LEGISLATIVE COUNCIL

Tuesday 20 October 1992

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

PAPERS TABLED

The following papers were laid on the table:

By the Attorney-General (Hon. C.J. Sumner)—

Annual Reports, 1991-92:
- Construction Industry Long Service Leave Board.
- State Electoral Department.

Supreme Court Act 1935—Rules of Court.

Summary Offences Act 1953—Road Block Establishment Authorisations—Nil Returns.

By the Minister of Transport Development (Hon. Barbara Wiese)—

Annual Reports, 1991-92:
- Central Linen Service.
- S.A. Meat Hygiene Authority.
- Metropolitan Milk Board.
- Nurses Board of S.A.
- Office of the Commissioner for the Ageing.
- Pharmacy Board of S.A.
- Department of Road Transport.
- Small Business Corporation of S.A.
- South Australian Health Commission.
- South Australian Timber Corporation.
- State Clothing Corporation.
- State Supply Board.
- Tourism South Australia.

Harbors Act 1936—Regulations.

By the Minister for the Arts and Cultural Heritage (Hon. Anne Levy)—

Annual Reports, 1991-92:
- S.A. Co-operative Housing Authority.
- South Australian Housing Trust.
- The State Opera of South Australia.
- State Theatre Company.
- South Eastern Drainage Board.
- South East Cultural Trust.

Racing Act 1976—S.A. Greyhound Racing Board Rules.

ROAD BLOCKS

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

Leave granted.

The Hon. C.J. SUMNER: The Police Commissioner has provided the detail required in the Summary Offences Act in relation to the establishment of road blocks and dangerous area declarations. The Act requires certain statutory details to be provided by the Police Commissioner as soon as practicable after each successive period of three months following the commencement of the section. The relevant sections came into operation on 26 July 1990. I am advised by the Police Commissioner that the required reports have not been forwarded as required as there was no system to generate them at the required times. In future these reports will be included on an automated system, which will generate reports for the required periods.

The returns for road blocks and returns for disaster area declarations have now been compiled and in accordance with the provisions of the Act are now laid before the Legislative Council.

STAMP DUTIES

The Hon. C.J. SUMNER (Attorney-General): I seek leave to table a ministerial statement about stamp duty made in another place by the Treasurer.

Leave granted.

WAITE CAMPUS

The Hon. BARBARA WIESE (Minister of Transport Development): I seek leave to make a ministerial statement on behalf of the Minister of Primary Industries concerning proposed public work for the construction of facilities for the Department of Agriculture at the Waite campus.

Leave granted.

The Hon. BARBARA WIESE: The documents tabled contain the response approved by the Premier which was prepared prior to the creation of the Department of Primary Industries and the new South Australian Research and Development Institute. In general, the recommendations proposed in the report of the Environment, Resources and Development Committee were accepted. In relation to recommendation 5, the committee recommends that the proposal for the construction of the administration building on the Waite campus be reassessed and alternative locations for the administrative function be explored. The response of the Premier confirmed the earlier view that the Waite site was appropriate for the administration building. The Minister of Primary Industries concurs with the Premier's reasoning in response to the position of the committee.

However, in the light of supervening restructuring the Minister is now reviewing aspects of the relocation project. In particular, the review will reconsider the appropriateness of the Waite campus as the location for the head office of the Department of Primary Industries. The Minister has already determined that much of the proposed work should still continue since they will form the core of the new South Australian Research and Development Institute. Some preliminary work has already begun on preparing the site for the new horticulture complex. The review which the Minister has requested is scheduled for completion at the end of October. Underpinning the review is the need to maintain and further enhance professional and efficient primary industries in the South Australian community whilst ensuring a close relationship between research and extension. The Minister will report the outcome of the review in due course.

QUESTIONS

PRIVACY

The Hon. R.I. LUCAS: I seek leave to make an explanation prior to asking the Minister representing the Minister of Health a question about privacy.

Leave granted.

The Hon. R.I. LUCAS: I refer to an article in the *Australian* last month which reported that the Federal Government was considering introducing a smart card which will contain information about the holder's medical records and which it is claimed will present a greater threat to personal privacy than the Australia Card. The cards reportedly would contain personal information about the holder's medical conditions, operations and medication and would be accessible to 500 000 people ranging from public servants to doctors, pharmacists and private health funds.

While a spokesman from the Federal Minister of Health's office has sought to defuse the issue by stating the Minister has rejected outright any proposal involving smart cards, this is disputed by the International Director of Privacy International, Mr Simon Davies. He claims money has already been committed as funds for a campaign to persuade doctors and private industry to support the move. Mr Davies also says a steering committee report was supported at the Australian Health Ministers Council which met in April. That council is made up of all State Health Ministers and the Federal Minister of Health. The *Australian* has obtained a copy of the steering committee's report into the so-called smart card.

The committee's report states that the card's 'potential for privacy infringements is almost unlimited' and any proposal to allow data to be shifted so easily would be subject to agreement from privacy and consumer groups. The steering committee report examines a 'health data network which can move data from anywhere to anywhere else without loss of meaning'. It states, 'In Australia this will mean that some 20 million patient records of confidential data will be stored on a system across 45 000 care provider locations and capable of display on some 500 000 screens or printers anywhere from Darwin to Launceston.' My questions to the Minister are:

1. Has the Minister obtained a briefing on the outcome of the Health Ministers conference in April and the issue of the smart cards and, if so, will he confirm whether his predecessor was among those Ministers supporting the card?

2. Does the new Minister of Health support the introduction of these smart cards within the next three years and, if not, will he seek to include the issue of the cards on the agenda for discussion at the coming meeting of State Health Ministers of which he is host?

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

PUBLIC SECTOR RESTRUCTURING

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

Leave granted.

The Hon. K.T. GRIFFIN: Major problems have arisen from the new Premier's restructuring of portfolios. In one move the Government ignored the legal structure of a unit and in others it did not appear to address the requirements of Acts of Parliament. The Intellectually Disabled Services Council is an incorporated health unit under the South Australian Health Commission Act and was incorporated by the Tonkin Liberal Government following the recommendations of the late Sir Charles Bright on the rights of persons who are intellectually handicapped.

Those recommendations included one that intellectually disabled people should have an advocate largely independent of Government departments providing services. At the time of implementation of the recommendations there was a widespread view among families and those involved with disabled people that they should not be attached to what was then the Department of Community Welfare, which, they felt, would have put them in the category of welfare recipients which they are not. The Intellectually Disabled Services Council has a board and staff. A proclamation of 8 October purported to transfer all of its staff to the Department of Family and Community Services without any consultation with the board of IDSC or the consumers of its services. As a result of the proclamation the board and the incorporated health unit remain. The board is left twiddling its thumbs, and families and supporters of intellectually disabled persons are angry that the transfer has occurred, and particularly that it has occurred to the Department of Family and Community Services.

Turning now to another area: in a proclamation on 1 October, the office of Minister of Agriculture was abolished. I am told that this has created problems because some legislation specifically gives powers to the Minister of Agriculture or to the Director-General of Agriculture and, as a result, there are documents being submitted for signature within the new department by one or other of these persons and they have been held up because there is now no such office, and no-one in the Government appears to know how to handle the problem, notwithstanding that the provisions of the Acts Administration Act in so far as it relates to the Minister have actually been referred to.

There are a number of examples. The Rural Advances Guarantee Act gives the Director-General of Agriculture specific power. In relation to the Minister of Agriculture, there are specific references in the Phylloxera Act, the Barley Marketing Act and the South Australian Meat Corporation Act, and there may well be many others. The same problem has arisen, I gather, in relation to the old Department of Lands, and the then Minister of Lands, and there may be other areas where this problem has been experienced. I understand that there is also some concern that there is now no Valuer-General, and that there are, as a result, problems in administration, remembering that both the Director-General of Agriculture and the Valuer-General are not offices which appear to be covered by the Acts Administration Act. I have also been informed that the Crown Solicitor has been giving consideration to the problem in conjunction with the departments where these issues have arisen. My questions to the Minister are:

1. In relation to IDSC, can he indicate why there was no appreciation of the ten-year-old corporate structure of that body and why there was no consultation with

consumers, and what steps the Government is proposing to take to resolve the problems which have arisen?

2. Will the Minister say what steps are being taken to overcome the legal difficulties being experienced with the abolition of the offices of Minister of Agriculture, Director-General of Agriculture, the Minister of Lands and the Valuer-General?

3. What other legal difficulties have been experienced as a result of the changed ministerial and departmental structures?

The Hon. C.J. SUMNER: I understand that the Minister of Health is dealing with the situation raised by the honourable member relating to the Intellectually Disabled Services Council. I cannot say why there was no consultation, except I assume that, had the Premier decided to consult with everyone, every interest group in the State, before he engaged in his ministerial reshuffle and departmental reorganisation, he would never have done it. However, the general point being made about the Intellectually Disabled Services Council is taken.

The Minister of Health is aware of the concerns being expressed by that council and by other people working in this area, and I understand is working on a solution to the problem. The legal steps that are necessary to correct any problems that have occurred are being worked on. I cannot say anything about it at the present time. Obviously, one of the things that I think does need to be done by Parliament in future to overcome this sort of problem is not to refer specifically to Ministers in Acts. I think that is a bit of an anachronism these days, but the Act should refer to the Minister, and that then is the Minister of the day to whom the Act is committed for administration under the Acts Administration Act.

The Hon. K.T. Griffin: Except that Parliament sometimes wants to give the duties to a particular Minister, such as the Attorney-General.

The Hon. C.J. SUMNER: There might be a few exceptions where Parliament wants to give the duty to a specific Minister. The most obvious example of that concerns some of the responsibilities of the Attorney-General, although in our system it is not likely that the position of Attorney-General, Premier or Treasurer will be abolished. However, Governments are entitled to make changes from time to time to other ministries, and that would apply to any Government. There is a need for administrative flexibility. The Government of the day is entitled to arrange things as it sees best for the governance of the State. Generally, Parliament should adopt the course of referring just to Ministers rather than specific Ministers in Acts of Parliament, and that the Minister to whom the Act is committed is the Minister who carries out the functions given by that Act of Parliament.

I do not know that I can answer the third question, or whether there is a need to answer it. All I can say is that some of these problems have been drawn to the attention of the Crown Solicitor and he is working on their resolution. I will try to get an answer to that question for the honourable member, if there is an answer.

ISLAND SEAWAY

The Hon. DIANA LAIDLAW: I seek leave to make an explanation before asking the Minister of Transport Development a question about the *Island Seaway*.

Leave granted.

The Hon. DIANA LAIDLAW: In recent days, members of the crew of the *Island Seaway* have been heard speculating that the service between the port of Adelaide and Kingscote may cease operating in six months. Last financial year, the *Island Seaway* cost taxpayers $7.1 million to operate, $1.3 million more than initial estimates following a blow-out in administration costs. This financial year, the Government has again budgeted for an operating deficit of $5.8 million, $5 million of which will come from the Highways Fund.

