LEGISLATIVE COUNCIL

Thursday 8 October 1992

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

ADELAIDE PARKLANDS

A petition signed by 208 residents of South Australia concerning the Adelaide Parklands and praying that this Council will request the immediate return of the area in the vacant State Transport Authority area—Hackney, now occupied by a building known as Tram Barn A and, further, that this honourable House will direct the Government to order the demolition of this building to make way for parklands was presented by the Hon I. Gilfillan.

Petition received.

SOUTH AUSTRALIAN MEAT AND LIVESTOCK CORPORATION

The Hon. BARBARA WIESE (Minister of Transport Development): I seek leave to make a ministerial statement, on behalf of the very active Minister of Primary Industries, about SAMCOR status.

Leave granted.

The Hon. BARBARA WIESE: The Government believes that it is necessary to clarify the current state of the South Australian Meat and Livestock Corporation's economic position. In August this year, two events occurred which seriously affected SAMCOR's operations. From 17 August T&R Pastoral (50 per cent owned by Metro Meat), announced it would direct all its beef and sheep slaughtering to Metro Meat Abattoirs at Noarlunga and Murray Bridge. On 20 August Holco Ltd (100 per cent owned by Metro Meat), announced it would withdraw from its arrangements to lease a boning room at SAMCOR in favour of Metro Meats Noarlunga abattoir.

Metro Meats is a subsidiary of Adelaide Steamship. In the short time since these announcements the SAMCOR board has responded promptly and positively and is looking to make up lost ground quickly. Through the efforts of the restructured board, an initiative of the former Minister of Agriculture, I can report that SAMCOR is showing strong signs of recovery. Through positive management this most recent challenge is being met. Although throughput volume is still down after the T&R and Holco withdrawals, already beef and pig operations are back to four days a week. Sheep operations are also expected to improve.

The SAMCOR board is setting out to develop new strategies and measures to ensure that despite the loss of important business they will still break even by the end of this month and will be looking for improvement in stock numbers in the near future. I believe proof of the board's dedication to the job at hand is evidenced by SAMCOR's turnaround from an organisation having a $1.7 million loss in 1989-90 to one with a $786 000 profit for 1990-91 and an audited $1.379 million profit for 1991-92. The SAMCOR board is clearly responding to its current business difficulties in a commercially oriented way—by having immediately looked for new clients, improved business opportunities and positive ways to ensure that operations and profitability are maintained.

QUESTIONS

STATE BANK

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

Leave granted.

The Hon. K.T. GRIFFIN: I have a copy of a letter dated 25 August 1992 from a Mr Glynn Hewitt, General Manager of Pegasus Leasing, which displays disturbing arrogance. Mr Hewitt is an employee of the State Bank Group. Pegasus Leasing was originally a Beneficial Finance joint venture bloodstock leasing company, and its operations are currently under investigation. The State Bank assumed management control of Pegasus on 1 July 1991.

The letter of 25 August is to a party against whom Pegasus Leasing has issued legal proceedings and is in response to a request through a third party for Pegasus Leasing to explain its approach to litigation in various finance deals which went bad. I understand that the party to whom the letter was written has also issued proceedings against Pegasus in the Federal Court in New South Wales. Much of the letter is not relevant to the matter I want to raise. The relevant passages are as follows:

> It was a mistake for the partners [that is, the partners of the syndicate against whom action is being taken by Pegasus] to ever believe that the threat of legal action against Pegasus was more likely to induce Pegasus to negotiate a settlement. Pegasus does not settle cases on legal possibilities . . . Due to the financial backing and indemnity provided by the State Government of South Australia, Pegasus does not operate like other financiers. In fact, the surest way Pegasus now has of getting all of its money back is to bankrupt each of the partners.
>
> It would not surprise Pegasus if the partners adopted the same attitude as [another party whose name I do not think is relevant] by deciding to go for broke and continue to seek to have the lease and loan documents declared unenforceable. However, the partners need to be fully aware that 'going for broke' is exactly what they will be doing.

In another letter dated 28 September 1992 from a company called Mauntill Pty Ltd, which was one of the companies in the complex chain of relationships relative to the financing of bloodstock, the same party to whom Mr Hewitt wrote in August, the following appears:

> Of particular concern to Mauntill are the comments by Pegasus concerning the characteristics of Pegasus' financial relationship with the State Government of South Australia. We inquired of Pegasus to establish what was meant by the third paragraph on page three of their letter [and that is the paragraph to which I earlier referred] and were advised by them that in essence Pegasus have an indemnity from the Government on bad or defaulted loans/leases which operates in practice only if the borrower is bankrupted or a court has found the documents to be unenforceable. In other words, Pegasus get paid by the borrower or by the Government, provided the borrower is bankrupt or a court has found the documents to be unenforceable. The above in our opinion results in Pegasus having a different attitude to settlement offers than would most other financiers without the benefit of such indemnity.

There is one further paragraph in the letter from Mr Hewitt which is interesting and which I think ought to be referred to. It reads:

We understand that the partners will be bringing an application for Pegasus' South Australian actions to be stayed and removed to the Federal Court of Australia. Any application will be vigorously opposed by us. Given the relevant facts and the parochial nature of South Australians, we are advised that the application will not succeed.

My questions are as follows:

1. Does the Attorney-General condone the arrogance of Pegasus Leasing in threatening bankruptcy and agree that, as part of the State Bank Group, Pegasus is entitled to rely on the Government indemnity to adopt an intransigent attitude and to underpin excessive legal action?

2. Is the Pegasus Leasing reliance on the Government indemnity to resist moves towards settlement of actions a policy decision of the Government applying to all activities of the board of State Bank Group Asset Management?

3. Will the Attorney-General through the Crown Law officer who is a member of that board ensure that as a matter of policy the board does not place unreasonable reliance upon the Government indemnity to pursue litigation and use the indemnity for what amounts to intimidation purposes?

4. Does the Attorney-General agree with the observation that South Australian courts are parochial, with the inference that such parochialism will benefit bodies such as Pegasus and not necessarily allow decisions to be made on their merits?

The Hon. C.J. SUMNER: I will have examined the matters that have been raised by the honourable member, but I can only assume that the person who wrote the letter is concerned to maximise the return to the State Bank from moneys that might be owing to it, and I should have thought that that was something that the honourable member would commend and not be critical of. I will have to examine the matter. However, I can only assume that that is the motivation behind the actions that were taken by this officer, namely, to maximise the return to the South Australian taxpayer. I should have thought that that objective would have the support of the honourable member but, if he is concerned about the means by which that is being pursued, I will have to examine the issue and bring back a reply.

Obviously, a couple of the questions related to Government policy, which I am not aware of in this area. I do not believe there would have been any direction, in answer to the honourable member's second question, but I will check. As to the attitude of the Crown Solicitor, I will check that as well, and I do not think there is any point in making any comment on the final question.

PORT ADELAIDE

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Minister of Transport Development a question about ships calling at the Port of Adelaide.

Leave granted.

The Hon. DIANA LAIDLAW: 'K' Line (Australia) Pty Ltd, based in Melbourne, has threatened to withdraw its ships from calling at the Port of Adelaide in the future. I refer to a facsimile from the company's Assistant General Manager for National Operations, Mr J.K. Cleary, as follows:

In view of the Department of Marine and Harbors Port Adelaide having leased both Nos 3 and 4 Outer Harbor sheds to Autocare and Mitsubishi, it only leaves No. 2 shed for our use. This shed can only accommodate around 180 to 200 units CBU [complete built up] (depending on size of units). We cannot and will not allow our vehicles to be placed in areas controlled by Autocare and Mitsubishi. We believe No. 1 shed Outer Harbor is unsuitable for the placing and storing of CBU cargo due to sheep residue on shed floor and the fact that the shed cannot be made fully secure.

