law Society, the governing body of the legal profession. The Bill makes three amendments. First, it repeals section 26 of the Act, which provides for an incorporated legal practice to employ no more than twice the number of directors as employees. That was originally included in the Act to ensure that there was no avoidance of the obligations placed on directors of incorporated legal practices in respect of liability to their clients where there may be alleged negligence or unprofessional conduct. However, I can see that, the Legal Practitioners Act having been in operation for some five years, it is appropriate to review that provision particularly in the light of the fact that a large number of younger legal practitioners are seeking employment. If legal practices do incorporate then the present section 26 will limit the opportunities for those young practitioners to be employed by an incorporated legal practice. I am pleased to be able to support the repeal of section 26.

The second amendment relates to the combined trust account which contains two-thirds of the lowest balance of solicitors' trust accounts at a particular period in each half year. Interest is paid on the amounts and that interest is apportioned between the Legal Services Commission, for legal aid, and the Guarantee Fund, to meet commitments of defaulting legal practitioners. The particular difficulty that is addressed by the Bill with respect to the combined trust account is that presently a legal practitioner may be required to pay a certain amount into the combined trust account from his or her operating trust account to meet the requirement of two-thirds of the lowest balance in the trust account in the preceding six months. then immediately request that money be paid out to meet calls on the operating trust account of that legal practitioner. All that the amendment in the Bill seeks to achieve is the elimination of that in and out payment, provided the auditor reports on the procedures in accordance with the provisions of the Bill.

The third amendment extends the period of time within which complaints under the Legal Practitioners Act must be laid. Although there is no time limit in the principal Act, six months is the provision under the Justices Act and that is to be extended to two years. I accept that, although it is desirable to have complaints laid within the shortest possible time, there are circumstances (such as these) where a longer period of time is necessary both for a complaint to surface and for it to be investigated. It is correct to say that many complaints against legal practitioners are made well after the six month period has expired, and I think it is unreasonable for those complaints not to be pursued against

legal practitioners if there is some substance in the complaint. Again, I am pleased to be able to support the extension of the period within which a complaint may be laid from six months to two years.

I reiterate that the three amendments are made with the concurrence of the Law Society, which puts my mind at ease about all these amendments, if there was any need for my mind to be put at ease about them. I am happy to support the Bill.

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

PLANNING ACT AMENDMENT BILL

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

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

That this Bill be now read a second time.

As the Bill comes from another place, I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

The issues raised in this Bill have been the subject of considerable Parliamentary attention over the past two years. The Government has sought on a number of occasions to overcome problems arising from judicial interpretation of certain provisions of the Planning Act 1982. Section 56 of the Planning Act, the so called 'existing use' provision has been in suspension since late in 1984, and once again the Government is seeking to ensure planning controls strike an appropriate balance between the rights of an individual to continue an existing activity, and the right of the community to ensure that some attention can be given to any expansion or further development of that existing activity.

The debate on section 56 first started in mid 1983, when the Planning Appeal Tribunal ruled, on a number of occasions, that planning controls had no application to further development of land, provided no change in land use occurred. This led the then existing Planning Act Review Committee, to recommend in its published Report in November of that year, the repeal of section 56 (1) *(a)*. That committee foresaw the problems which could arise from allowing continued expansion of an existing activity, irrespective of the impact of that expansion. The committee proposed repeal of the provision, on the grounds that, unlike its predecessor, the Planning and Development Act, the Planning Act itself does not control land use *per se*, but only changes in use. Accordingly the Planning Act is not relevant to continued use of land, but becomes relevant only when further development is proposed. Section 56 (1) *(a)* is simply not necessary to protect a continued use of land. In January 1984, during the public comment period for the Planning Act Review Committee Report, the District Court ruled that the controls on clearance of native vegetation did not apply to a farmer clearing land for continued use of the land for farming purposes. Following that judgment, the Government became alarmed at the apparent wide reaching effect, in both urban and rural areas, of a lack of control over expansion of existing uses. In April 1984, Parliament passed an amendment to allow suspension of section 56 (1) *(a)* should an appeal to the Supreme Court against the District Court judgment be unsuccessful. While the Supreme Court found in favour of maintaining planning controls, and thus obviated the need for proclamation of the suspension provision, a subsequent appeal to the High Court resulted in a judgment in November 1984, which reaffirmed that the Planning Act did not allow control over any development associated with continuation of an existing activity. In the light of that judgment the Government immediately suspended section 56 (1) *(a)*. As the High Court had also indicated that section 56 (1) *(b)*, a transitional provision, also had the effect of rendering any changes to planning controls impotent Parliament agreed to suspend this provision also.