Earlier this year, the former Minister of Marine sought expressions of interest for the operation of a service between Port Adelaide and Kingscote. On 19 May Cabinet decided that the *Island Seaway* would be given a reprieve and that the vessel would continue to operate for a further two years. However, I suspect that recent speculation by the crew about the future of the vessel arises from the long, five-month delay in finalising negotiations with R.W. Miller in respect of productivity and efficiency matters, which had not been resolved between the Department of Marine and Harbors and the company at the time of last month's Estimates Committee. Yesterday's announcement by Kangaroo Island Sealink to build a new passenger/freight ferry to operate from 1994 is guaranteed to fuel speculation on the island about the fate of the *Island Seaway*. Therefore, I ask the Minister:

1. Have negotiations been finalised with R.W. Miller and do these negotiations guarantee that the *Island Seaway* will continue to operate to Kingscote for a further two years, notwithstanding the cost to taxpayers?

2. As I understand that the department has been aware for some months about Kangaroo Island Sealink's plans to replace its two vessels with one super ferry, what assessment has been made by the department of the impact of this decision on the operations of the *Island Seaway*?

The Hon. BARBARA WIESE: This is not a matter on which I have been fully briefed at this stage. The last I heard about it was that departmental officers were continuing to negotiate about the operations of the *Island Seaway* to reach a satisfactory arrangement as to how that might continue. I am not sure whether those negotiations have been concluded, but I will seek an up-to-date report on it.

I am not aware of any plans to abandon the *Island Seaway* in six months, and I am sure that, if there were such plans, I would have been notified of them during the past couple of weeks since I took over this portfolio. I can only assume that the discussions to which the honourable member refers reflect the gossip that is abroad. As far as I am aware, it is not based on anything concrete.

As to the other points that the honourable member raised, they also will be the subject of the report for which I will call, and I will respond as soon as I am able.

The Hon. DIANA LAIDLAW: As a supplementary question, as part of that report will the Minister also

determine whether it is correct that the department is re-assessing wharfage charges currently required to be paid by Kangaroo Island Sealink, because the Government charges, I think, amount to 27 per cent of the cost of each freight movement between Cape Jervis and Penneshaw and 15 per cent (or $8.90) of the $56 it costs to ferry a motor vehicle across the same stretch of water, and there is agitation about those matters, which relate centrally to the operation of the *Island Seaway?*

The Hon. BARBARA WIESE: As the honourable member would be aware, a new schedule of charges, etc., was announced late last week for ports in South Australia. I cannot recall whether the new wharfage charges that were included in that list related specifically to the Kangaroo Island Sealink operation, but I will certainly seek information about that as well, and bring back a report.

SOUTHERN DISTRICTS WAR MEMORIAL HOSPITAL

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister of Transport Development, representing the Minister of Health, Family and Community Services, a question about the Southern Districts War Memorial Hospital.

Leave granted.

The Hon. M.J. ELLIOTT: The Southern Districts War Memorial Hospital at McLaren Vale began life as a private hospital. In the 1970s under Medibank it became deficit funded, where its operating expenses over and above what it received from its private patients were met by the Government. It is now given a global budget, and money from private patients goes to Treasury. That budget two years ago was $3.3 million. This year it is $1.8 million, a figure that I am told would have been much lower had it not been for community action.

The reduction in funding has resulted in a shift of services out of the Southern Vales community and a heavier reliance by that community on metropolitan hospitals. From having 45 beds three years ago, the Southern Districts War Memorial Hospital now has a 12 bed capacity, although from November it will be getting 10 private beds on a lease arrangement for two years from the Noarlunga Hospital. The tale of this hospital is similar to that of other country facilities, where cutbacks contribute to a cycle of decline until the Government feels justified in closing the facility altogether.

Over several years, the operating sessions allowed at the McLaren Vale hospital have been reduced from 45 to eight a month. Whereas, before, local medical practitioners could keep people off the Flinders Medical Centre waiting list by providing acute surgical services locally, they are now finding themselves increasingly having to refer people on. A similar transfer is happening with births. Although the hospital can provide services only for those facing a risk and problem free delivery and does not have epidural facilities, up to 170 babies a year are being born in McLaren Vale.

I am told that that number would be higher if facilities for more support were provided. Instead, it appears that the number will decline, as funding to the hospital means fewer staff training to work in an operating theatre in the event of an emergency, and local doctors are unable to call on support from specialists at short notice. My questions to the Minister are:

1. What are the personal views of the new Minister on the future of the Southern Districts War Memorial Hospital?

2. Does the Minister agree that it would be far more efficient to keep the McLaren Vale hospital operating at a level at which it can provide sufficient acute surgical and maternity facilities to serve its surrounding community than for that community to be reliant on metropolitan hospitals, such as the Flinders Medical Centre, which are already suffering severe budget shortfalls?

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

TERRACE HOTEL

The Hon. L.H. DAVIS: I seek leave to direct a question to the Attorney-General, as Leader of the Government in the Council, on the subject of the Terrace Hotel Rolls Royce and seek leave to make a brief explanation before so doing.

Leave granted.

The Hon. L.H. DAVIS: The *Advertiser* of Saturday 17 October carried an advertisement that a 1986 Rolls Royce Silver Spur with 19 000 kilometres on the clock and meticulously maintained was being offered for sale by private tender. This Rolls Royce has been chauffeur driven and for the past three years has been owned by Bouvet Pty Limited, a fully-owned subsidiary of SGIC which operated the Terrace Hotel. This Rolls Royce had been bought for $275 000 from United Motors Retail Limited, the company in which SGIC Chairman Vin Kean was a director and shareholder. Mr Kean had also been Chairman of Bouvet Pty Limited.

The Rolls Royce was purchased without being put out to tender, and I have been told this week by Rolls Royce experts that the price paid was excessive. Most buyers of Rolls Royce are understandably fussy and shop around Australia to ensure that they are receiving the most favourable deal, but in the case of the Terrace Hotel this simply did not occur. I am told that if SGIC had shopped around it was quite possible that a car in similar condition could have been purchased for no more than $250 000.

I have also been advised this week that tens of thousands of dollars were spent on building a special garage in the Terrace Hotel car park simply to accommodate the Rolls Royce. This was described by senior staff as an absolutely shocking waste of money. In addition, I have been told by senior management that the Rolls Royce appeared to be used more by management than by guests staying at the hotel. The vehicle sold by Mr Vin Kean's company to the Terrace Hotel, as we know, was also driven by Mr Vin Kean's son-in-law, who was appointed as assistant chauffeur at the Terrace. The Rolls Royce was serviced and mechanically maintained by Mr Vin Kean's company.

The Hon. Barbara Wiese interjecting:

The Hon. L.H. DAVIS: Well, that is new information, and if you knew that before—

The Hon. Barbara Wiese interjecting:

The Hon. L.H. DAVIS: It simply was not.

The Hon. Barbara Wiese: Yes, it was.

The Hon. L.H. DAVIS: It was not. You have not heard that information before anywhere, and if you read page 3 of the *Advertiser* I defy you to find it there. Luxury car experts in South Australia and interstate have all confirmed that the top price likely to be obtained for the Rolls Royce now being sold is likely to be no more than $160 000 in view of the severe economic recession. This means that the SGIC will book a cool loss of over $100 000 on the vehicle in just three years. My questions to the Attorney-General are as follows:

1. Although the new management of SGIC could well be commended for its decision to sell the Rolls Royce by private tender, is this an admission that it was bizarre for the Terrace Hotel to buy such a prestigious and expensive vehicle in the first place?

2. Will the Government investigate the price paid by the Terrace Hotel for the Rolls Royce in view of the serious and disturbing suggestion that a similar vehicle could have been obtained for a lower price?

3. What has been the total cost of servicing and mechanically maintaining the Rolls Royce from the date of purchase through to the present time?

4. What was the cost of the special garage built in the Terrace Hotel car park to house the Rolls Royce?

The Hon. C.J. SUMNER: I do not know whether any of those assertions are correct, but I will refer the question to my colleague and see if he is able to provide a reply.

AIDS

The Hon. BERNICE PFITZNER: I seek leave to make a brief explanation before asking the Minister representing the Minister of Health, Family and Community Services a question on the subject of testing for HIV and AIDS.

Leave granted.

The Hon. BERNICE PFITZNER: It is reported in an article in the *Advertiser* today that at the Australian Society of Anaesthetists annual meeting it was suggested that:

> All hospital patients should be tested for HIV/AIDS as a way of preventing the spread of the disease.

The AIDS Council response, according to the *Advertiser*, states:

> I think that the cost of testing every patient would be far more than the cost for treatment.

We know that there is no effective treatment for HIV/AIDS and that the final result is death. The prevalence or infection rate of HIV/AIDS in the USA is one in every 750 females and one in every 70 males and, in Africa, one in 40 people. The prevalence of PKU (which is a disease in the newborn, for which we test all South Australian children) is six in every 100 000. The prevalence of nerve deafness, for which we test approximately 95 per cent of seven month-old babies, is two in every 100 000. HIV/AIDS is tested for in a fraction of this community. My questions are:

1. With the relatively high prevalence or infection rate of HIV/AIDS and with the comprehensive testing of some low prevalence diseases, will the new Minister look into voluntary testing for all hospital patients? If not, why not?

2. If the uptake of voluntary testing of all patients is too high and therefore too expensive, will the Minister look into testing a target group, such as patients due for operations? If not, why not?

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

YORKE PENINSULA FERRY

The Hon. I. GILFILLAN: I seek leave to make a brief explanation before asking the Minister of Transport Development a question about road maintenance on Yorke Peninsula.

Leave granted.

The Hon. I. GILFILLAN: I recently visited the Yorke Peninsula region around Kadina and Wallaroo, and local residents are excited by the prospect of the establishment of a vehicular ferry service to run between Wallaroo on Yorke Peninsula and Cowell on Eyre Peninsula. It has already been the subject of an environmental impact statement and a detailed study by the Department of Road Transport, and it is generally accepted as a goer. The proposed service will involve two 70-metre roll-on, roll-off vehicular ferries able to accommodate large semitrailers with a considerable saving in distance and travelling time. The estimates of savings are 220 kilometres each way on the Adelaide to Perth route and 329 kilometres each way on the Adelaide to Port Lincoln route.

The setting up of the ferry service is also seen by local councils and residents as essential to injecting much needed economic stimulus into the region's ailing economy. However, for the ferry service to be truly successful it must be serviced by an efficient, well-maintained road network. The locals in the area whom I met warned me of the condition of the Wakefield to Kulpara road, describing it as one of the worst stretches of main road in Australia. The general standard of road infrastructure is poor. The road is used extensively by grain trucks during the four-month grain transport period each year as grain is moved to the main silo at Wallaroo, one of the biggest in the State, and local residents of both Wallaroo and Kadina have serious concerns about further increases in heavy traffic through their towns once the ferry service is operating.

The current condition of the road is clearly dangerous to users, and locals tell me it is not a matter of if but when a major road accident will occur. The Wakefield to Kulpara road is a Commonwealth and State responsibility, yet funding appears to have dried up for this area of the State. It is estimated that $6 million to $7 million is required to bring it up to a reasonable standard. Council members, local business people and residents I have met are keen to know if and when this will occur and how much money will be made available to upgrade

roads in the area to support the establishment of the ferry service and aid the region's economic recovery. My questions are:

1. What plans does the Minister have for providing an adequate road network to the region to accommodate increases in traffic once the ferry service is established?

2. What plans does the Minister have for the re-routing of heavy traffic around Kadina and Wallaroo, rather than through the middle of those towns?