Please request Adelaide agent [ANL] to approach the Department of Marine and Harbors to consider the following alternatives:

1. Arrange additional fully secured storage area at Outer Harbor such as fenced area at the DMH cost so as to enable a vessel to discharge up to a total of 350 units CBU at least.

2. Review their navigational restrictions of not allowing vessels of 165 m LOA [length overall] to proceed up river to berth at inner harbor berths.

If DMH are not prepared to consider our requests then we must seriously consider withdrawing from calling at the Port of Adelaide in the future.

I have spoken to Mr Cleary today. He has indicated that 'K' Line makes between three and four calls a month to the Port of Adelaide, delivering on each occasion about 250 motor cars, plus 1 000 tonnes of steel coils for General Motors-Holden's. The value of each cargo is worth at least $2 million and, according to Mr Cleary, 'K' Line pays thousands and thousands of dollars wharfage charges to the Department of Marine and Harbors each year. My questions are: what action has been taken by the Department of Marine and Harbors to accommodate the concerns of 'K' Line and to ensure that the company continues to make regular calls to the Port of Adelaide in future? Specifically (and I would not expect the Minister to have this information at hand, but I would like a reply at some later stage), in respect of inner harbor berths, why does the department restrict ships carrying cars to 165 metres length overall while the limit for all other ships is 210 metres length overall?

The Hon. BARBARA WIESE: I understand that some concerns have been expressed by the shipping companies that the honourable member mentioned since the decisions were taken to make facilities available to Mitsubishi and Autocare at the port. The officers of the Department of Marine and Harbors have been having discussions with appropriate people about the concerns expressed. I hope that the discussions that have taken place and will take place will resolve some of the concerns raised. It should be noted that the additional business coming through the Port of Adelaide as a result of the efforts made to woo Mitsubishi and Autocare has been very significant and I am sure that everyone would agree that it is desirable that this business should pass through the Port of Adelaide rather than going through the Port of Melbourne, as I understand was the previous arrangement. Mitsubishi is a large company with big operations here in South Australia and it is desirable that we secure as much of its business as we can. I am not familiar with the details of the matter, but I am aware of the problem. I will seek a report on it and bring it back for the honourable member.

It would be of concern to me if 'K' Line were to withdraw its business from Adelaide. I know that officers

of the Department of the Marine and Harbors also share that concern and will do whatever they can to ensure that that business is retained. I cannot answer the second question at this time but will seek a report on that matter also.

SCHOOL DISCIPLINE

The Hon. R.I. LUCAS: I seek leave to make a brief explanation prior to asking the Minister representing the Minister of Education a question about school discipline.

Leave granted.

The Hon. R.I. LUCAS: In recent days my office has been contacted by dozens of teachers and parents expressing grave concern at the problems with discipline in schools. In many cases teachers are dismayed at the lack of support they receive from the Education Department and the Minister. For example, earlier this year one student, who was a known trouble-maker at a school, was causing a major disturbance on board the school bus.

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: You should hear what teachers are saying to us. He was told by a teacher to get off the bus. However, the student refused and then proceeded to launch a full-blooded right cross flush on the jaw of the teacher, knocking him down.

The Hon. R.R. Roberts interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: I thank the honourable member for a coaching lesson in boxing. The Labor members for Port Pirie have a history in that field. The school naturally took a dim view of this and wanted to, at the very least, suspend the student for some weeks. However, the Education Department told the school that it was inappropriate for the student to be suspended for that period of time and it would be better if the school and the student talked the matter through. The school was outraged at the attitude of the department to this incident.

In response to recent publicity, the Acting Director-General of Education stated on ABC Radio that we were only talking about 100 to 150 problem students in the State. Departmental spokespersons earlier this year stated that we were talking about 1 per cent of our student numbers. However, yesterday the new Minister, in a press release, indicated a completely different estimate of up to 5 per cent of our students having severe behavioural problems. That means the Minister is talking about up to 10 000 students in our schools. My questions to the Minister are:

1. Will the Minister indicate the reasons for the large discrepancy in the estimates of the number of students with severe behavioural problems in our schools?

2. Does the Minister accept that any student who punches a teacher in the way described in this incident should expect to be suspended by the school involved and, if so, will she ensure her departmental officers are advised of the Minister's view?

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

TOPLESS WAITRESSES

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before directing a question to the Minister for the Status of Women about topless waitresses.

Leave granted.

The Hon. CAROLYN PICKLES: In recent days there has been some publicity in the *Advertiser* and in the media generally about topless waitresses. This debate has been going on for a number of years. It was originally raised within the forums of the Australian Labor Party and I have been pleased to see that it has finally had a very satisfactory conclusion, albeit that some publicans are trying to flout the law on the matter. The Minister for the Status of Women is a new appointment, on which I congratulate the Minister, and therefore I think it is appropriate that she answers her maiden question in this portfolio on this subject. Can the Minister explain the debate over topless waitressing which is currently in the media following the ban which was put into effect this month?

The Hon. ANNE LEVY: I am delighted to do so. I think that the *Advertiser* is to be congratulated on its editorial this morning. It is one of the best explanations of the situation that I have ever seen. I am sure that a large number of members will endorse every word which has been stated in today's *Advertiser*.

As the *Advertiser* makes clear, the question whether bar workers or waiters should work topless is a question not of morality but of working conditions. There is a vast difference between whether women should or should not work topless and what is appropriate for a particular calling or profession. The calling of serving at a bar or restaurant has nothing to do with displaying one's body; it is a question of serving food or drink to customers. As the *Advertiser* makes very clear, people should be employed in these professions according to their ability to do so, and whether they wish to work with no clothes on should not be part of that employment.

I think it is worth quoting part of the *Advertiser* editorial. It states:

> It is of fundamental importance that we prevent discrimination against people in the workplace because of their sex or their sexuality. It is also important that an attitude of equality and of inherent dignity be reflected in the working conditions people can expect either by contract or under an award agreement between parties.
>
> So it is quite appropriate for the Liquor, Hospitality and Miscellaneous Workers Union to have struck a deal with industry representatives to ban bar workers being employed on the basis of their willingness to work with no clothes on. The Industrial Commission has ratified the agreement . . .

After pointing out the difference between working conditions and occupational health and safety conditions, on the one hand, and questions of morality, on the other, the *Advertiser* goes on to state:

> The fact is you cannot legislate for morality, and trying to impose it on people with the force of the law is to embrace the prohibition model that has never worked.
>
> It is appropriate, however, to impose standards of employment for bar workers which ensure that opportunity is based on ability and merit, not on the willingness to pander to others' sexual needs.

An honourable member interjecting:

The Hon. ANNE LEVY: That is completely confusing the issue. In relation to the video industry, if people are

employed to make a film that involves their removing their clothes, that is part of that job. But serving beer or waiting at tables has nothing to do with whether or not one is topless. This is confusing questions of morality with questions of what is merit for a job. I agree with what the *Advertiser* has said and, despite the interjection from the shadow Minister for the Status of Women, it is apparent that not all members of the Opposition agree with her on this matter.