During 1985, the vegetation clearance question was examined by a Select Committee, and in August 1985, in association with the passage through Parliament of the Native Vegetation Management Act, the Government once again sought to overcome the problems associated with section 56 (1) *(a)* and *(b)*. In response to the Government's Bill however, the Opposition and Democrats joined together to establish a Select Committee to inquire into the whole question of existing use rights. While the Select Committee was dissolved with the prorogation of Parliament for the December 1985 election, no attempt was made to re-establish the inquiry by means of a Select Committee.

The Government has now, once again, come to Parliament with a Bill seeking to overcome the difficulties associated with section 56 (1). This Bill is important not only in its content, but in its timing, as the current suspension will lapse on 31 August 1986.

Essentially, the Bill seeks to do three things. Firstly, the Bill aims to repeal the existing use provision in section 56 (1) *(a)*. It is now clear that uncontrolled expansion of any existing activity can create many problems. The Government's view is, and always has been, that the right to continue an existing activity should be protected, but any expansion or further development should be subject to the normal planning rules. The Government is aware that there are many concerns about planning controls being used to block technological change or upgrading of existing facilities. In response, I point out that the definition of development under the Act already excludes from any planning control, replacement of existing buildings, or work within buildings. Upgrading and refurbishment can accordingly take place irrespective of the fate of section 56. As for the fears associated with protection of the right to continue, the Act as structured, has no relevance to continued use of land, as is evidenced by the fact that the provisions of section 56 (1) *(a)* have been suspended since November 1984 without, to my knowledge, any dire effect.

Secondly, the Bill seeks to overcome problems associated with the High Court's interpretation of section 56 (1) *(b)*. That provision was intended to allow a development to proceed or continue where the developer had obtained all necessary approvals, and perhaps even signed contracts for work to commence, and where a last minute change in the planning rules could have frustrated the development. The High Court, however, interpreted section 56 (1) *(b)* in such a way as to render exempt from control any development which could have occurred, without approval, at some time in the past. This effectively undermined the provisions of the Act which enabled the control provisions in the Development Plan to be varied.

Accordingly, the Bill, in a new section 56, provides protection for development approved or commenced prior to a change in the planning rules in the Act or Development Plan.

The third aim of the Bill is associated with a desire to achieve consistency in the layout of legislation. Current drafting practice now places transitional provisions in

schedules to an Act. Accordingly clauses 2, 3, 4, 5 and 7 of the Bill simply transfer existing transitional material in the Act to a schedule under a new section 74. All this material simply duplicates current provisions, with the exception of the new clauses 3, 4 and 5 of the new schedule. These clauses clarify the transitional arrangements for approvals granted under the old Act, and ensure that old approvals lapse after a period equivalent to or longer than the period for which an approval would be valid if issued under the Planning Act.

Clause 1 is formal.

Clauses 2 and 3 repeal sections 3 and 5 of the principal Act respectively. These changes are part of the process of statute law revision. Acts in modern form do not include a provision setting out the arrangement of the Act. Instead a summary of provisions is included at the front of the Act. The principal Act, when republished, will be in this form. Clause 7 of the Bill replaces the substance of section 5 in a schedule at the end of the Act. It is current practise to place transitional provisions in a schedule.