3. What is the estimated cost for upgrading the road network, and where is the money expected to come from?

The Hon. BARBARA WIESE: As I understand it, the proposal for a ferry service between Wallaroo and Cowell is still just that: it is a proposal. I understand that it is not a matter that has received the go-ahead, although planning and other approvals have been acquired. The last I heard, the proponents of this idea were seeking investment to make it occur. So, whether or not it will get off the ground is still uncertain. In those circumstances, I am not sure whether the Department of Road Transport has made plans for the repercussions that would be brought about as far as the impact on roads in the local area is concerned, although I am quite sure that those would have been amongst the issues that were addressed as part of the environmental impact statement process and other assessments of this project that occurred. I will seek an up-to-date report on the current views of the Department of Road Transport on this matter, but I reiterate that, as far as I know, this is still a proposal only and it has not received the go-ahead.

The Hon. I. GILFILLAN: As a supplementary question, accepting the Minister's comment that in her knowledge it is a proposal at this stage, I think it is fair to assume that the consequences of the proposal have been considered by her department, and on that basis will she please bring back to the Council detail of what planning there will be for road development and re-routing of traffic in the event of the proposal's going ahead?

The Hon. BARBARA WIESE: I have just indicated that I would bring back a report on the current thinking of the department on this matter, as well as any planning that may have been done with the prospect in mind that such a proposal may become a reality, but I made the point that I would not expect detailed planning to have been undertaken by the department, because this is still a proposal; it is not a development that is committed for construction. Therefore, I would not expect the department to have committed large amounts of time and resources to planning the consequences of something which may or may not eventuate. However, I have indicated that I will provide whatever information is currently available on this subject, and that should be sufficient.

CRIME STATISTICS

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Attorney-General a question about crime statistics.

Leave granted.

The Hon. T.G. ROBERTS: A report in Saturday's *Advertiser* quoted figures from the recently released report, 'Crime and justice in South Australia'. Did the Attorney-General see the article in the *Advertiser*? Would he like to comment on the article in general and, specifically, the list of the number of criminal offences categorised, and the apparent number of hours we seem to have between incidents?

The Hon. C.J. SUMNER: Yes, I would like to comment on the article and I thank the honourable member for giving me the opportunity to do so. I would like to say a number of things about it. The first is that there was a regrettable error in the text of the article, namely, the allegation that there is a robbery committed in this State every 40 minutes. As a general rule, criminologists and others expert in crime statistics usually consider that the use of such crime clocks is undesirable, as they give little indication of the nature of offences being committed or the locality and circumstances of the offence, and they can give an erroneous impression of the crime situation and also heighten fears where that may not be warranted. However, if one does go into offences committed related to time, in this case one sees that on the statistics it is not a matter of a robbery being committed in this State every 40 minutes; it is more like something over six hours. Furthermore, if we are talking about robbery with a weapon it is more like one day.

While this is obviously a matter of concern, as I indicated in my response to that article, it certainly is significantly different from the assertion and miscalculation that occurred in the *Advertiser* article. In fact, on the figures the biggest increase in this area was in unarmed robbery, not armed robbery. While it is a major concern to the Government that robbery and extortion has increased by 27 per cent in the past calendar year over the previous one, the thing which is important in this report of the Office of Crime Statistics and which I think is encouraging is that there has been a decline in the number of offences in the 1991 year over the 1990 year. For instance, motor vehicle theft declined by 7.1 per cent; offences relating to property damage declined—

The Hon. J.C. Irwin: Are you using cleaned-up figures?

The Hon. C.J. SUMNER: Yes.

The Hon. J.C. Irwin: What about the non-cleaned-up figures?

The Hon. C.J. SUMNER: What do you mean 'cleaned up'?

Members interjecting:

The Hon. C.J. SUMNER: They are the figures in the Crime and Justice Report 1991 from the Office of Crime Statistics. There are a whole number of—

The Hon. J.C. Irwin: Are they reports to the police or are they court figures?

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

The Hon. J.C. Irwin: Well, you are not publishing them any more.

The Hon. C.J. SUMNER: They are all being published. If you would like to read it you would find that it is very extensive. We provide as much information about crime statistics as, if not more information than, anyone else I know in Australia.

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: That is not true either, Mr President. The selected offences are 'reported or becoming known to police, number of offences' and then there are various categories: offences against the person, sexual offences, robbery and extortion and so on. If one goes through the report one will see that there is another category of 'Court of Summary Jurisdiction appearances, court outcome and major offence charged' for the same period. If you go further through the report you will see 'Court of Summary Jurisdiction appearances, major penalty for major charge convicted' and so on.

All the honourable member has to do is refer to the table of contents and he will see all that information. It covers the offences coming to the notice of police, statistics in Courts of Summary Jurisdiction and Supreme and District Criminal Courts and statistics relating to the Correctional Services Department, the Childrens' Courts and aid panels.

The answer to the honourable member's question is just that—they are very comprehensive statistics. In any event, what we are talking about here are offences reported or becoming known to police, and as I said it is encouraging that in 1991 over 1990 there has been a decline in a number of offences. I mention a decline in motor vehicle theft of 7.1 per cent, in property damage offences of 1.5 per cent and in unlawful possession of property of 1.1 per cent. Further, there has been a decline in shop break-in offences, drink driving offences and also in the number of children appearing in court.

I would like to take this opportunity to put into context the statistics that I released on Friday. We all know that crime rates have been increasing everywhere in every State in Australia and in every Western industrialised nation in the world and that this has occurred regardless of the political ideology of the Government in power. I firmly believe that the only way to reduce the growing crime rate is through a cooperative system of traditional enforcement methods involving the police, courts and correctional institutions combined with a community-based crime prevention system.

South Australia has the most comprehensive and advanced crime prevention strategy in Australia, and is recognised in other parts of our nation to have that. It has been in place for three years and we are now entering the fourth year of that five year strategy. It is not wise to claim very much based on one year's crime statistics, as crime statistics have to be treated with considerable care and obviously looked at over a longer period. Nevertheless, the fact is that in this most recent report in 1991 over 1990 crime rates have, at least on this one year's report, levelled out to some extent. The real increase in crime in 1991 from the previous year's statistics was less than 1 per cent—in fact, .97 per cent.

We are here talking about reported crime. We know that in a number of offence areas, in particular sexual offences, there is a significant dark figure of unreported crime, and in sexual offences this is estimated to be something like 60 per cent, 65 per cent or 70 per cent. That is important to remember when you are looking at reported crime figures because you only need a small increase in reports to show up as an increase in reported crime. With that rider, what these figures show is a very small increase in 1991 over 1990 in reported crime, and that I think should give some encouragement to police, the courts, correctional institutions and those in the community who have been involved in crime prevention.

The reduction in motor vehicle thefts I think is something that does need to be noted because that is an area where considerable attention has been given to crime prevention in recent years. This was not just increased penalties earlier this year which would not have found their way through to the statistics, but a number of other measures for preventing car theft which included the proposals developed by a car theft committee such as increased security for cars (which was directed at manufacturers) and police use of a 'gotcha' car, a car theft campaign which was being used in one locality to try to identify those cars that had been stolen.

This was a cooperative effort, a crime prevention effort, that went beyond just relying on the police; it was a cooperative effort run through the motor vehicle theft committee, which had representatives of the Government, the police, the RAA and so on on it. Whilst again I do not want to claim too much for efforts in this area based on one year's statistics, the fact is that in an area which is amenable to crime prevention initiatives and where there has been some attention given to the issue in the area of car theft it is at least encouraging to see that in 1991 over 1990 there has been a decrease. This can give some heart to the community that, through police, the community through crime prevention committees and through the courts and correctional institutions, action is being taken to prevent and deter crime in this State.

There are some other inaccuracies in the *Advertiser* article that I would like to mention. It states that the 1 per cent drop in crime overall in this State, as indicated in the report, was due to the new justice information system excluding some categories such as minor traffic and environmental offences from serious crime figures. In fact those categories have never been counted in serious crime figures. The only category to be dropped in the past six months of statistics fed into the JIS system was the lost or stolen components of the 'other offences' section.

At the same time the *Advertiser* points out that driving offences have increased by 8.6 per cent, but it failed to point out that this was also due to more complete coverage of these offences in 1991 by the new JIS system that had not been included in previous years.

About 84 per cent of all crime committed in this State relates to property offences, and it is in this area that this State's crime prevention strategy can make a difference, as long as it continues to get the level of support and cooperation from a broad cross-section of the community. So, despite those inaccuracies, I think it is worth putting on the record that in a number of areas there was a reduction in reported crime and that, overall, 1991 saw a very small increase in reported crime over the figures for 1990.

SILKES ROAD FORD

The Hon. J.C. BURDETT: I seek leave to make a brief explanation prior to asking the Minister of Transport Development a question about the Reids Road/Silkes Road ford.

Leave granted.

The Hon. J.C. BURDETT: This is a matter that I have raised several times before, but it has never been addressed by the Government. Reids Road, Dernancourt, runs south from Lower North East Road across the Torrens by a ford and becomes Silkes Road, and has a junction with Gorge Road. When the ford is open it is subject to heavy traffic. Quite a lot of traffic flows from Athelstone to the Tea Tree Gully area and elsewhere in the north and north-east in the morning and returns in the evening, and there is considerable other traffic in the area and across the ford. The problem of the ford flooding has been around for a long time, and over the years a number of cars have been swept away and lives have been endangered.

Immediately after the first heavy rain this year a car was washed downstream and within hours another car was washed a short distance downstream and could not be pulled out for two weeks. Signs with flashing lights, which are permanently in place, were then activated and have been for most of the winter. These signs say 'Ford closed'. There are also signs immediately adjacent to the river itself, which say 'Ford closed'. When the ford is open the traffic count on Reids Road is 6 000 vehicles a day, and when it is closed it is 1 000 a day, indicating two things: first that the traffic volume is very considerable and, secondly, that the volume of local traffic is 1 000 vehicles a day. So the traffic that is crossing the ford when it is open is 5 000 a day.

When the ford is closed traffic proceeding between Athelstone and the Highbury/Tea Tree Gully area must cross the Paradise bridge and proceed via George Street. As the ford is frequently closed during winter—and, of course, it has been almost continually closed during this past winter, if it is past—traffic lights have been installed at the George Street junction with Lower North East Road. The department has informed the Tea Tree Gully council that the traffic count would not justify lights at this junction while the ford is open but that it does justify traffic lights when the ford is closed.

I have often used the ford myself and the traffic counts indicate that there has been for years a need to cross the River Torrens at that point. Numerous requests have been made by the council, by myself and by others to have something of a satisfactory and permanent nature done to enable the river to be crossed at about that point, but the requests have fallen on deaf ears. I am told that the remedies would be either a high level ford on the site of the present ford or a bridge probably a little further upstream.

The Hon. Diana Laidlaw: It could spend money on that rather than on Hindmarsh Island.

The Hon. J.C. BURDETT: Yes. The roads with the signs and flashing lights operating in the winter, the inconvenience of going via the Paradise bridge and the trauma of cars being washed away and people's lives being endangered are constant wintertime problems to the people in the area. Perhaps it is one of those situations where someone will have to be drowned before the Government will do anything about it. In its policy for the 1989 election, the Liberal Party at least undertook to conduct a feasibility study with a view to action, and the estimated cost of that study was $12 000. But this Government has not even done this. My question is: will the Minister examine the matter with a view to action?