The Hon. Diana Laidlaw: Of course they do!

The Hon. ANNE LEVY: The honourable member now suggests that they do all agree with her—which suggests to me that her opinion on this matter is not the same as mine, since the point of view being expressed by way of interjection from one of the members opposite certainly does not correspond with my view. If it corresponds with that of the shadow Minister, it is obvious that there is a fundamental difference between us. However, I have always understood that the shadow Minister holds the same views as I do in this regard and that there should be no confusion in future as to what are questions of morality and what are questions of occupational conditions of work and occupational health and safety measures at work; they are totally different matters. I commend the union and the hoteliers association for the agreement they have reached in this matter, and I reiterate my commendation of the *Advertiser* for its superb editorial in this morning's paper.

FRUIT FLY

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister of Transport Development, representing the Minister of Primary Industries, a question relating to fruit fly.

Leave granted.

The Hon. M.J. ELLIOTT: There has been some change in the rules being applied in South Australia in relation to certain imports of fruit. The ability or otherwise of fruit flies to survive for all or part of their life cycle on grapes is a contentious issue, and one that is causing concern in the Riverland. I have been approached by a number of growers from that area and told that South Australia has accepted research that shows that one type of fruit fly will not use grape berries as a host plant for its full life cycle but that that research has been rejected by authorities in the United States, New Zealand, Tasmania and some Pacific countries.

On the basis of that research, I understand that grapes being imported into South Australia are not required to undergo a period of cold storage to ensure that they are fruit fly free. Growers have told me that they are worried on two counts: first, that, should it be the case that the research findings are faulty and grape berries are able to be a host to a fruit fly, infected fruit will enter the State and contaminate local crops. Secondly, that, even if grape berries cannot host a fruit fly for its entire life cycle, they could provide an acceptable host for a short period, the perceived danger being that, should grapes come into contact with other contaminated fruit interstate, the fly could travel over the border on the grapes and then migrate onto a more suitable host in South Australia.

A number of South Australia's fresh fruit export markets have taken decades to establish, and it has been very difficult to get into a number of other nations. Those markets could be lost overnight should our fruit fly free status be lost. My questions to the Minister are:

1. Is the Minister aware that the research on which South Australia's regulations are based is not accepted elsewhere?

2. Is there evidence to suggest that fruit flies could use grapes as a temporary host and, therefore, be transported into South Australia?

3. What work is being done to monitor whether this is occurring or has occurred?

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

STAMP DUTY

The Hon. L.H. DAVIS: I seek leave to make an explanation before asking the Attorney-General a question about stamp duty on mortgage transactions.

Leave granted.

The Hon. L.H. DAVIS: In recent months publicity has been given to a property transaction between a company in which SGIC Chairman, Mr Vin Kean, was a major shareholder and the Electricity Trust of South Australia. The sale of 1 Anzac Highway from Mr Kean's company to the Electricity Trust attracted considerable publicity, as did also the discovery that only $4 stamp duty was paid on the security documents from SGIC to Mr Kean's company instead of around $70 000, because the transaction circumvented the intention of the law. Following the adverse publicity associated with this transaction, the Stamp Duty Office, jointly with the Lands Titles Office, issued a stamp duty circular dated 25 August 1992, which advised that the Commissioner of Stamps was going to take more active policing measures in relation to stamp duty payable on moneys advanced under mortgage.

Section 79 (3) of the Stamp Duty Act directs that the Registrar General of Deeds shall not register a discharge unless the correct duty has been paid. This tough new approach was to commence on Monday 14 September, but because financial institutions were concerned about the complexity of the new requirement the commencement date was delayed until Monday 21 September. The new policing action requires an additional step in the discharge of mortgages. In the past, documents for the discharge of a mortgage were lodged with the Lands Titles Office at settlement. However, the Stamp Duty Office now requires documents for the discharge of mortgage to be lodged with the Stamp Duty Office, to ensure the correct amount of duty has been assessed and paid. All financial institutions involved in lending on mortgage—banks, building societies and credit unions—have been forced to agree to lodge all discharges with the Stamp Duty Office prior to settlement, to protect both themselves and the incoming mortgagee and/or purchaser.

The Stamp Duty Office advised there would be a five day turnaround in their office for processing the paperwork. The result in the last three weeks has been

pandemonium. Financial institutions are unable to provide the customer service that is expected. A typical contract for sale and purchase of property, as the Attorney would know, provides for settlement within 30 days, which is usually 20 working days. The financial institution first hears of the sale from a landbroker who, in turn, has been advised by the selling agent, under instruction from the client. Generally, this would mean that 10 days or half the contract time has elapsed. The financial institution then quotes a payout figure and prepares a discharge of mortgage to be lodged with the Stamp Duty Office.

Due to the extremely short lead-time and the fact that the Stamp Duty Office is unable to provide both definite advice on procedure and service in respect of turnaround of paperwork, the industry has been thrown into total confusion. I am advised that in the three weeks this new scheme has been operating there have been several hundred settlements which have had to be cancelled because the Stamp Duty Office has not been able to process the documents in time. It appears that well over half of all property settlements in South Australia have been delayed.

This has resulted in hundreds of South Australian families and businesses finding that their settlement date has been delayed, postponed, and in some cases it has resulted in breaches of contract and hundreds of dollars being lost because removalists have been booked or because days have been taken off work for a settlement that did not occur. It has meant that small businesses have had to postpone their opening date, and it has played havoc with people shifting house from the city to the country. Customers have been incensed, distressed, angry and hostile because of this extraordinary debacle. Financial institutions in South Australia have been copping the flack unfairly for this shemozzle. Financial institutions have also been disadvantaged because delayed settlements cost them money, as they are not passing on additional interest charges to borrowers for the delay in settlement.

In addition, I understand that HomeStart loans, which are capitalised indexed loans, are now attracting additional duty on the capitalised interest. Clients were never advised of this burden when they first took out the loan and are not impressed. The Stamp Duty Office also has advised that with interest only loans any interest in arrears has to be capitalised and now becomes dutiable. For most South Australians, settlement on a house is the biggest transaction that they undertake in a lifetime, and to find that the settlement date agreed to is not kept because of Government bungling has understandably outraged the people who have been affected. The Stamp Duty Office ruling has become an administrative nightmare for financial institutions as well as being time consuming and costly.

Financial institutions believe that the Arnold Government has sent a Panzer tank to crack a walnut, as there has never been a serious suggestion that stamp duty has been avoided on residential housing. I am told from people with a long experience in mortgage lending that nothing like this has ever happened before in South Australia, or, to the best of their knowledge, in Australia. If the Arnold Government is not prepared to rectify the present unsatisfactory procedure, financial institutions believe that they will have no alternative but to suggest longer settlement periods—perhaps as long as 60 days. My questions to the Attorney-General are:

1. Will the Government immediately inquire into the extraordinary fiasco of delayed settlements and seek to rectify the situation at the first available opportunity?

2. Will the Government view sympathetically any claims for financial compensation lodged by persons who have incurred unexpected costs as a result of this Government bungling?

The Hon. C.J. SUMNER: That was a question with an explanation which for the most part was out of order as it contained a number of opinions and assertions, Mr President, which is not the usual practice that should be accepted in Question Time. However, we know that the Hon. Mr Davis does not really care about the Standing Orders and his attitude in this Council over a long time has demonstrated that, not only in relation to interjections but also in relation to the sorts of questions that he asks. This question was basically a second reading speech, and it contained a whole lot of opinions, comments and assertions, which may or may not be based on the facts. The other point I would make is that I would have thought that the honourable member was interested in protecting the revenue in South Australia. One has heard comments made previously about the supposed loophole that occurred in the transaction involving Mr Kean—

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: One has heard the honourable member say a lot about the loophole that existed in relation to the transaction involving Mr Kean and ETSA.