Clauses 4 and 5 remove transitional provisions from sections 20 and 55 of the principal Act. The section 20 provision is repeated as clause 7 of the schedule. Subsection (9) of section 55 will now appear as clause 9 of the schedule. Clause 6 replaces section 56 of the principal Act. The new section provides for matters presently covered by section 56 (1) *(b)*. New subclause (3) protects a person who has not commenced development when an amendment occurs but who has obtained all statutory approvals within 3 years before the amendment.

Clause 7 enacts a transitional schedule which replaces the substance of section 5 except for section 5 (3). This provision has now done its work. Clauses 3, 4 and 5 of the schedule are new. These clauses provide for the validity of planning authorisations under the repealed Act and the period during which planning authorisations remain in operation.

The Hon. M.B. CAMERON secured the adjournment of the debate.

RIVER TORRENS (LINEAR PARK) ACT AMENDMENT BILL

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

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

This Bill extends the expiry date of the River Torrens (Linear Park) Act 1981 from 31 December 1986 to 31 December 1989.

This will permit land acquisitions under the Act to continue until the end of 1989 in line with the revised date of completion of the establishment of the linear park along the River Torrens.

The provisions of the Bill are as follows:

Clause 1 is formal.

Clause 2 amends section 4 of the Act by striking out the existing expiry date and substituting the new expiry date of 31 December 1989.

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

CLEAN AIR ACT AMENDMENT BILL

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

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

This Bill seeks to improve the administration of the Clean Air Act 1984. That Act came into effect on 6 August 1984.

The Act does not provide for delegation by the Director-General to an officer of the Department of Environment and Planning of any of the powers, functions, duties and responsibilities delegated to the Director-General by the Minister.

Accordingly the simple amendment contained in this Bill is to ensure the smooth administration of the Act by providing the Director-General with power to so delegate.

The provisions of the Bill are as follows:

Clause 1 is formal.

Clause 2 amends section 55 (2) of the Act to enable the Director-General to delegate to any officer of the Department of Environment and Planning any power, function, duty or responsibility delegated to the Director-General by the Minister.

The Hon. M.B. CAMERON secured the adjournment of the debate.

NORTH HAVEN (MISCELLANEOUS PROVISIONS) BILL

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

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

The aim of this Bill is to amend the North Haven Trust Act 1979; to make provision for certain matters which are a consequence of the agreement of sale of the land by the Government. The Bill also provides for the sale of the remaining assets of the trust and for the eventual repeal of the North Haven Trust Act 1979; when the trust's work is considered to be finished.

The North Haven Development Act 1972 ratified an indenture agreement between the South Australian Government and the Australian Mutual Provident Society for the sale of land at North Haven to the society for development. The indenture provided that the society was to undertake certain works at North Haven including the construction of a boat harbor. The society was given an option to lease land within the harbor area for marina and commercial development. After partial completion of the boat harbor the society decided not to exercise its options over the harbor land. The Government then stepped in to complete the

harbor and a trust was established by the North Haven Trust Act 1979 to undertake and promote development in the harbor area, which is referred to as the 'Prescribed Area'.

In 1983, approximately 70 per cent of land in the 'Prescribed Area' was sold to Gulf Point Marina Pty Ltd, a private consortium which is proceeding to develop and sell off portions of the land purchased. In 1984, approximately 5 per cent of land in the 'Prescribed Area' was sold to the Cruising Yacht Club of South Australia, being the area that the club had previously leased from the trust.

The North Haven Trust, as part of the agreement of sale to Gulf Point Marina Pty Ltd, undertook to use its best endeavours to ensure that the area of water which is owned by Gulf Point Marina Pty Ltd is never assessed or rated in respect of land tax, sewer rates or water rates and that any land owned by Gulf Point Marina Pty Ltd would not be assessed or rated likewise until such land is connected to both sewer and water mains or until the expiration of the period of eight years from the date of settlement of the deed of sale on 31 August 1983, whichever shall first occur. The North Haven Trust is liable for the payment of any amounts so assessed or rated contrary to the provisions of the agreement of sale.