The Hon. BARBARA WIESE: This is a ford that I know very well, and in fact I can remember as a child crossing the ford in the family car in the height of winter and feeling very frightened. When I revisited that area a couple of years ago, after a gap of many years, I was interested to find that there had been very little improvement in that area at all since those days that I remember from my childhood. I am not familiar with the work that has been done in recent years by the department on this matter, but I will certainly have the matter examined and determine just what the position is and what the cost of upgrading the roadway in that area would be, and I shall bring back a report on the matter as soon as possible.

ROAD FUNDING

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

Leave granted.

The Hon. PETER DUNN: In 1992-93 the Australia-wide allocation from the Federal Government was about $1 786 million, of which South Australia received a 6.6 per cent share. We have, on all figures, at least 8.4 per cent of Australia's population and greater than 10 per cent of the roads, and yet we received only 6.6 per cent of the allocation. What is more perturbing is that it appears that that funding will drop in 1993-94 to $1 067 million, and then down to $813 million in 1994-95, with the 1995-96 figure to be just slightly above that. This amounts to a drop of 38 per cent in the first year and a drop of 23 per cent in the second year. We are thus looking at about a 60 per cent drop in the next two years.

The fuel franchise contribution has remained constant at $25.47 million for road funding, but the take from the public has gone up from $25.47 million to $129.9 million. These funds are allocated from the Federal Government along the following lines. The national accessibility is, for the city, about $44 million and for the country—and that includes Port Wakefield Road, and I would like to exclude that, because that road is really in an outer metropolitan suburb—the amount is $52.5 million. The economic development support is $61 million for the city and $10 million for the country; again included in part of that is Port Wakefield Road. The urban development component is $30 million, and the intra State component is $43 million. Adding them together, we see that the city gets $130 million and the country gets $105 million, but if we take off the Port Wakefield Road component—and, after all, that is a main highway—of $37 million, we finish up with the country getting $68 million and the city getting $167 million.

Country spending has to be looked at again. I shall give examples. The funding for the Lock to Elliston Road is $14.5 million, and in eight years it has received $361 000. The total cost of the Cleve to Kimba Road is $11 million, but in eight years it has received $588 000. These roads have been on the books since about 1983. Bearing in mind the formula and the funds that we receive from the Federal Government—and I am told that

we have the worst roads in the Commonwealth—I ask the Minister the following questions:

1. What is the Minister doing to obtain South Australia's share of funding from the Feds or what is she doing about changing the formula to South Australia's advantage?

2. Three weeks ago there was an accident on the Strzelecki Track in which a mother and child were killed when passing a truck because of the dust; the wet weather in the north of the State has meant that people are unable to move around; and we have all heard what is happening on Kangaroo Island, so will the Minister put more emphasis on funding for country roads?

3. Will the Minister fight for more of the State's fuel franchise contribution for road funding?

The Hon. BARBARA WIESE: I should like to make a couple of points. First, the myth that is spread abroad by members of the Opposition, in particular, that South Australia has amongst the worst roads in the Commonwealth is absolute bunkum. South Australia has amongst the best roads in the Commonwealth.

Members interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: I invite the honourable member to travel on some of the roads in Queensland, which had conservative Governments for years and years. Although they claimed to represent rural people, they produced some of the worst roads in the world, not just Australia.

Members interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: In South Australia, successive Governments of both persuasions have committed considerable funds to roads in country areas.

The Hon. Peter Dunn interjecting:

The PRESIDENT: Order! The honourable member has asked his question.

The Hon. BARBARA WIESE: People such as the Hon. Mr Dunn try to create artificial divisions between country people and city people by referring constantly to the distribution of funding for programs such as roads, when he knows full well that the distribution of road funding should be based on traffic flow, need, the deterioration of road surfaces and the life cycle of roads in the State. A whole range of factors must be taken into account when determining where money should be spent. It is quite untrue that we in South Australia have poor roads when it is well known nationally that, in this State, the proportion of sealed to unsealed roads is very high and the quality of roads is very high when compared with a number of other States in Australia.

Members interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: As to the road funding arrangements, as I understand it, national agreements on road funding, which will be in place for the new few years, have already been reached, so there is very little chance that I will be in a position to change the agreements that have been put in place. Some of the changes that have occurred in road funding were opposed vigorously by my predecessors in the transport portfolio because they diminished the proportion of road funding from the Federal level to South Australia. It must also be borne in mind that the overall amount of money that is being provided by the Federal Government is reducing. That is lamentable and, along with other State Transport Ministers, I will take up that point vigorously at the national level.

FINANCIAL TRANSACTION REPORTS (STATE PROVISIONS) BILL

Adjourned debate on second reading.

(Continued from 8 October. Page 393.)

The Hon. K.T. GRIFFIN: The Opposition is prepared to support the second reading of this Bill. As the Attorney-General indicated in his explanation, the Federal Cash Transactions Reports Act requires financial institutions and cash dealers to provide the Cash Transactions Reports Agency with reports of transactions that may be relevant to the investigation of breaches of taxation and other Commonwealth laws. The agency is able to pass on information to law enforcement agencies, including State police forces.

I understand that, from the State's point of view, two matters need to be addressed. Although the agency may distribute information to State police forces, the Federal Act does not give any protection to cash dealers who provide information in response to follow-up requests from State police, and there is no obligation on cash dealers to provide information about suspected offences against State criminal law or information that might be relevant to transactions under the Crimes (Confiscation of Profits) Act.

If the agency forwards information to State police, the Government asserts that the need arises frequently for an officer to seek further information and documentation from the cash dealer. While a cash dealer may supply the information, there is no compulsion to do so and there is no protection for the cash dealer who supplies the information and who may by reason of that action be in breach of an implied duty of confidentiality owed to the customer.

According to the Attorney-General, the Standing Committee of Attorneys-General has considered the issue and has agreed that there should be uniform State legislation that will overcome the shortcomings from the States' point of view. This Bill conforms to the model legislation which, I understand from the second reading explanation, has been passed in Victoria. I would like the Attorney-General to indicate at the appropriate stage in which other States it is proposed to have the legislation passed by December so that there can be a common commencement date.

The legislation will undoubtedly add to the costs of banks, merchant bankers and other cash dealers. This is largely because of the breadth of the legislation, which deals with all State laws and, although guidelines are published by the agency, there is a practice that, if in doubt, a report should be made. It should be noted that the Bill deals with all breaches of State law. There is no attempt to define what laws should be covered, so one could say that it really extends from the least significant to the very serious. By the very nature of the scope and

range of those State laws, that will mean a very significant cost burden to those financial institutions. The Australian Bankers Association conducted a survey, which indicated that, in addition to the $8 million which was required to set up a system within banks to deal with the legislation, it costs banks something like $12 million a year to service the obligations. Since the Commonwealth legislation was enacted, the cost has been approximately $32 million.

That is in relation only to Federal laws; one can only speculate as to what the cost may be in relation to State laws. The Australian Finance Conference has estimated the cost so far for members at $5 million. As a result of the Federal legislation, many Australian Finance Conference members, I am told, will no longer accept cash but deal in other means of trading. The Federal Act requires a review to be made of the operation of the Act within three years of its commencement, and I understand that to be due by June 1993. The review is designed to establish who gets the main benefits from the operation of the Act, what the benefits are and what costs have been incurred by the agency and financial institutions in the operation of the legislation.

The assessment made by the Australian Finance Conference is that the main benefit is to the Australian Taxation Office and not so much related to catching drug traffickers. That was one of the primary reasons for enacting the legislation at Federal level: that it would be much easier to identify the profits of organised crime, and particularly of drug trafficking, through the reporting mechanisms, and that that would largely enable the tracing of illegally gained profits and be more likely to bring drug traffickers to heel.

The Australian Finance Conference has suggested to me that a provision for a three-year review of the operation of the legislation, in so far as it relates to State laws, would be appropriate, and I agree with that. Even if that were included only in the South Australian legislation, I would suggest that that would not adversely affect the uniformity of the legislation with that of other States. It may be that, if I am successful in moving my amendment, it would be something that other States could incorporate in their own legislation.

It is important to have some mandatory review of the operation of the legislation, as there is at Federal level, because it is important to identify what benefits are being gained from the additional work required of financial institutions; also, from the point of view of a Government interested in reducing costs to business, it is important to ascertain what those additional costs are and whether the benefits are commensurate with the costs. It is for that reason, therefore, that during the Committee stage I will be seeking to move an amendment, and to encourage the Council to support that, to provide for a three-year review of the operation of the State-based legislation.

Another point that needs to be made is that, in discussing the matter with banks and Finance Conference members, it has become clear that there is concern at the amount of work likely to be involved in educating staff, particularly because of the wide range of State laws that may be broken and the proceds from which may pass through financial institutions, including cash dealers. So, the banks and Finance Conference members are concerned about it but accept that, as a matter of public duty, they should be prepared to make this sort of information available. It is important to recognise the contribution that they will be making as a result of the passing of this legislation.

The only other matter is that the banks have reserved their opinion about clause 7 of the Bill, which deals with the protections that are given to cash dealers and other persons to whom the Act will apply. They are not certain that it will provide the benefits of protection that are claimed for it in the second reading explanation. In relation to clause 9, I ask the Attorney-General to give some clarification to subclause (3), where 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 Territory.

The question that immediately comes to mind is whether that means that information that might be collected under the Act is not available under subpoena for civil actions. If that is the case, I question whether that creates a problem that ought to be addressed.

Another area to which civil remedies obviously apply is in the area of corporations law where, until now, the focus has been on civil penalties rather than on criminal law enforcement of breaches of the corporations law. I wonder whether a subclause such as the one to which I have referred will create a problem in the civil enforcement of corporations law provisions. Subject to those matters and to the amendment that I will move during the Committee stage, I indicate support for the second reading.

The Hon. I. GILFILLAN: I speak in support of the second reading, with some qualification. I do not have any argument with what is, on the face of it, the major purpose of the Bill and, to a large extent, what one can foresee as its result. The Hon. Trevor Griffin spelt out some irritants and some costs that may apply to those who are involved with cash transactions on a professional basis. Leaving those observations to one side, the principal purpose, as I see it, is to make available the detail of cash transactions so as to uncover illegal activity, money laundering and tax evasion and, from that point of view, it has my wholehearted support.

However, it is fresh in our memories that the purveying of confidential information was a very lucrative sideline for some hundreds of people in New South Wales in a notorious investigation by that State's Independent Commission Against Corruption (ICAC). It is abundantly clear from the statement made by ICAC that the Commissioner (Mr Ian Temby) holds it as a very risky situation where police and others have access to confidential information that can then be traded to parties who have an advantage from that information. I believe that the situation in South Australia is no different.

Looking briefly at some of the structure of the Bill, the Director of the Cash Transactions Reports Agency can quite properly ask a cash dealer to give information and, as was quoted during the Attorney's second reading explanation, the cash dealer must also, if requested by the Director, give such further information as is specified in the request, to the extent to which the cash dealer has that information. I will quote this again because it is relevant to my point:

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 section 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.

There is the point. Quite obviously, as is said here, State police will go back to the source of the information and the Director or the Commissioner of Police or a member of the Police Force who is carrying out an investigation arising from or relating to matters referred to in the information must give to any of those people the information that is requested.

There is no prescribed form, as I have discovered in my understanding of the Bill, in which that request for information can or must be made by a police officer in this State. That is where we do have a hazard. I refer to the scenario which would reflect the sort of activity that is taking place in New South Wales, where a police officer presents a valid reason for asking a cash dealer for the detail of any particular person or persons that he or she puts forward as being involved in an investigation relating to this matter.