The Hon. L.H. Davis interjecting:

The Hon. C.J. SUMNER: Well, the Opposition has commented on it. The Opposition has complained about it, and I am sure if the honourable member had thought about it he would have complained about it. However, we have heard in the public arena complaints about the supposed loophole that existed in the administration of the stamp duties legislation as a result of that transaction. Now, when the Stamp Duty Office takes some steps apparently to correct the problem, to overcome the circumstances that gave rise to that supposed loophole, who objects? It is the very people who have spent the last few months complaining about the ETSA/Kean transaction.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: The honourable member is interjecting and saying that it does not relate to residential housing.

Members interjecting:

The PRESIDENT: Order! The Council will come to order.

The Hon. C.J. SUMNER: Obviously, if there are concerns in relation to this matter then they should be examined. But I assume that the Commissioner of Stamps, in introducing this new procedure, took into account whether or not there was the possibility for the avoidance of stamp duty by procedures that had previously existed and, in order to cut down on that possibility for that avoidance, has put in place procedures to which the honourable member has referred—and

commented on and expressed opinions in relation to, which obviously I am not in a position to agree to at this point in time.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order! The Hon. Mr Davis has had his chance and will come to order.

The Hon. C.J. SUMNER: I would have thought that the honourable member was interested in protecting the revenue, in protecting the stamp duties legislation, and in doing what can be done to prevent the avoidance of stamp duty. But apparently he is not interested in that, unless of course he can use it for some political purpose at some time, as he did with respect to the case of Mr Kean and ETSA. However, having said that and having got the honourable member's agreement to the fact that he does want to protect the South Australian revenue, something I would have thought was—

The Hon. L.H. Davis interjecting:

The Hon. C.J. SUMNER: You don't? The honourable member is shaking his head. Apparently the honourable member wants to encourage tax avoidance in this State.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order! The Council will come to order. Order, the Hon. Mr Davis! Everybody is concerned about Standing Orders. Standing Orders do not provide that interjections shall continue when I call 'Order'.

The Hon. C.J. SUMNER: I do not know whether or not the honourable member is really interested in protecting the revenue and setting up procedures to minimise stamp duty avoidance. Whatever his view on it is, I would expect, as a member of the Parliament, that he ought to be interested in ensuring that the legislation that he is responsible for passing is protected by minimising the capacity for avoidance. I assume that that is what the Commissioner of Stamps has done in this case. If there are some problems in the practical implementation of the new rules, obviously they are things that should be looked at, and I am happy to refer that aspect of the question to the Treasurer for a report.

STATE BANK

The Hon. J.F. STEFANI: I seek leave to make an explanation before asking the Attorney-General, representing the Treasurer, a question about the State Bank's provisioning for bad debts.

Leave granted.

The Hon. J.F. STEFANI: In March 1990 the State Bank of South Australia and at that time its wholly owned subsidiary, Executor Trustee Australia Limited, each provided a fixed and floating equitable charge of $400 million and $600 million respectively to Myadel Pty Ltd to cover advances and other liabilities arising from the construction of the Myer-Remm centre. The Remm Group further made a public announcement that a $550 million syndicated construction and medium-term debt facility had been arranged by the State Bank of South Australia which was acting as the facility arranger and syndicate agent as well as being one of the lead managers.

A report as to the affairs of Myadel Pty Ltd dated 30 April 1990 indicated that as at 30 April 1990 the company had borrowed $309 951 680 from the State Bank. A photograph which appeared on the front page of the *Advertiser* just one month earlier, that is, on 29 March 1990, showed the Myer site at a standstill, stalled by strikes, with a large hole in the ground and only very limited construction progress having been achieved.

In the annual return that was lodged on 31 December 1991 for the financial period ended 30 June 1991, the Remm Group reported outstanding bank loans totalling $655 613 490. From the securities listed in that document it appears that this amount was owed by the company over the construction of the Myer-Remm project.

Not all South Australians would be aware that the State Bank has now taken over control of the Myer-Remm property. The latest Valuer-General's valuation for 1992 (dated 2 July 1992) sets the value of the Myer-Remm property at $150 million. This is half a billion dollars less than the total amount declared as owing by the Remm Group for the construction costs of the project, without considering any outstanding interest or other charges which may be owing to the State Bank. Therefore, my questions are:

1. Will the Treasurer inform Parliament whether the State Bank has made full provisioning for the apparent loss of $500 million against the Remm loan?

2. In which financial periods did the State Bank make such provisioning?

3. What was the total amount written off by the State Bank against the Myer-Remm project?

The Hon. C.J. SUMNER: I will refer the questions to the Treasurer and bring back a reply.

GLENELG TRAM

The Hon. I. GILFILLAN: I seek leave to make an explanation before asking the Minister of Transport Development a question about the extension of the Glenelg tram line.

Leave granted.

The Hon. I. GILFILLAN: This proposal has been around since 1976 and was recently the subject of a draft Travers Morgan Report in which two major options were put forward. Transit Australia quotes the report as follows:

> Suggestions for extension of the tramway by about one kilometre to bring it closer to the central business district and better coordinate with other transport services have been extant since 1976. Even though the State Government made a commitment to the extension a couple of years ago, the duration of the planning and review process make it clear that there is no perceived urgency (or votes) in the $3 to $5 million project.

The Travers Morgan draft report states that the options are, first, to extend northwards along King William Street to the Festival Theatre about 200 metres north of North Terrace and, secondly, to extend to the Adelaide Railway Station, turning west from King William Street into North Terrace with the concomitant cessation of the free Beeline bus which serves this route.

In relation to the analysis of option one, that is, the extension to the Festival Theatre, the report states:

> Initial analysis of option 1 showed that extra tram capacity would be required. Maximum load demand in the peak totalled some 1 940 trips and compared to the existing maximum of around 1 700. The analysis suggested that five to six extra two-car tram sets (nearly double the current peak fleet) would be required to cater for extra demand generated by the extension.

The effects of the extension to Adelaide Railway Station, option 2—

which certainly appears to be much more advantageous than option 1—

are generally the same as the Festival Theatre extension but larger. Inbound maximum tramloads would be about 2 000 in the peak. The advantages of options 1 and 2 were shown to be: a modal shift from bus to tram; improved city egress for existing tram passengers; improved access/egress for Adelaide Railway Station users, especially under option 2, improved distribution for others within Adelaide CBD; trip generation estimated to be at least 230 trips per day especially under option 2.

The report says the travel time from Victoria Square to the station would be around five minutes, a surprising figure considering the number of stops and intersections . . .

Both option 1 and option 2 extensions result in considerable net benefits to passengers. These are higher for the tram extension to Adelaide Railway Station (option 2). The net benefits results in shifts in demand from bus to tram and in the generation of new public transport demands.

There are other points which, although not covered in the Travers Morgan report, are significant in this proposal. They include the better integration of transport with more accessible transfer between tram, train, bus and North East busway services which would quite markedly increase the overall use of public transport. Of course, there is the tourist appeal of a tram featuring through the main city street. I ask the Minister:

1. Does she recognise the significant advantages as spelt out in the report to the extension of the Glenelg tram line, in particular to option 2, that is, to the railway station?