The Bill therefore provides for exemption by proclamation of certain parts of the land sold to Gulf Point Marina Pty Ltd in the 'Prescribed Area' from assessment or rating under any or all of the following Acts:

(a) the Land Tax Act 1936;

(b) the Sewerage Act 1929;

(c) the Waterworks Act 1932;

Any exemption would be capable of being varied or revoked by proclamation by the Governor.

The passage of this Bill will assist in meeting obligations flowing from the agreement of sale between the North Haven Trust and Gulf Point Marina. I commend the Bill to the House. The provisons of the Bill are as follows:

Clause 1 is formal.

Clause 2 provides that the measure is to come into operation on a day to be fixed by proclamation.

Clause 3 provides a definition of the term the 'prescribed area' used in subsequent provisions. The 'prescribed area' is defined by the clause as the area that became vested in the North Haven Trust by virtue of the operation of section 13 of the North Haven Trust Act 1979.

Part II (comprising clause 4) provides for the amendment of section 14 of the North Haven Trust Act 1979. Section 14 of that Act sets out the functions of the North Haven Trust, namely—

(a) to undertake or promote residential, recreational, commercial, marine and associated industrial development within the prescribed area;

and

(b) to provide services and manage facilities within the prescribed area for the benefit of the public or any section of the public.

The clause amends the section so that the function referred to in paragraph *(b)* above is limited to the provision of services and management of facilities for the public where it is in the opinion of the trust appropriate to do so having regard to the nature and stage of development of the prescribed area. The clause also inserts a new provision into the section designed to make it clear that the trust has and always has had power to dispose of part of the land in the course of the development process and ultimately to dispose of all of the land at the completion of the development process.

Part III (comprising clause 5) provides for the repeal of the North Haven Trust Act on a day to be fixed by proclamation. The clause also provides for the winding up of the North Haven Trust by providing that the Governor may, by proclamation, transfer or distribute any property, rights, liabilities and obligations of the North Haven Trust to or between one or more of the following:

(a) the Crown;

(b) a Minister or Ministers of the Crown;

(c) the Corporation of the City of Port Adelaide.

Finally, the clause makes a necessary provision to continue the prescribed area as part of the area of the Corporation of the City of Port Adelaide.

Part IV (comprising clauses 6 and 7) makes certain provisions relating to the land affected by the North Haven Trust Act.

Clause 6 provides that the Governor may, by proclamation exempt a specified part or parts of the prescribed area from assessment and rating under all or any of the following Acts:

(a) the Land Tax Act 1936;

(b) the Sewerage Act 1929;

(c) the Waterworks Act 1932.

Clause 7 empowers the Governor by regulation to exempt the prescribed area from the application of Part III of the Harbors Act or to declare that a provision of that Part applies to the prescribed area as if it were a harbor and with such modifications as may be prescribed.

The Hon. R.J. RITSON secured the adjournment of the debate.

ROADS (OPENING AND CLOSING) ACT AMENDMENT BILL

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

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

This Bill is designed to reduce from 21 metres to 20 metres, the minimum width of an extension of any main road opened under the Roads (Opening and Closing) Act 1932, and the minimum width of any main road closed in part under that Act. In introducing the Bill, the Government is providing a uniform policy on the width of main roads. In 1978, the Roads (Opening and Closing) Act, 1932 was amended to provide for the minimum width of such roads to be varied from 66 feet to 21 metres. This minimum width of 21 metres was also adopted in 1982 for the purposes of regulation 42 of the Real Property Act (Land Division) Regulations, 1982, made under the Real Property Act, 1886.