The dealer is very easily persuaded that he or she must give that information at risk of being prosecuted and having imposed on them quite a heavy penalty for not providing the information. So, the information, I would put to the Council, is quite easily extracted from the cash dealer. Although in the Bill there may be penalties for the misuse of the information, we have seen in New South Wales that that is no guarantee that the information will not be abused and misused. I will return to that point later in my comments about the Bill.

The Bill quite rightly does protect cash dealers against legal action in relation to the provision of information, and that is where I see the two threads quite clearly established in the Bill. There is the *bona fide* and supportable aim of getting information relevant to the issues and protecting the cash dealer from any legal liability from having given that information. However, there is then on the dealer another obligation. Clause 6 (1) provides:

A cash dealer who is a party to a transaction and has reasonable grounds to suspect that information that the cash dealer has concerning the transaction—

(a) may be relevant to the investigation of, or prosecution of a person for, an offence against a law of the State;

or

(b) may be of assistance in the enforcement of the Crimes (Confiscation of Profits) Act 1986 must, as soon as practicable after forming the suspicion, prepare a report of the transaction and communicate the information contained in it to the Director.

We are faced again with the conundrum: what constitutes reasonable grounds of suspicion? It seems to me that there may very well be quite a wide area of grey when a cash dealer may feel obliged to disclose quite a large volume of information on the justifiable fear that, if it is established that he or she had a so-called reasonable ground of suspicion and had not given that information voluntarily they were liable to prosecution.

The Hon. R.J. Ritson: Banks have printed guidelines.

The Hon. I. GILFILLAN: The interjection is that banks have printed guidelines. Perhaps they are the printed guidelines and more guidelines or regulations may need to be incorporated into the way that this Bill is operated. Subclause (6) provides:

If a cash dealer communicates information to the Director under subsection (1), the cash dealer must, if requested to do so by—

(a) the Commissioner of Police;

or

(b) a member of the Police Force who is carrying out an investigation arising from, or relating to, matters referred to in, the information,

give the Commissioner or member of the Police Force such further information as is specified in the request.

That information is supposedly specified in the request. I certainly ask: in what form? I do not see it clearly spelt out in this Bill that there is a specific analysis or indication as to how that request, particularly in the hands of a police officer, is properly made, bearing in mind that I do have this concern that, if this measure is to be properly and fairly implemented in this State, it must be closely watched to prevent abuse similar to that which occurred in New South Wales.

There are other obligations on the cash dealer. Subclause (8) provides:

The cash dealer must comply with the request for further information to the extent that the cash dealer has the further information.

That is further pressure for that person to give quite extensive information. There is a protection for a cash dealer, and although I hope it does not occur I think one must look at the possibilities. There may well be the possibility of a connivance between a cash dealer and a police officer to misuse this measure, but there is a protection for the cash dealer in clause 7, which provides:

A proceeding does not lie against—

(a) A cash dealer in relation to anything done by the cash dealer—

(i) That was required under this Act;

or

(ii) In the mistaken belief that it was required under this Act;

I emphasise that. I think there are serious grounds for concern of the potential for abuse of this Bill in providing information which should remain confidential for it to be misused, and on that basis I have serious misgivings about what I understand are the restraints contained in this Bill. Let me be particular. I refer to the case where a police officer has an intention to misuse, as has happened in New South Wales, confidential information, and there is a possibility of finding cash dealers who for whatever purpose have no problem with sharing information, either knowingly or not caring about its end use. I would be looking to the Attorney-General to give in his reply some clear indication of what supervision, what control, and what prescribed guidelines there would be for a State police officer who was going back to seek further information.

As I understand this Bill, the cash dealer is obliged to provide that police officer with any information he or she is asked for at risk of incurring a penalty, having committed a so-called offence if he or she does not

provide it. Although there is clause 9, the secrecy clause that the Hon. Trevor Griffin has referred to before, indicating it to be an offence, we know that where there is an illegal intention the actual fear of penalty such as is included in this, or the injunction in the Act that the information is not to be misused, is no safeguard.

I repeat that I do not support the intention of the legislation. I believe that it could be useful in tracking down offences and minimising and preventing further offences of money laundering and tax evasion. However, I repeat that I do not believe that as the Bill is currently drafted, and as I understand it could be implemented, there are adequate safeguards to prevent members of the Police Force or those who have an intention to break the law and to benefit financially from this confidential information to protect the public from abuse of confidential information.

So, I ask the Attorney to indicate (if I have missed it) where there will be quite specific controls over the way in which a police officer can approach a cash dealer, seeking information; what happens to that information after it has been acquired; and what surveillance there will be over the police officer who has acquired that information. I feel that those questions should be addressed. I would postulate that there may be advantages in having very strictly prescribed forms on which the police officer can get information from the cash dealer and requiring that only on those prescribed forms can that information be given. I realise that we cannot have a totally fool proof system, but as it is presently structured I think there is quite a wide window for the abuse of confidential information through this measure. With that caution and looking forward to the Attorney's addressing it in his reply (and, if not, I will bring it up again in the Committee stage), I indicate support for the second reading.

The Hon. T. CROTHERS secured the adjournment of the debate.

APPROPRIATION BILL

Adjourned debate on second reading.

(Continued from 14 October. Page 451.)

The Hon. R.I. LUCAS (Leader of the Opposition): I support the second reading of the Appropriation Bill but, of course, on behalf of the Liberal Party, I do not support the economic and financial policies that are implicit in the budget document and the budget Bill that has been presented to the State Parliament by former Premier Bannon and of course now endorsed by Premier Arnold. South Australia is deep in recession at the moment and workers and businesses in South Australia are still suffering from the scorched earth policies of the State and Federal Labor Governments. If one looks briefly at the economic and financial statistics available, one can see only too readily the extent of the economic trauma that has been visited upon South Australians. Unemployment is still at 11.4 per cent here in South Australia. We have youth unemployment of over 40 per cent and, in some suburbs of metropolitan Adelaide, in particular some of the northern and southern suburbs, youth unemployment is approximately 60 per cent. Sixty per cent of those 15 to 19 year olds looking for full-time work are unable to find it, so it is little wonder that we have the social fabric of our State and nation being steadily torn apart when one contemplates the trauma apparent in those youth unemployment figures.

Over the past 12 months, unemployment in South Australia has increased by some 9.6 per cent, when comparing September 1991 figures with September 1992 figures. If one looks at the job vacancy figures from the Australian Bureau of Statistics for the past 12 months to the June quarter, one sees that those job vacancy figures have declined by 6.7 per cent. Interestingly, in Victoria (admittedly coming off a low base), the job vacancy figures in that same period increased by some 52 per cent. So, there was a 52 per cent increase in job vacancies in Victoria but a further decline in job vacancies in South Australia. Most economists would agree that the job vacancy figure is a reasonable indicator, with a lag, of future economic prosperity and those figures for South Australia are a further indication of the problems that confront the State.

If one just looks at the recent two years, in the two years that Premier Arnold was in charge of industrial development in South Australia as the Minister responsible for the Department of Industry, Trade and Technology, we lost 38 000 jobs in South Australian industry. We have lost 21 000 jobs from manufacturing industry in South Australia in the past two years during which Premier Arnold was in charge of industry, trade and development. As the Leader of the Liberal Party, the Hon. Dean Brown, has pointed out, those 21 000 manufacturing jobs we have lost in the past two years are the equivalent of five Mitsubishi car plants here in South Australia. So, one can see the rank hypocrisy of Premier Arnold and others in this Government and the Federal Labor Government when they talk of the potential problems for manufacturing industry under policies to be introduced by the Federal Coalition under Fightback.

One only has to look at the record of this Premier, with 38 000 jobs lost in just two years, to see the terrible extent of this Government's economic and budgetary policies over the past 10 years and readily apparent in the past two years. Retail sales have declined by .6 per cent on the most recent figures for June 1991, compared to June 1992. Our gross State product—our measure of economic activity in South Australia as compared with other States—for the past 12 months has declined by some 2.5 per cent. Again, if one looks at the Arthur D. Little report and the need to be generating growth in the State's economy of some 3 per cent or 4 per cent over the next decade, one can see the very low base from which we have to work when we see that we are in fact in decline and that our gross State product has declined by 2.5 per cent in the most recent figures.

One of the starkest figures of all, after the jobless figure, is our investment figure. If one looks at the most recent figures produced by the Australian Bureau of Statistics for new fixed capital expenditure in South Australia, as compared with the other States, we see that in the most recent period until March 1992 we actually had a decline when compared with the previous 12 month figure of 25.3 per cent in new fixed capital expenditure. If we are looking at the businesses and industries

employing young South Australians or South Australians generally in business and industry, this indicator is a critical one. If we do not have businesses investing in new fixed capital expenditure, we will not have businesses in industry employing South Australians and creating and providing more jobs. That figure of a 25 per cent decline, off a very low base anyway, to March of 1992 is an indication of the problems that business and industry are confronted with in South Australia.

With all those figures (and there are many, many more but I will not repeat all of them), clearly what was needed in the 1992 State budget was a pro-investment, pro-jobs State budget—a budget that would encourage business and industry to invest in new fixed capital expenditure and to put on more young South Australians in particular to try to reduce the level of unemployment in the State.

However instead of a pro-investment, pro-jobs budget we got a budget which again repeated the mistakes of the State Labor Government over recent years, a budget which is predicated on a further increase of 10.4 per cent in State tax and charge revenue collections. In fact, this is the third successive budget introduced by this Government where State tax and charge revenue has increased at a rate greater than 10 per cent. In the 1991 budget there was an increase of 10 per cent and, in the infamous 1990 budget, where businesses were king hit, were slugged, there was an increase of 18 per cent.

It is not as if this has been an isolated budget, but for the past three budgets in a row this Government continues to mug industry and business and by so doing prevents them from offering more job prospects for young South Australians. We now have a situation, after almost a decade of hard Labor here in South Australia, where we have the highest BAD tax, FID tax, fuel tax and WorkCover levy and the second highest electricity charges in the nation. There are many more areas of State taxes and charges that I could have highlighted in that sad chronicle but I think they are sufficient to indicate the problems that confront South Australian businesses and industries when they are looking at making future investment decisions, and indeed in some cases when they are making decisions whether or not they can continue in existence.

As I have said many times previously, it is very rarely that economists agree on anything, and it is no wonder, when one looks at the starkness of those figures for South Australia, that one of the few things that economists do agree on is that South Australia will stay the longest of all the States in recession, and they also agree that we will be seeing unemployment rates of around about 10 per cent in South Australia for at least the next 12 months. Indeed, some even argue that we will see unemployment rates of 15 per cent or more for the next 18 to 24 months.

I am pleased to see my colleague the Hon. Mr Crothers in the Chamber this afternoon listening to this debate. I know that he would be traumatised to be representing the Party which is meant to be the Party for the workers, for the constituents in the northern suburbs with which he has been familiar for many a decade and for the union members that he ably represented for many years prior to his coming into this Parliament. He has to sit on the back bench and support Ministers, Premiers and a Government that continue to inflict economic pain on the workers of South Australia and also on the businesses and industries that strive not only to make a profit but also to employ the workers that the unions Mr Crothers has been associated with have sought to represent.