2. Does she have any intention of extending the tramway northwards from its current Victoria Square termination?

3. Does she have any intention of further investigating such a proposal as outlined by the Travers Morgan report?

The Hon. BARBARA WIESE: As I understand it, during the past financial year the State Transport Authority had another look at this question of the extension of the tram beyond Victoria Square and came to the conclusion that there would be a net benefit to transport users should the tram be extended to the Adelaide Railway Station or that vicinity. As I understand it, the testing using various computer modelling and other methods indicated that to extend the tram to the Festival Centre would not provide additional benefits that would make such an extension worth while but that to extend the tram to the Adelaide Railway Station area would be the desirable option.

I believe that further work on this matter has been postponed because work is taking place on the general question of the redevelopment of Victoria Square and, until there is a firmer view about what sort of redevelopment should take place in that area, the question of what to do with the tram and how it might be extended is not to be pursued any further. However, one would expect that any proposed new layout of Victoria Square would incorporate provision for extension of the Glenelg tram. That is my understanding of the situation and the status of the matter at this point.

The Hon. I. GILFILLAN: As a supplementary question, although I appreciate the Minister's answer, I just ask her to clarify this point: does she see sufficient significant merit in the proposed extension that she will energetically support the project?

The Hon. BARBARA WIESE: This is not a matter to which I have turned my attention in any detail during the past four days or so that I have been the Minister of Transport Development, and I am sure that at an appropriate time it will be a matter to which I will be able to give more detailed attention and determine whether or not I believe that it ought to be a priority project within the overall projects to be pursued by the State Transport Authority, bearing in mind that there are considerable cost pressures and constraints upon the authority at the moment, and that that is likely to continue into the future. This project will have to be measured alongside others as to how much benefit can be provided for the people of South Australia, and at an appropriate time that will be one of the issues to which I will turn my mind.

ROAD MAINTENANCE

The Hon. PETER DUNN: I seek leave to make a brief explanation before asking the Minister of Transport Development a question about road maintenance gangs.

Leave granted.

The Hon. PETER DUNN: Last week a mother and her four year old son were killed on the Strzelecki Track, approximately 50 miles north of Lyndhurst. The accident occurred on a section of road that is unsealed, and I can say that with confidence because, other than the first 100 metres north of Lyndhurst, there is no sealing on the Strzelecki Track. The cause of the accident was dust. The Strzelecki Track services not only station country bordering the track but also the very important Moomba gasfield pumping station and its satellite stations, which have a value estimated to be $1.8 billion.

Running roughly parallel to the Strzelecki Track is the Birdsville Track, some 560 kilometres in length. Also in the area is the Marree to Oodnadatta road, the Coober Pedy to Oodnadatta road and many other internal roads which are used by the tourists to a great degree and all of which are unsealed.

In the past two years we have seen the withdrawal of maintenance gangs from Coober Pedy and Yunta and the reduction in permanent staff in the northern region. There have been no new sealed roads in this region other than the Port Augusta to Alice Springs highway (which was a special Federal grant) in the past 10 years, yet there have been plenty in the peri-urban areas of Adelaide.

Bearing in mind that much of the State's export income is realised from the northern areas and that fatal accidents do occur in those areas, and given the dust and loose surface, will the Minister give a commitment to at least:

1. increase road funding for the northern area;

2. replace the maintenance gangs at Yunta and Coober Pedy or Marla; and

3. review funding of the northern area for the construction of more sealed roads?

The Hon. BARBARA WIESE: I think the honourable member slightly misrepresents the position when he gives the impression that very little road work is being carried out in country areas. As I understand it, the situation is not as he presented it and, in these coming 12 months, a considerable number of projects are related to roads in

country districts. In fact, I know that funding is being set aside for road projects on Eyre Peninsula—the area from which the honourable member comes. There are other country areas where road projects will be undertaken.

As to the specific questions that the honourable member asks about the roads in question and decisions that have been taken in the past, as well as attitudes to the needs of road upgrading in that area, that is something that I will have to make inquiries about and bring back a report.

ARTS AND CULTURAL HERITAGE DEPARTMENT

The Hon. J.C. IRWIN: My question is directed to the Minister for the Arts and Cultural Heritage. Is it correct that at Executive Council today no person was appointed to fill the position of CEO of the Department for the Arts and Cultural Heritage—a position now vacant following the Premier's announcement last Thursday that Ms Anne Dunn is to be moved to head the Department for Family and Community Services? Is the position in the Department for the Arts and Cultural Heritage to be advertised or will the new CEO be appointed from among officers on the unattached list, such as the former CEO of Fisheries or Woods and Forests, or any other former CEO who is now an unattached person?

The Hon. ANNE LEVY: It is certainly true that no-one has been appointed as yet to the position of CEO of the Department for the Arts and Cultural Heritage. However, I have appointed an acting Chief Executive Officer, who will commence duties tomorrow until the matter of a Chief Executive Officer has been resolved. Discussions are continuing, and certainly will continue, and I hope that the question will be adequately resolved in a short space of time.

I should point out to the honourable member that relying on Samela Harris's 'Backchat' column as a source of information is not a reliable procedure. There are at least four inaccuracies in today's 'Backchat' column of which I am personally aware, and it may be that there are many others as well which people with more knowledge would be able to elucidate. So, I suggest that the Hon. Mr Irwin should not rely on that as a source of information.

The Hon. J.C. IRWIN: By way of supplementary question, will the Minister inform us of the name of the person who will fill the temporary appointment? When will the matter be finally resolved, in what time frame and, as I asked originally, will the position be advertised?

The Hon. ANNE LEVY: The name of the person who has been appointed as Acting Chief Executive Officer is Mr Stephen Tully. The Director of the Corporate Services Division of the Department, as the most senior divisional head in the department, is currently on leave and hence not available. I have already indicated that discussions are continuing regarding the appointment of a permanent Chief Executive Officer and I certainly hope that it will be finalised in the near future.

Members interjecting:

The Hon. ANNE LEVY: I said that discussions are continuing. Obviously these people cannot hear what I am saying. Discussions are continuing regarding the filling of the vacant position of Chief Executive Officer of the department. I hope that these discussions will be finalised in the near future.

TOURISM MINISTER

The Hon. M.J. ELLIOTT: I seek leave to make a personal explanation.

Leave granted.

The Hon. M.J. ELLIOTT: On 23 August 1992, on ABS Channel 2 there was an item concerning the terms of reference of the inquiry established to investigate allegations made against the former Minister of Tourism. In that item, the ABC used a clip of what I had said on 16 April 1992, some four months earlier. I believe that by taking one sentence of that interview out of context ABS2, in their broadcast of 23 August 1992, have changed the effect of my comment. Nevertheless, I accept that my statement that the inquiry was a sham and set up to give a particular result was wrong. Further, I did not in any way intend to suggest improper actions on the part of the Attorney-General or the Government in the setting up of the inquiry. To the extent that my comment gives rise to such suggestion, I dissociate myself from it and apologise for any harm or embarrassment caused by it.

FINANCIAL TRANSACTIONS REPORTS (STATE PROVISIONS) BILL

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill for an Act to provide for the giving of further information in relation to suspect transactions reported under Financial Transactions Reports Act 1988 of the Commonwealth and the giving of information in relation to other suspect transactions and for related purposes. Read a first time.

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

That this Bill be read a second time.