However, a submission from the Institution of Surveyors to the Planning Act Review Committee formed to review the Planning Act, 1982, recommended that the minimum width of main roads be reduced to 20 metres. This width of 20 metres is a closer approximation to the former width of 66 feet, and has been adopted by the Commissioner of Highways in relation to roads opened under the Highways Act, 1926. As a result, the Real Property Act (Land Division) Regulations, 1982, were amended in 1985. The present Bill will bring the Roads (Opening and Closing) Act, 1932, into line with the Real Property Act (Land Division) Reg-

ulations, 1982. The Local Government Association has been consulted and has raised no objection to the proposal.

The provisions of this Bill are as follows:

Clause 1 is formal.

Clause 2 reduces from 21 to 20 metres the minimum width in any place of an extension to any main road opened or any main road closed in part, under the Roads (Opening and Closing) Act, 1932.

The Hon. M.B. CAMERON secured the adjournment of the debate.

STATUTES AMENDMENT (ANALYSTS) BILL

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

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

A review of State Government laboratory services was carried out in 1980. This review showed that, at that time, the direct cost of Government laboratory services to this State amounted to $39 million. Of this total some 76 per cent was accounted for by health laboratory services, and the remaining 24 per cent, i.e. $1.6 million, on chemical and physical testing in various laboratories and for a wide variety of Government agencies.

More recently, a financial survey of State Government chemical testing laboratories has shown that the resource cost value of operating such laboratories is $4.9 million. These laboratories include the Chemistry Division of the Department of Services and Supply, the EWS Water Laboratory at Bolivar, the Forensic Chemistry Laboratory at the Forensic Science Centre, the Air Quality Laboratory of the Department of Environment and Planning, the Occupational Health Laboratory of the South Australian Health Commission, and also the Department of Agriculture's Laboratory at Northfield.

The Chemistry Division is this Government's largest chemical testing laboratory and it provides a wide variety of regulatory and other analyses for Government agencies. It cross charges its clients for its services and last year returned receipts of $1.8 million to consolidated revenue. These receipts were an in-payment for the analysis of some 30 000 samples submitted by Government agencies.

Such figures indicate the scale of demand in our modern society for accurate and reliable scientific information. Expert scientific staff, laboratory equipment, and laboratory accommodation are a costly but vital resource, and this Government is committed to the principle of increasing the productivity of these resources, without at the same time decreasing the quality and accuracy of the information they provide to the Government and the public generally.

One essential and overdue productivity measure is embodied in the proposed Bill. This Bill provides for the updating of all statutes dealing with analysis to allow for such analysis to be carried out by technicians under the close supervision of approved analysts, or an approved class of analysts. Here, the term analysis is used in its widest sense of meaning an examination of a substance or thing. Accordingly, the term analyst then means any person who is approved to carry out analysis for the purpose of a relevant statute or statutes.

The environment and the role of the regulatory analyst has changed. Modifications to existing legislation are now required so that analysis work can be administered and carried out more flexibly, efficiently, and at lower cost, but in a different way to that conceived when many of the statutes were originally proclaimed.

Prior to the introduction of modern technology, the reliability and accuracy of analysis depended very largely on the personal abilities of the analyst. Therefore, there was justification in creating legislation which required an authorised analyst to personally and fully carry out each analysis.

Now, the development of modern computers and sophisticated laboratory equipment has provided powerful analytical tools for the analyst. Such equipment can be successfully and efficiently operated by technicians. When properly established in laboratories, these staff and machines form cost-effective analytical systems to produce reliable and accurate results. Such results can be replicated for quality control purposes at precision and detection levels which are unattainable by older, purely manual means. In today's laboratory environment, modern analysts have increasingly become direct supervisors of the technicians engaged in manning and maintaining established analytical systems. This duty has not detracted from the analysts' quality assurance role, nor their role in method development, problem solving, or in the interpretation of results. Instead, the new technology has provided analysts with the means to improve professional standards, yet at a lower cost and to the better satisfaction of the laboratory's users.