One example of how out of touch this Government, this Treasurer (Mr Blevins) and this Premier (Mr Arnold) are at the moment is the controversy in relation to the stamp duties legislation. Only last Thursday in this Chamber a question was asked of the Government highlighting the problems that a provision in the Stamp Duties Bill that was hurried through as part of the 1992 State budget was causing for a whole range of businesses and industries in South Australia. During this debate I do not intend to go through all the details of that because there is a Stamp Duties Amendment Bill to come before this place in a few weeks and I then intend to have much more to say about this issue.

I think the Government's attitude, the lack of consultation with industry and business and the way the whole process was conducted, is an indication of a Government, a Treasurer and a Premier that are sadly out of touch with the community. When we have a situation where some businesses were saying to me quite frankly on Thursday last week and then over the weekend publicly to anyone who would listen that if this Stamp Duties Bill was not urgently amended they would go out of business and yet a Treasurer today making a ministerial statement saying that what the Government was talking about was just a minor problem is a fair indication of the degree to which this Government has fallen out of touch with the community, business and industry after being in government for some 10 years.

I think that is a fair statement. It sometimes happens to Governments—to be fair, Governments of all political persuasions—that, after a good period in government in the comfort of ministerial positions, they do become out of touch and start to make an increasing number of mistakes.

The Hon. R.J. Ritson: They lose control of Sir Humphrey.

The Hon. R.I. LUCAS: As my colleague the Hon. Dr Ritson has very eloquently explained on another occasion, they do lose control of senior public servants—but of course that is no excuse. Our Westminster system of parliamentary accountability says that the Ministers—in this case the Treasurer and the Premier—have to accept responsibility for their budgets and their budget Bills, and they have to accept responsibility for the farce that we have seen in relation to the Stamp Duties Bill. I spoke to a good number of businesses which indicated that they were writing upwards of 10 000 to 20 000 agreements a year and that, as a result of this provision, they may well have been liable for increased duty of some $100 000 to $200 000.

I was told that one very large business in South Australia (but I was unable to confirm the figure) wrote between 200 000 and 300 000 agreements in any one year in South Australia, and that if the provision had gone through the increased duty would have been of the order of $2 million to $3 million. Even if that figure is at the upper end of being accurate and even if the figure is that the business was writing over 100 000 agreements, then its increased stamp duty would have been $1 million

or more. Quite clearly at that end and then right down through to the very small businesses, those businesses were saying publicly that they could not afford it and that if the Bill were to go through some of them would in fact go to the wall. I do not want to go through the rest of the detail of that but I do want to address a couple of aspects of the ministerial statement that was made today in the other place by the Treasurer.

I believe that in that statement the Treasurer has not told the truth in relation to the matter of the debate and the process of the Stamp Duties Act Amendment Bill. On page 2 of the statement the Treasurer says:

> The problems would have been fixed up sooner had the principal complainer cooperated with the Commissioner of Stamps by detailing his additional stamp duty expenses. However, despite his lack of cooperation the investigation revealed there has been widespread non-payment of the previous 20c duty. This avoidance has placed a greater tax burden on wage and salary earners who do not have the ability to avoid tax.

One of the very many business people who spoke out publicly on this issue and this legislation was Mr Colin Caudell, on behalf of his business, which is a rental car and vehicle business, and he also happens to be the endorsed Liberal candidate for the new State seat of Mitchell. I repeat that: Mr Caudell was only one of very many business people who spoke out publicly on this issue. Indeed, this issue was first raised last Thursday in the Chamber by me. I mentioned no persons by name. I had spoken to a number of different business people in the preparation of that question. I was convinced of the accuracy and importance of the question and the urgent need for the question to be raised and, hopefully, for action to be taken very quickly.

On the weekend, the Managing Director of Thrifty Rent-a-Car, Mr Bern Brunning, made a number of statements, and on Sunday and Monday the Managing Directors of two other car rental businesses made public statements on the issue. The General Manager of Truscott Hi Fi made a number of statements, as reported in both the *Advertiser* and the electronic media, and a number of other business people spoke out publicly on this issue. In his statement today, the Treasurer says that as to the principal complainer—and in that description he is referring to Mr Colin Caudell—the problems would have been fixed up sooner had Mr Caudell cooperated with the Commissioner of Stamps by detailing—

The Hon. Barbara Wiese: Is he not the Liberal candidate for Mitchell?

The Hon. R.I. LUCAS: I just said that; the Minister should not have been talking to whoever it was that she was talking to. Yes, he is the candidate for Mitchell, as well as being the chairman of a group of 25 businesses and industry groups which represent the rental car business.

The Hon. J.C. Irwin: He is a risk taker.

The Hon. R.I. LUCAS: Yes, he is someone who employs people, who takes risks and employs people—but that is not the point. What the Treasurer is saying in this statement is that the problems would have been fixed up sooner had Mr Caudell detailed his additional stamp duty expenses, and he makes the allegation that Mr Caudell had not cooperated with investigations by the Commissioner of Stamps. That is the sleazy allegation that has been made by the Treasurer, and the Minister nods—

The Hon. Barbara Wiese: It is not a sleazy allegation.

The Hon. R.I. LUCAS: Well, that was the allegation, not sleazy, but that was the allegation that was made by the Treasurer. I think this aspect of the Minister's statement is absolutely disgraceful.

The Hon. Barbara Wiese: How would you know whether he has cooperated or not? Have you been in the stamp duties office?

The Hon. R.I. LUCAS: I am just about to outline it to you. As I said, this aspect of the Treasurer's statement is absolutely disgraceful. First, let us consider this statement that the problems would have been fixed up sooner had the principal complainer cooperated. This matter was first raised last Thursday. I think the first statements that were made by Mr Caudell were not made until some stage on Sunday. The matter was discussed in Cabinet on Monday, and the Government did its perfect backflip, with a pike, on Monday after Cabinet, and indicated that the decision would be reversed. It is untrue to say that the problems would have been fixed up sooner if Mr Caudell had cooperated in his own personal circumstances with the Commissioner of Stamps.

The Hon. Barbara Wiese: You have not said anything that indicates that yet. You haven't said anything that indicates why your claim is more accurate than the one that was made by the Minister. You are just making the claim.

The Hon. R.I. LUCAS: I have just demonstrated to the Council that the matter was only first raised on Thursday. How could it have been resolved any more quickly?

The Hon. Barbara Wiese: It's been going for months.

The Hon. R.I. LUCAS: The Minister has known it for months?

The Hon. Barbara Wiese: The legislation has been known about—

The Hon. R.I. LUCAS: It's very interesting: this Minister who was in charge of small business has said that this particular problem was known for months—

The Hon. Barbara Wiese interjecting:

The Hon. R.I. LUCAS: —and quite clearly what she is indicating is that as Minister of Small Business she knew of this particular problem for months.

The Hon. Barbara Wiese: I said that the nature of the legislation has been known about—

The Hon. R.I. LUCAS: That is what the Minister said, and the *Hansard* record will show that this Minister and this Government knew of this particular problem for months.

The Hon. Barbara Wiese interjecting:

The Hon. R.I. LUCAS: The *Hansard* record cannot be altered by this Minister, and it will demonstrate quite clearly what the Minister said.

The Hon. Barbara Wiese: That's right: that the nature of the legislation has been known.

The Hon. R.I. LUCAS: That is not what the Minister said.

The Hon. Barbara Wiese: That is exactly what I said.

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: We can't rewrite history, Mr President, I think you would agree. We can't rewrite

history. We have on the tapes what was said, and you can't rewrite history in this place.

The Hon. Carolyn Pickles: You're just a liar.

The Hon. R.I. LUCAS: Mr President, I take exception to that. I don't mind being called a lot of things, but when the Hon. Ms Pickles says that I am just a liar I would ask her to withdraw and apologise.

The PRESIDENT: I am sorry, I did not hear the remark, but I ask the honourable member to withdraw if that is the case.

The Hon. CAROLYN PICKLES: I withdraw the remark that the Hon. Mr Lucas is guilty of mistruths.

The Hon. R.I. LUCAS: The honourable member did not say that; she said I was a liar.

The PRESIDENT: The Hon. Mr Lucas has asked for a withdrawal an apology.

The Hon. CAROLYN PICKLES: I withdraw the remark that Mr Lucas is a liar.

The Hon. R.I. LUCAS: Thank you, Mr President. As I indicated, that aspect of the Treasurer's statement is clearly incorrect. The Treasurer goes on to say that Mr Caudell did not cooperate with the Commissioner of Stamps in relation to, I presume, inquiries made by the Commissioner of Stamps. That is an interesting allegation, and I intend to pursue, when the Stamp Duties Bill is before this House, what knowledge the Treasurer has—and my colleague the Hon. Mr Burdett would know the provisions of the Stamp Duties Act better than I—of the individual dealings of the Commissioner of Stamps with individual taxpayers, stamp duty payers, in South Australia. I will be interested to know what discussions the Treasurer has had, if any, with the Commissioner of Stamps or with other officers in relation to the discussions that Mr Caudell, or indeed any other individual, has had over this particular matter.

However, I am aware of the detail of the discussions. I am aware that very soon after this matter became a matter of public note, some stamp duty officers were immediately sent down to Mr Caudell's office to discuss matters with him. I, too, will be interested to know, when we debate the Stamp Duties Bill and we have the Commissioner of Stamps here, which other businesses had visits yesterday morning from stamp duties officers in relation to this matter. As I said, Mr Caudell was only one of a number of people who made public statements on this issue. He was only one of a number, and if all of those people who made public statements on the issue had visits from stamp duties officers yesterday one could certainly say that all those individuals were treated in the same fashion. However, I would hope that, because Mr Caudell also happens to be the endorsed Liberal candidate for Mitchell, he was not in fact in any way treated differently.

Until I have evidence to the contrary, I will maintain my faith in the officers of the State Taxation Office that they treat all individuals and businesses equally and fairly. Nevertheless, during the Committee stage, I will be asking questions of the Attorney-General, or whoever handles the Bill, and the Stamps Commissioner about movements of stamp duties officers yesterday. Given that the debate will not occur for some weeks, I should like to place on record my desire for that information so that, whilst it is fresh in everyone's memory, the movements of officers yesterday can be recorded so that I do not place the Stamps Commissioner and his officers in too much trouble in three or four weeks when I ask them what they did yesterday and how many businesses and individuals were visited in relation to these matters.

The Hon. Peter Dunn: I hope it wasn't victimisation.

The Hon. R.I. LUCAS: As I said, I will maintain faith, until it is proven otherwise, that it was not victimisation or that there was any hint of selective treatment of individuals.

The Hon. R.J. Ritson: It is a risky business running for office.

The Hon. R.I. LUCAS: As my colleague the Hon. Dr. Ritson says, it is a risky business. We have seen that in the debates in the Commonwealth Parliament about the operations of some areas of the Australian Taxation Office. As I said, until I get evidence one way or the other, I will reserve judgment, and that is the appropriate response of members of Parliament. However, I will seek information because, if contrary evidence comes to the fore, I will express some very strong views on the matter.

I am aware of the circumstances of yesterday's visit to Mr Caudell's office and I know for a fact that he did cooperate with the stamp duties officers and that, therefore, the Treasurer's statement that this matter had been delayed in some way because Mr Caudell had not cooperated with the investigations of those officers is factually incorrect. As I said, when the matter is before the Council in some weeks time, I will make more comments about it.