A major development in the fight against organised crime has been the establishment of the Cash Transactions Reports Agency under the Commonwealth Cash Transactions Reports Act. That Act requires financial institutions and cash dealers to provide the Cash Transactions Reports Agency with reports of transactions which may be relevant to the investigation of breaches of taxation and other Commonwealth laws. The Cash Transactions Reports Agency can pass that information on to law enforcement agencies including State Police Forces. The legislation has, from the State's point of view, two shortcomings:

First, although the agency is empowered to distribute information received from cash dealers to State Police Forces, the Act does not provide any protection to cash dealers who provide further information in response to follow-up requests from State police.

Secondly, there is no obligation placed on cash dealers to provide information about suspected offences against State criminal law or information which may be relevant to actions under the Crimes (Confiscation of Profits) Act.

Section 16 of the Cash Transactions Reports Act (Commonwealth) requires a cash dealer who is a party to a transaction and who has reasonable cause to suspect that information he or she has concerning the transaction may be relevant to the investigation of an evasion of tax law or to the investigation of an offence against the law of the Commonwealth, to prepare a report of the transaction and communicate to the Director of the Cash Transactions Reports Agency. The cash dealer must also if requested to do so by the Director give such further information as is specified in the request to the extent to which the cash dealer has that information. It is not an express object of the Act to require the Director to collect information for the purposes of helping State authorities to enforce State laws but information is made available to State authorities which has already been collected for the purpose of facilitating the administration and enforcement of Federal laws.

Once information is passed on to State police the need invariably arises for a law enforcement officer to seek further information and/or documentation from the cash dealer. While there is nothing in the Act to prevent a cash dealer from voluntarily supplying the information where it is requested by a State agency, there is no compulsion upon the cash dealer to do so, whereas when a Federal agency requests such information it must be provided as a right and the cash dealer is covered by the indemnity in subsection 16 (5) of the Commonwealth Act. In the absence of compulsion and the provision of statutory protection the cash dealer who supplies such information may be in breach of an implied duty of confidentiality owed to the customer. The Standing Committee of Attorneys-General has considered the matter and model State legislation has been prepared which requires:

(a) cash dealers to provide further information to State police regarding offences against State law;

and

(b) cash dealers to report to the Director of the Cash Transactions Reports Agency on transactions which may be relevant to the investigation of offences against the law of the State or may be of assistance in the enforcement of the Crimes (Confiscation of Profits) Act.

The legislation also protects cash dealers against legal action in relation to the provision of that information. The reasons for preventing the bringing of proceedings against cash dealers who provide information as required by the amendments are as follows:

(a) without such protection cash dealers who comply with the reporting obligations imposed by the section will be exposed to the risk of civil suit for breach of obligations such as confidentiality to customer account holders;

(b) if cash dealers are not given such protection the objective of the legislation of ensuring the flow of reliable information to law enforcement authorities will be defeated;

and

(c) the section complements the existing Commonwealth legislation in that the proposed section 7 is in terms similar to the corresponding Commonwealth provision.

This Bill conforms to the model agreed to by the Standing Committee of Attorneys-General. It is considered that this legislation will increase the effectiveness of the Cash Transactions Reports Agency as a law enforcement tool by enabling the State to make full use of CTR information which is currently provided to the police by the CTR agency and to enable the State to access further information as may be necessary. The Commonwealth is in agreement with and supports the form of the legislation. Legislation of this nature has already been passed in Victoria and it is hoped that sufficient States will have passed the legislation by December 1992 to allow for a common commencement date, as has been requested by the Australian Bankers Association.

It should also be noted that the Commonwealth legislation has been renamed the Financial Transactions Reports Act and the Cash Transactions Reports Agency has been renamed the Australian Transactions Reports and Analysis Centre but the amendments effecting these changes have yet to be proclaimed. I commend this Bill to honourable members. I seek leave to have the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

PART 1
PRELIMINARY

Clause 1. Short title

This clause is formal.

Clause 2. Commencement

This clause provides for the commencement of this measure on a day to be fixed by proclamation.

Clause 3. Interpretation

This clause defines the terms 'Commonwealth Act' 'court' and 'protected information' and provides that expressions used in this measure have the same meaning that they have in the Commonwealth Act.

Provision is made for the interpretation of references to the Commonwealth Act prior to the commencement of the Cash Transactions Reports Amendment Act 1991 of the Commonwealth. That Act changes the name of the Cash Transactions Reports Act (the Act that currently deals with this matter at the Commonwealth level) to the Financial Transactions Reports Act.

Clause 4. Act binds Crown

This clause provides that this measure binds the Crown as far as the legislative power of the State permits.

PART 2
REPORTS, ENFORCEMENT AND SECRECY

Clause 5. Further reports of suspect transactions

This clause provides that where a cash dealer has reported a suspect transaction to the Director of the Commonwealth Cash Transactions Reports Agency the dealer must, if a request is made by the Commissioner of Police or a relevant member of the Police Force, supply information that is relevant to the investigation or prosecution of a person under a law of the State or to the enforcement of the Crimes (Confiscation of Profits) Act 1986.

Failure to comply with such a request renders a cash dealer that is a body corporate liable to a division 3 fine ($30 000) or, where the dealer is a natural person, a division 5 fine ($8 000), division 5 imprisonment (two years) or both.

Clause 6. Reports of suspect transactions not reported under Commonwealth Act

This clause provides that where a cash dealer has reasonable grounds to suspect that information held by the cash dealer concerning a transaction undertaken by the dealer would be relevant to the investigation or prosecution of a person under a State law or to the enforcement of the Crimes (Confiscation of Profits) Act 1986, the dealer must communicate the information to the Director of the Commonwealth Cash Transactions Reports Agency.

Failure to make such a report will render a cash dealer that is a body corporate liable to a division 3 fine ($30 000) or, where the dealer is a natural person, a division 5 fine ($8 000), division 5 imprisonment (two years) or both.

A report is required whether or not the cash dealer is also required to report the transaction as a significant cash transaction under Division 1 of Part II of the Commonwealth Act, but is not required if the dealer is required to report the transaction as a suspect transaction under Division 2 of Part II of the Commonwealth Act.

Just as South Australian police may require a cash dealer to supply further information in relation to a transaction reported under section 16 of the Commonwealth Act, they may also seek further details following a report made under this clause. The penalty on non-compliance with such a requirement is the same as the penalty for failure to make the original report under this clause.

Clause 7. Protection of cash dealers, etc.

This clause protects cash dealers and their agents or employees from legal liability in relation to any action required of them under this measure or undertaken in the mistaken belief that the action was required of them under this measure.

The clause further provides that compliance with section 16 of the Commonwealth Act or clause 5 or 6 of this measure in relation to a transaction provides a cash dealer with a defence against a charge of money laundering under section 10b of the Crimes (Confiscation of Profits) Act 1986 arising out of the circumstances of the transaction.

Clause 8. False or misleading statements

This clause penalises the making of false or misleading statements under this measure.

The penalty for the making of such a statement is a division 2 fine ($40 000) or, where the dealer is a natural person, a division 4 fine ($15 000), division 4 imprisonment (four years) or both.

Clause 9. Secrecy

This clause prohibits police who have received information under this measure from making a record of that information or from divulging that information except in the performance of a duty relating to the enforcement of a law of the State, the Commonwealth, another State or a Territory.

The penalty for making such a record or divulging such information is a division 5 fine ($8 000) or division 5 imprisonment (two years) or both.