The proposed Bill affects the following statutes since these currently require approved analysts to personally carry out analyses of any substances forwarded to them: the Controlled Substances Act 1984; the Agricultural Chemicals Act 1955; the Stock Foods Act 1941; the Stock Medicines Act 1939; the Chaff and Hay Act 1922; and the Food Act 1956. Amendments similar to those made by this Bill to the above Acts are contained in a Bill to amend the Road Traffic Act 1961 to be introduced shortly.

The proposed amendments in the Bill allow those analyses which are now being carried out by technicians under the direct supervision of an approved analyst to proceed as part of the regulatory process if so desired. This improvement will give approved analysts more time to attend to administrative and higher professional duties. Also, it should give laboratories greater flexibility in their handling of urgent work, such as that coming from the recent Gillman and Renmark chemical spills.

The concept of 'analysis under supervision' exists in other States: e.g. in New South Wales legislation and in the national Model Food Act 1983. This Bill therefore brings regulatory analytical practice in South Australia closer to existing practices in other States and the Commonwealth.

The Bill also provides for the ministerial approval, as analysts, of a class of officer. That is, the Bill takes advantage of the classification prerequisites of the Public Service Board for the appointment and gazettal of analysts. Presently, departments and Government agencies propose persons for appointment and gazettal as analysts on a personal basis under the various statutes.

Consequently, there is a time-consuming and continued requirement to maintain up-to-date listings of persons appointed and gazetted as analysts under these Acts. The Bill therefore seeks to amend Acts dealing with analysts to make uniform provision for the appointment by Ministers of a class of persons holding a specific office or offices.

This provision is in addition to the present facility for individual appointments or approvals. Examples of this

more flexible arrangement exist in the Commonwealth Public Service, e.g under the Customs Act and Regulations all professional staff within the Australian Government Analytical Laboratories are appointed generally, although not all these officers carry out analysis for regulatory purposes.

The historic title of Government Analyst has disappeared as a consequence of the recent replacement of the Food and Drugs Act with the new Food Act. The present Bill now reflects that change in so far as other statutes are concerned by removal of that title from such statutes. Ministers will then have the facility of appointing an anaylst or analysts in accordance with their advisory and statutory responsibilities and also the present specialisation and multiplicity of Government laboratories.

The Bill provides for overdue changes to existing statutes and in line with the present nature of Government laboratories and their environment. It draws upon the proven operational experience of other States and the Commonwealth with similar legislation. It will provide Ministers with a uniform mechanism for appointment of analysts under statute. Most importantly, it will improve the timely and cost-effective provision of scientific information to Government and to the public generally.

I commend the Bill to the House.

The provisions of the Bill are as follows:

Clauses 1 and 2 are formal.

Clause 3 amends the Agricultural Chemicals Act 1955. A new definition of 'analyst' is substituted, being a person appointed by the Minister as an analyst for the purposes of the Act or a person holding any office of a class approved by the Minister. The other amendments are of a consequential nature.

Clause 4 amends the Chaff and Hay Act 1922. The new standard definition of 'analyst' is substituted for the existing definition. Provision is also made to facilitate the carrying out of analyses under the supervision of an analyst.

Clause 5 amends the Controlled Substances Act 1984. The new standard definition of 'analyst' is substituted for the existing definition. Provision is also made to facilitate the carrying out of analyses under the supervision of an analyst. Other amendments of a consequential nature are also made.

Clause 6 amends the Food Act 1985. The new standard definition of 'analyst' is substituted for the existing definition. Provision is also made to facilitate the carrying out of analyses under the supervision of an analyst.

Clauses 7 and 8 amend, respectively, the Stock Foods Act 1941 and the Stock Medicines Act 1939. Such amendments to those made in the preceding clauses of this measure are made to each of these Acts.

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

ADJOURNMENT

At 5.43 p.m. the Council adjourned until Wednesday 20 August at 2.15 p.m.