As I generally do during the debate on the Appropriation Bill, I will place on record some questions seeking response from the Minister of Education in relation to my own portfolio. I raise them now to assist the Minister and her officers in providing answers before the completion of debate in this Chamber on Thursday of next week. I will put some questions on notice now but, because answers to questions which were asked during the Estimates Committees and which were taken on notice have yet to be provided, at the commencement of the Committee stage I will place further questions on notice. By doing it in two stages, I hope that answers will be provided by Thursday of next week to expedite consideration of the Appropriation Bill, as has been the case with the previous Minister of Education for the past four or five years. On occasions, the Legislative Council has the opportunity to ask questions of departmental officers through the Minister during the Committee stage of the Bill. I hope that the process that I am adopting in relation to education will prevent our having to go through that process in this Chamber. My questions are:

1. Page 85 of the Estimates of Payments and Receipts states that the vacation and out-of-school-hours recreation for students program has been transferred to the Department of Recreation and Sport. However, page 44 of the Auditor-General's Report states that it has been transferred to the Children's Services Office. Which paper is correct and where has the program gone?

2. Will the Minister explain the reasons why the department has employed 23 fewer teachers in the migrant education area than proposed for last year?

3. Has Trinity College expressed interest in purchasing or leasing school properties in the northern suburbs, such as the Fremont High School site, and has the Anglican Church community expressed any interest in purchasing

or leasing the West Lakes High School site? If so, what is the Minister's attitude to such expressions of interest?

4. Last year's Education Department submission to the GARG review outlined that six teacher and student support centres were to be established. It also stated that schools would purchase services from these centres for a fee. In last year's Estimates Committee, we asked the Minister whether this meant that schools will now have to pay for the services of speech pathologists, guidance officers, equal opportunity advisers, social workers and health and safety officers. The Minister's reply was that this was still under discussion with interest groups. Will the Minister indicate whether schools will have to pay for these services, which have been provided previously at no cost to schools?

5. A small number of our Government secondary schools retain some of the traditional examples of rewards for excellence in academic study and leadership such as school prefects and dux of school. Brighton High School is one example. Many other schools have long stopped that practice and the honour boards in their foyers generally finish acknowledging the dux of the school in the 1960s and 1970s. Does the new Minister personally support those schools that still recognise excellence through the awards of dux of school and through the system of prefects?

6. Will the Minister provide an update on the progress of the pilot program for devolution that has been piloted in a number of South Australian schools? Departmental officers, when defending the Government's devolution policy, have claimed that schools already control more than $150 million in school funding. Will the Minister provide a detailed breakdown of those funds as to what areas constitute that $150 million?

7. Last year, the department proposed that there would be 6 842.5 teachers for classroom instruction in primary schools. However, even though enrolments increased through the year, the department employed 138 fewer teachers. Will the Minister explain why 138 fewer teachers were employed?

8. Will the Minister provide information on the 18 schools that were reported for overstating enrolments in the February census and, in particular, the names of the schools, the extent of overstatement, the reason for the overstatement, whether those schools reported for overstatement have had past records of overstatement, and what action has been taken by the department in relation to the latest overstatements?

9. Will the Minister provide a detailed breakdown of the number of coordinators and key teachers for 1992 appointed in specific areas, for example, social justice, science and behaviour management?

10. Will the Minister provide a complete list of all schools that are specially designated as focus schools, or some similar designation, which gives them a focus or emphasis in a particular curriculum area?

11. Does the Minister believe that school sport teams for middle primary and upper primary years should be able to offer not only encouragement certificates for all but also trophies and prizes for best and fairest, most wickets, most goals, etc, to encourage excellence in performance? If so, will the Minister ensure that such advice is sent to all schools, because at the moment many schools believe that they are not allowed to award such prizes and trophies?

In explaining that question, I note that the previous Minister of Education continually refused to answer that question, because he believed that, before he answered the question, members of the Liberal Party ought to provide some written evidence that the Government had ever indicated that such certificates should not be offered. The point of this question is not whether or not written evidence ever exists; the fact is that some schools, principals and school councils now believe, and have been told, that these sorts of awards are not to be offered or certainly, in most cases, are not encouraged to be offered.

The Hon. C.J. Sumner: What awards?

The Hon. R.I. LUCAS: I am talking about best and fairest awards for junior school sport. Do you want one, or something?

The Hon. C.J. Sumner: No, but if you'd been at the soccer carnival that I went to a few weeks ago you wouldn't have thought that policy existed.

The Hon. R.I. LUCAS: It's to be encouraged. I can tell the Attorney-General, since he has come in at this very important point, of the example of one parent in a southern suburbs primary school some four years ago who at his own expense was coaching a cricket team. He had been told that he was not allowed to provide an award for the equivalent in cricket terms of best and fairest cricketer—most runs or most wickets, or whatever—because that singled out those students from the rest. So, he thought that he would be doing the right thing by purchasing, at his own expense, 12 cricket caps, so that, in cricketing parlance, he would cap the 12 members of the team as having played good cricket for the team for the primary school that year.

He was then called in by the principal of the school, or the sporting coordinator (I cannot remember which), and told that that was inappropriate and not in accordance with departmental policy because it singled out those 12 students from the rest: that the other students in the school would be unhappy that those 12 students got a cricket cap.

The Hon. C.J. Sumner: You're living in fantasy land.

The Hon. R.I. LUCAS: I am not living in fantasy land; I'm telling you—

The Hon. C.J. Sumner: Where do your kids go to school?

The Hon. R.I. LUCAS: My kids go to a Catholic parish school; where do yours go?

The Hon. C.J. Sumner: They actually know what goes on, and this is nonsense.

The Hon. R.I. LUCAS: The Attorney says that this is nonsense. I am just telling him it is not.

The Hon. C.J. Sumner: I have one kid in a primary school—

The Hon. R.I. LUCAS: Well, you might be very lucky.

The Hon. C.J. Sumner: —and one in a State school, and this does not happen. I can tell you. Three or four weeks ago there was a soccer—

The PRESIDENT: Order!

The Hon. C.J. Sumner: I was there four weeks ago at the soccer carnival, and they were giving trophies and badges to everyone.

The PRESIDENT: Order! The honourable Attorney will have a chance to enter the debate.

The Hon. R.I. LUCAS: Exactly. Everyone gets it. I have two responses to the Attorney's interjection. One is that some schools do still do it. It may be that the Attorney is lucky enough to have fluked a school that does. Secondly, in relation to his interjection that all the kids were getting the things—

The Hon. C.J. Sumner: No, you have misinterpreted what I said. People in the soccer team all got a medallion and others in the team got trophies for excellence, for most improved, for best team man, best and fairest and all that stuff. It was all done just a month ago.

The PRESIDENT: Order! The Attorney-General will come to order.

The Hon. R.I. LUCAS: Then the Attorney or his children are very lucky.

The Hon. C.J. Sumner: I refereed all day.

The Hon. R.I. LUCAS: The Attorney or his children are very lucky that his children go to that school, but the example that I have given—

The Hon. C.J. Sumner: You'll have to check it.

The Hon. R.I. LUCAS: The cricket caps is an old example, but the example I gave is the thinking that exists in many departmental schools. I am just talking now about sporting excellence, but, if you are talking about such things as dux of school, I should like the Attorney to point out any schools that still highlight the dux of school. In the Attorney's days, when he was at Manoora Primary School—and as I understand it, he spoke at the reunion on Saturday night—

The Hon. C.J. Sumner: I have become famous already.

The Hon. R.I. LUCAS: I was at the Mintaro Farrell Flat reunion on the Sunday. The news travelled fast that an old boy of Manoora Primary School had spoken on the Saturday night in front of 200 or 300 people.

The Hon. C.J. Sumner: Good feedback?

The Hon. R.I. LUCAS: Politically, I do not think that they were your strong suit, but they did say that it was some of the nicest stuff they had heard you say for a while, anyway. He did not talk too much about law and order and Attorney-General's matters; the Attorney talked about his history and his connections with the school.

The Hon. C.J. Sumner: The point the Minister wants to know is: where is your evidence that this is the policy of the department?

The Hon. R.I. LUCAS: Let me say to the Attorney, as we would say to the previous Minister of Education: if the policy is as the Attorney states it is, there will be no problem in the new Minister of Education, Employment and Training's issuing a statement—not publicly but just through the departmental note that goes to schools (Edfax)—that, because of the terrible behaviour of the shadow Minister of Education, Employment and Training in fanning these matters, she would like to clarify the fact that schools are allowed to offer in middle and upper primary best and fairest trophies, and that they are able to distinguish excellence in those areas. That is all that people associated with sport have asked us to try to get clarified.

The Hon. C.J. Sumner: I'm sure she'll clarify it for you.

The Hon. R.I. LUCAS: I will send the Attorney-General a copy of the Estimates Committee debate in this area, showing that the previous Minister of Education refused to do so. For as long as the Minister refuses to clarify the matter—

The Hon. C.J. Sumner: The fact that it happens in the school I referred to must mean that it is not the policy of the department not to permit it.

The Hon. R.I. LUCAS: Many things go on in schools that might not be completely in compliance with departmental policy, when one looks at 800 schools. But we will not go into that. I put that matter to the side and return to the questions.

12. The school support grant is paid in two instalments: 80 per cent in September and 20 per cent in June. The Auditor-General noted that this procedure cost the Government $400 000 in interest alone. Will the new Minister indicate her attitude to this observation by the Auditor-General and say whether or not she intends on behalf of the Government to change the current timing of payments of the school support grant to schools?

13. The Auditor-General notes that the school administration computing system is estimated to cost $16.4 million during its first five years, compared to benefits of $18.8 million in 1991-92 dollars. Will the Minister make available a copy of the cost benefit analysis of the project, and will the Minister indicate the estimated cost of the new human resources management system?

Those are the questions that I wanted on the record. As I indicated before, when we received the on notice replies to the Estimates Committees questions asked in another place, I intend at the start of the Committee stage of this Bill to place further questions on notice with the intention of not having to bring officers down if the Minister is able, with her officers, to provide answers before the Bill leaves the Legislative Council, hopefully on Thursday week.

The Hon. J.C. BURDETT: I support the second reading of the Bill because, I suppose, it would be rather startling if I did anything else, although, as I will not be seeking preselection again, I have wondered about doing some startling things. However, I will not do so on this occasion. Certainly, there is little in the budget to support. It is an abysmal, dismal and depressing budget. This situation is brought about partly because of the national economic position caused by the financial incompetence of the Federal Government, and partly through the financial ineptitude of the State Labor Government, especially in having brought about the disastrous State Bank and SGIC debacles.

The Hon. R.J. Ritson: I'm glad you used the words 'brought about'.

The Hon. J.C. BURDETT: Yes. I intend to make some reference to the State Bank quarterly economic report for the March and June quarters 1992. I must say that I have always found this report most useful and informative to one like myself who has little contact with the across-the-board economic scene. This report was accompanied by an apology for the late arrival, explained by the Economic Services Unit of the bank as having been preoccupied with other matters, and in the present circumstances the latter is hardly surprising. However, it

is fortunate that because of the delay the report is to hand at a very opportune time for use in this debate.