A person is not required to divulge or communicate protected information to a court unless it is necessary to do so for the enforcement of a law of the State, the Commonwealth, another State or a Territory.

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

PRIVACY BILL

Adjourned debate on second reading.

(Continued from 7 October. Page 380.)

The Hon. J.C. BURDETT: I rise to speak on the second reading of this toothless tiger of a Bill without any great enthusiasm. I spoke on the previous Bill in opposition to creating a tort for breach of privacy and I spoke against that Bill on the same basis. I am pleased that this aspect of the previous Bill has been dropped. However, the present Bill, while less lethal, is no more palatable. It sets up a statutory privacy committee in place of a privacy committee which has been established administratively for some time. Big deal! It also gives statutory authority to the principles of privacy which have operated administratively within the public sector for some time. Again, big deal! It appears to me that when the Government found itself looking down the barrel in regard to the first Privacy Bill and being obsessed with some sort of Privacy Bill it brought in this present Bill.

The Hon. Mr Elliott, in his contribution yesterday, said:

> Let me say at this point that I fail totally to understand the reasons behind the Independent Labor members' opposition to this Bill. I can only assume that the comments of Terry Groom, that it 'sets up a meaningless bureaucracy that will go nowhere and do nothing', are born of pique that his committee's ideas have been superseded.

I do not know how he can make this distinction between a Bill creating a statutory tort of breach of privacy and a Bill merely setting up a committee on a statutory basis, which committee already exists. There is a great gulf. There may have been some measure of pique on the part of the Hon. Mr Groom, but there has also been an obsession on the part of the Hon. Mr Elliott to establish a statutory privacy committee for some time. I hasten to add that I am a strong supporter of individual rights of privacy, but Labor Governments seem to have the attitude that if there is some problem in society it can be cured by passing a law about it. The Hon. Mr Elliott has previously expressed himself as having no problem with Government intervention, but it does not work. Problems regarding breaches of privacy will not be overcome by a Bill, nor by the setting up of a statutory committee which will not really be very different from the present committee.

As to the clauses, clause 9, under the heading 'Delegation', provides:

> The Committee may delegate any of its powers or functions (except this power of delegation) under this Act—
>
> *(a)* to a member of the Committee;
>
> *(b)* to a particular person or body—

and so on. This is a wide power of delegation. I have a problem with it in regard to investigation, to which I will come later and which is dealt with in Part 4. The clauses in Part 4 set out the fairly sweeping powers of investigation, including the power to investigate individuals. It seems to me that it is a pretty wide power of delegation which includes this investigatory power in those matters which may be delegated.

Mr Acting President, you may have a passing interest in this matter. I am mystified by clause 12, relating to the annual report, which provides:

> The Committee must, not later than 30 September in each year, furnish the Minister and the Legislative Review Committee with a report on the performance by the Committee of its functions during the year that ended on the previous 30 June.
>
> (2) The Minister must, within 12 sitting days of receiving a report under subsection (1), cause a copy of the report to be laid before each House of Parliament.

In the absence of any other provision in the Bill about any role attributed to the Legislative Review Committee, I find this rather astonishing. Clause 12 provides that the Minister and the committee must at the same time receive a report on the performance of the committee, but within

12 sitting days thereafter a report has to be tabled in Parliament anyway so that every member of Parliament must have it. Surely it must be contemplated that the Legislative Review Committee has some particular function to perform in regard to the report. I cannot understand what it is and I cannot understand why the provision is there. The Privacy Bill is not basically about legislative review and the report would not basically be about legislative review.

I have been worried about additional roles and functions being heaped on the Legislative Review Committee, which I believe are inimical to its basic function of reviewing subordinate legislation, regulations, by-laws and so on. I believe that function to be essential to its role, because its essential role in my view is to be a curb on executive power. I would ask the Minister, perhaps in his reply or in the Committee stage, to clarify or elaborate why at the same time as the report is furnished to the Minister it must also be furnished to the Legislative Review Committee when it goes to every member of Parliament within 12 sitting days afterwards anyway. It must be contemplated that the Legislative Review Committee has some particular function in regard to the annual report. I do not know what it is and I ask the Minister to clarify that point.

Clause 13, which relates to the privacy principles, provides:

(1) An agency must comply with the Information Privacy Principles.

'Agency' is defined in the interpretation clause (clause 3) as meaning an agency as defined in the Freedom of Information Act 1991. The point that occurs to me is that the justice information system, or the organisations which operate it, must be an agency within the meaning of that definition. Clause 13 (2) provides:

The Governor may, by regulation, exempt an agency from the operation of the Privacy Information Principles in relation to a specified act or practice of the agency.

(3) An exemption under this section may be absolute or subject to conditions set out in the regulations.

It seems to me that in regard to the justice information system it must be necessary to exempt that agency because of its nature, having information which is necessary in the carrying out of police functions. It would seem to me that it must be necessary to exempt it, and my question to the Minister in this regard is: is it intended to exempt the Justice Information System and, perhaps, some other aspects of police operations from the provisions of the Bill and, if so, on what basis and subject to what conditions, if any? The next comment I would make is in regard to part 4 of this Bill, 'Investigations'. This has been comprehensively covered by my colleague the Hon. Trevor Griffin, who pointed out that this part gives power to the committee to make investigations in regard to any action alleged to violate the privacy of a natural person.

It is a very wide power of investigation, and I would not be prepared to vote for this Bill if this power were to remain in it. That would need to be amended out, and the Hon. Trevor Griffin has said that he will introduce amendments in this regard. As far as I am concerned, there is no point in having this power of investigation when there is no sanction to do anything about it anyway, and I would not vote for the Bill while those provisions remained.

I turn to clause 32, 'Regulations', which provides that the Governor may make regulations for the purposes of this Act. This is a much shorter and more comprehensive regulation making power than we were used to in the past. I acknowledge that recently there have been some other Acts in respect of which there have been similar provisions, but in the past it has been usual to spell out the matters in relation to which the Governor may make regulations. They have usually been related to forms and various procedures that must be carried out under a particular Act.

Traditionally, there has also been a fairly wide catch-all clause but, while there have been a few—and I suppose that this is part of the new draftsmanship we have had recently—there have not been many Bills where we have such a comprehensive, undetailed regulation-making power as this. It simply states that the Governor may make regulations for the purposes of the Act. A term commonly used in the past was, 'The Governor may make regulations that are necessary or expedient for the purposes of the Act and, without limiting the generality of the foregoing, these may include . . .' and then a list was set out.

I do not believe that any regulations ought to be made unless they are necessary or expedient for the purposes of the Act. Simply to say that the Governor may make regulations for the purposes of this Act, I find a bit hard to swallow. Regulation-making clauses in Bills are very important, and are probably not scrutinised enough by members of Parliament, because we believe in parliamentary Government. We believe that the Parliament ought to make the laws, that they ought to be able to be debated in Parliament and that, except in regard to detailed matters—and these are the ones usually spelled out in regulation-making provisions—they ought not to be simply put into regulations.

If they are put into regulations, then there is the power to disallow by either House and there is the scrutiny of the Legislative Review Committee. Nonetheless, I believe that we ought to be careful to know just what are the regulation-making powers contemplated by any particular Bill, and they are certainly not spelled out here. I do not propose to move an amendment in this regard because, when it comes to mechanical matters of enforcing a Bill, if it becomes an Act, I believe that is the responsibility of the Government, and the Government ought to spell out just what the regulation-making powers are.

Certainly, I am very perturbed by this very wide power and, as I said before, I have noted that it has occurred on other occasions. I hope that it does not occur again and that we will revert to the time honoured principle of spelling out the kinds of things that may be provided in regulation, with the usual catch-all to cover anything which may have been missed but which is then likely to be interpreted as being something similar to those things which have been set out. For those reasons, I have very grave reservations about this Bill, and my eventual vote will depend upon the fate of the amendments that have been outlined by my colleague the Hon. Trevor Griffin.

The Hon. R.R. ROBERTS secured the adjournment of the debate.

COMMERCIAL ARBITRATION (UNIFORM PROVISIONS) AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 7 October. Page 383.)

The Hon. C.J. SUMNER (Attorney-General): I thank the Hon. Trevor Griffin for his contribution to the debate and for his support of the Bill. The honourable member asked whether any interstate legislation differs from the South Australian Bill. My understanding is that those jurisdictions that have enacted legislation have enacted legislation that will result in absolute uniformity. Any typographical errors are probably uniquely South Australian. Because of existing differences in the legislation in the various States and territories, it was not a matter of taking the Bill as drafted by the Parliamentary Counsels Committee and putting South Australia on it; the Bill had to be worked into the South Australian legislative scheme.

The honourable member suggests that natural justice should not apply in the mediation process. As I said in my second reading explanation, the preferable view is that natural justice applies where an arbitrator has attempted to settle the dispute before proceeding to arbitration. The amendment makes it clear that this is so but, at the same time, allows the parties to agree not to be bound by the rules of natural justice. It is far preferable that the parties should have to opt out rather than opt in. The Institute of Arbitrators (South Australian Chapter) suggests that, while parties may agree on the results of a mediation, they may subsequently take action to set aside the determination because the rules of natural justice have not been applied. It may be that, because the rules of natural justice were not observed, that agreement was reached to the disadvantage of a party. If such a party should discover this, then I think it right and proper that the party should be able to apply to have the agreement set aside.

The honourable member refers to criticisms by the Institute of Arbitrators (South Australian Chapter) of section 38. I do not agree with the criticism. New section 38 (5) *(b)* (i) and (ii) are different tests: (i) will allow an appeal when there is a manifest error of law and (ii) will allow an appeal where there is strong evidence that there was an error of law and this will lead to uncertainty in commercial law. I think it would be totally wrong not to allow an appeal where there is a manifest error of law, that is, an error of law that is plain to see.

Parties to an arbitration are not agreeing that the arbitrator can determine their dispute with total disregard of the law. If that is how they want their dispute resolved, then they should chose some other method of resolving it. The honourable member suggests that $5 000 should be the limit below which legal representation is not permitted. As I said earlier, the $20 000 figure was chosen by the working party because it had evidence that, in practice, it was uncommon for legal representatives to appear in disputes involving less than $20 000. The present provision does not mention a figure; it refers only to a prescribed amount.

The amendment provides that the amount is to be $20 000 or such other amount as is prescribed. I prefer to see the Bill remain as it is. Not only is it in accordance with the legislation in the other States but it allows a sum of less than $20 000 to be prescribed. I note that the Institute of Arbitrators comments on new subsection 46 (3) but query why the institute considers that the provision will make it virtually impossible to strike out a claim for delay. The honourable member queries whether the rules of court referred to in section 34 (6) refer to the general Supreme Court Rules or the Commercial Arbitration Rules. The intention is that the reference is to the general rules, and I think that is clear, as the reference is to matters contained in the general rules.

Bill read a second time.

CRIMINAL LAW (SENTENCING) (SUSPENSION OF VEHICLE REGISTRATION) AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 7 October. Page 384.)

The Hon. C.J. SUMNER (Attorney-General): I thank honourable members for their support for the second reading. This Bill seeks to allow for the suspension of registration of motor vehicles registered in the name of a company where the company is in default of payment of a pecuniary sum imposed on the company in relation to an offence arising out of the use of a motor vehicle of which it is the registered owner. The Bill is part of a larger scheme to have fine defaulters meet their obligations and pay outstanding fines. This Bill puts in place the second half of a scheme which operates successfully in New South Wales. The centrepiece of the scheme is disqualification of a driver's licence for non-payment of a pecuniary sum. It is unfortunate that the Opposition may oppose this scheme and allow fine defaulters to avoid payment of outstanding sums.

The Hon. Mr Griffin has foreshadowed two possible amendments. The first concerns the position of an unsuspecting employee driving an unregistered vehicle and becoming involved in a motor accident. The honourable member has expressed concern that the employee will be significantly prejudiced if there is a motor vehicle accident. This matter has been considered by the Government and the answer lies in section 116 of the Motor Vehicles Act 1959. In such a situation the claimant may recover against the nominal defendant. A recovery claim by the nominal defendant pursuant to subsection (7) can be met with the defence provided, namely, that the defendant—that is, the employee—was driving the vehicle with the consent of the owner and that he or she had reasonable grounds for believing, and did believe, that the vehicle was insured.

The honourable member made the point that where a company vehicle is unregistered and/or uninsured the CTP insurance and comprehensive insurance cover is affected. According to clause 3 of the Bill, only the CTP insurance has no force or effect. The effect on comprehensive insurance cover would have to be ascertained pursuant to the terms of the particular contract with the company with which the policy is held.

Secondly, the honourable member foreshadows amendments which will limit suspension of registration in respect of which the fine has been imposed. Currently, the scheme in Victoria is proposed to operate in this manner. I am advised by the Victorian Sheriff that the scheme has not come into operation, as it is anticipated that the offending vehicle will simply be sold or not used. This clearly defeats the intention of the scheme. The Sheriff in Victoria will be requesting amendments to allow for all vehicles registered in the name of a company to be suspended.

In New South Wales, the scheme operates as proposed in the Bill, and I am advised that it has proved very successful to date. When only the registration of the vehicle in respect of which the fine was imposed was suspended a repayment rate of outstanding fines of 10 per cent could be expected. Under the new scheme, which has been in operation since late 1988 and which involves the suspension of all registrations in the company name, 54 to 55 per cent of collection of outstanding fines has been reported. These figures illustrate the success of the scheme. I do not believe that an amendment to limit suspension of registration to the offending vehicle would be a practical solution to the problem of outstanding fine default, and the Victorian experience bears this out. I will oppose any such amendment strongly as it will clearly undermine the whole scheme.

The Hon. K.T. Griffin: There is one issue that has not been picked up, and the Attorney might like to follow it up: it is the question of an offence committed by the driver of a vehicle whose registration has been suspended—if one drives an unregistered and uninsured vehicle one commits an offence. I did raise that, but maybe I skipped over it in the hurry to get finished by 6.30 p.m. Can the Attorney look at this matter?

The Hon. C.J. SUMNER: By way of interjection the honourable member raises the question whether or not a driver who innocently takes an unregistered and uninsured vehicle out of the car pool would be committing an offence of driving an unregistered and uninsured vehicle. I have not had that matter looked at, but as he has raised it now, by way of interjection, I will deal with it in Committee.

Bill read a second time.

SOCIAL DEVELOPMENT COMMITTEE

The House of Assembly intimated that it had appointed Messrs Atkinson and Heron to the Social Development Committee in place of Messrs Holloway and Quirk, resigned.

ADJOURNMENT

At 3.50 p.m. the Council adjourned until Tuesday 13 October at 2.15 p.m.