There has been bitter and acrimonious debate in the Federal Parliament as to whether or not the recession which we had to have has, as the Prime Minister said, long since gone. I might say that this does not seem to be the view of the Economic Services Unit of the State Bank. On page 3 it refers to the Australian economy, as follows:

> There were patchy signs through the first half of 1992 of the recession having bottomed out with stronger housing finance commitments, rising retail turnover and increased new motor vehicle registrations. Employment growth remained hesitant and unemployment continued to rise, being around 11 per cent through mid year. Business confidence remains very depressed and consumer confidence volatile. The outlook remains a continuation of only a slow recovery based on consumer spending, housing construction and public spending. Sustainably increased employment and higher profitability looks unlikely until 1993. Inflation and interest rates should stay low.

Dealing with the South Australian economy, the report states at page 21:

> In the previous edition of the quarterly economic report we presented a relatively sombre view of the outlook for the South Australian economy in 1992, indicating that we felt that the recession had not yet fully run its course in South Australia, and that further job losses were likely in the first six months of 1992. In the event the extent of the further downturn in the South Australian economy through this period was greater than we had anticipated, reflecting both the slower than expected recovery at the national level as well as local factors.
>
> As a consequence unemployment climbed to post-war highs in the first half of 1992 and in June the quarter averaged 12.3 per cent. Furthermore, both business and consumer confidence have declined markedly, in many cases to the point of outright pessimism. This very low level of confidence is as much a concern as are some of the real underlying economic and financial problems facing South Australia. For, as extensive as these problems are, it is our view that the recession has now bottomed in South Australia and that there remain opportunities for longer-term economic growth in South Australia. This, however, is of little comfort if the confidence is not there to realise these opportunities.

Members should note that the report says that the recession which the Prime Minister says has long gone has now, in the view of the writers, bottomed out in South Australia, but it has by no means gone. Even including semantic definitions in the argument, the best thing that can be said is that hopefully we have turned the corner and are on the way to climbing out of the recession, which, however, is at the present time very much with us.

The Economic Services Unit of the State Bank is, of course, not the only one to counter the suggestion that the recession is long gone. Murray Nichol, in the 14 October edition of the City Messenger, under the heading 'Recession is NOT Over, Mr Keating, says:

> What a relief the recession is over. Paul Keating says so. What is more, according to our illustrious Prime Minister with his finger firmly on the pulse of the Australian community, it's been over for ages. Things will be fine any minute. All you unemployed people out there can all get back to work now. The country is in the very best of hands. What a joke! What an insult to the Australian people to expect us to swallow that when all around us we see more than enough evidence that tells us the exact opposite.
>
> The recession is over? Tell that to the people who are living in shanties on the banks of the River Murray; the Masonic Foundation and the Save the Children Fund; the parents and teachers who are running feeding programs in schools where kids are coming from home hungry because their parents are broke; the people whose businesses are crashing around their ears; the people who are losing their homes; the welfare organisations whose resources are stretched well beyond their normal limits. These are the people who really know the score. They are living in the real world. They know the recession is far from over.

It is the sums paid to bail out the SGIC and State Bank disaster and the interest payments and increased State debt which are among the major problems. Add to that the terrible unemployment situation which is blighting the lives of many South Australians. At page 29 the report refers to the main taxation measures underlying the South Australian budget. It refers, first, to the increase from 11 per cent to 13 per cent in the liquor licence fee on full strength alcohol. I do not think that this is justified, and it is yet another example of a desperate attempt to gain revenue from wherever it may be obtained with minimal resistance. As the drinkers will still have their booze, they will not complain too much.

When the relevant Bill was before this Council, because of the artificial nature of the mode of collection of this impost, I moved an amendment to postpone the increase until 1 July 1993. The Australian Democrats very rarely seem to be prepared to exercise any responsibility on budgetary matters, and they declined to support the amendment. It is interesting to note that the increase in the liquor licensing fee is the first of the so-called taxation measures mentioned, whereas if it were in law a taxation measure it would be unconstitutional under the Constitution of the Commonwealth of Australia as an excise. It is for this reason that it must be collected in the clumsy form of a franchise selling fee and cannot be levied on sales as they happen.

The next measure mentioned is the doubling of the bank account debits tax. This has been referred to in debate in this Council as being an unfair impost. The next mentioned is the increase in the petroleum franchise fees already collected, making an increase of 3.4c per litre on leaded petrol in zone 1 and making our petrol the dearest in Australia. Of course, it is not only the motorist buying the petrol at the pumps who pays the increase but also the consumer generally, because virtually all goods have to be transported and travelling is involved in the provision of many services.

The next mentioned is the phasing out of the stamp duty concession for first home buyers of houses between $80 000 and $130 000. Significantly, when mentioning stamp duty as part of the increased taxation package, no mention is made of the 5 000 per cent increase in stamp duty on agreements which has recently caused so much alarm in business and which is now the subject of a backflip by the Government. I suspect it was not mentioned for the very good reason that the Economic Services Unit of the State Bank, like almost everyone else, had not adverted to it.

In introducing the Stamp Duties (Rates) Amendment Bill on 11 August 1992, the then Minister of Finance (now Treasurer), Hon. Frank Blevins, said:

> Various minor stamp duties have remained unchanged over many years. The duty payable on instruments such as powers of attorney, deeds and miscellaneous conveyances has remained unchanged at $4 since 1971; the duty payable on agreements has remained unchanged at 20 cents. The duty payable on some other instruments has not changed since the duty was first introduced (in 1974 in the case of the discharge of a mortgage and in 1988 in the case of a caveat). The Government proposes to raise the rate of duty on all but one of these instruments to $10. Duty on powers of attorney will be abolished.

So, it is all very low key stuff, with no hint of the turmoil which this thoughtless amendment has created. The Minister's explanation of clause 5, which is the clause that creates the increase, is as follows:

Clause 5 makes various amendments to the second schedule of the Act, which sets out most of the rates of duty. The rate of duty on a number of instruments that are not subject to an *ad valorem* scale of duty is to be increased. The duty on stock and marketable securities where the value is less than $100 is to be made consistent with the duty on stock and marketable securities valued at $100 or more. Duty will cease to be payable on powers of attorney.

So, this increase of 5 000 per cent in duty on agreements was not mentioned at all. It does not even mention the rate of duty. When introducing a Bill increasing tax, it is common to give an estimate of the amount of revenue that the increase is expected to raise in the current financial year and in a full year, but there is no hint of this. The industries most affected have unanimously stated that they were not aware of this dramatic increase until after the Bill was passed and in fact not until quite recently.

In the Bill, the resulting Act is said to come into operation on 1 September 1992 and it was only passed in the Legislative Council on 27 August 1992. The stamp duty on agreements was the old one shilling duty stamp. People of my generation were familiar with the one shilling duty stamp on agreements and the two penny duty stamp on receipts. On the introduction of decimal currency, the one shilling stamp was converted to a 10c stamp and increased to the princely sum of 20c in 1971. In the mind of the public, the one shilling duty stamp was a formality which gave legality to an agreement and, although this is legally nonsense, the one shilling duty stamp was faithfully affixed to all sorts of agreements, some of them flimsy and informal and sometimes of doubtful legality.

There seems to have been an assumption in debate on the Bill that a requirement to pay increased stamp duty on an agreement applied only or mainly to agreements for the sale of land or for finance. This is not the case of course and in the past, broadly speaking, there was no such misconception. Rental agreements (which were not much in vogue then), licence agreements, share farming agreements, agistment agreements and a great variety of miscellaneous agreements were acknowledged as being stampable and they all had the one shilling duty stamp solemnly affixed and cancelled with the date and the initials of the parties. I would say that the old one shilling stamp did serve some useful purpose as well as very modest revenue raising. It led to a greater tendency to put matters agreed on in writing and to go through what were seen as necessary formalities: one had to have it written down and signed; and one had to affix the stamp and cancel it or it was not legal. Not so, of course, but it did lead to a desirable measure of formality in agreements intended to be enforceable.

Now, the old one shilling stamp has increased 10 000 per cent, or 5 000 per cent since 1971. I have not applied the rate of inflation to these amounts, but I suspect it has not been as substantial as that, even over a very long period.

The Hon. R.J. Ritson: What about some of these promises of the Government not to increase tax?

The Hon. J.C. BURDETT: Exactly—beyond the CPI. Be that as it may, the last increase was in 1971, and that has not been gradually updated since. In 1971, 20c was a nothing, even on any agreement where the sum involved was very modest. It was a nothing, so agreements were usually stamped because it did not amount to anything. However, $10 is not a nothing, even today. The rental business is currently a very considerable business which, like all successful businesses, gives a real benefit to both the entrepreneur and the consumer. Some rental agreements are for very small amounts, for example, trailer hire and, of course, as with agreements for sale, there is a substantial duty payable on the business, anyway. While there are large operators such as Budget and Radio Rentals, there are also very modest operators, and one contacted me by telephone at the same time as the Hon. Robert Lucas was asking the question about it last week.

From the responses of the Government and the media it is clear that at least they had not thought through the ramifications of the increase. The Premier pompously pointed out on television that consultation with industry did not necessarily mean that the views of industry would be acceded to, but in this case business was not even aware of the increases. The increases, particularly in the rental area, for example, could make many businesses non-viable and cause considerable job losses, the last thing we need at the present time. Either the Government had not done its homework and did not realise the havoc it was wreaking (and I think that to be the likely explanation), or it was guilty of legerdemain in trying to sneak in a substantial fundraiser without anyone knowing about it. Whichever of those two possibilities is the case, that is not the kind of action that will enable South Australia to recover from the recession we had to have. It will not give South Australians the feeling that the quality of financial management of the Arnold Government is likely to be any better than that of the Bannon Government.

As I have said, the Government has now done a partial backflip in regard to rental and sale agreements, following the question asked last week by the Hon. Robert Lucas and outcries from business. I am by no means satisfied that it has yet appreciated all transactions which may be adversely and unfairly affected by the legislation, and its amending Bill (when it comes) will have to be closely scrutinised. In the meantime, I support the second reading of the Bill.

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

BUSINESS FRANCHISE (PETROLEUM PRODUCTS) (FEES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 15 October. Page 464.)

The Hon. DIANA LAIDLAW: The measures proposed in this Bill were outlined by the former Premier (Mr Bannon) when he was delivering the State budget on 27 August. I regret that with the change of Premier since that time South Australians have not seen the

Government change its mind on this regressive tax measure. The Liberal Party opposes the measure. We feel so strongly about the stated effect that this Bill will have on the State in general, including on State finances, that we will even oppose this Bill in the Legislative Council—and that is an unusual step for Legislative Councillors of Liberal persuasion when it comes to a tax measure that is part of a budget statement.

A number of tax measures that emanated from the budget have been opposed strongly by members in the other place but have been allowed through reluctantly in this place because they were part of the Government's financial package. However, with this Bill we believe enough is enough, and we have taken the unusual step of agreeing to oppose it in this Chamber. The Bill aims to do three things: introduce indexation to take account of increases in the consumer price index; increase tax rates on petroleum products by 3c in zone one, which is 50 kilometres from the GPO, by 2c in zone two, which is between 50 and 100 kilometres from the GPO, and by 1c in zone three, which is beyond 100 kilometres from the GPO; and apply a levy to fund the proposed Environmental Protection Agency, and that levy is to be distinguished on the basis of whether the fuel is leaded or unleaded.

When this measure was first announced by the former Premier it was to take effect from 1 November but it has applied from 1 October this year. The Liberal Party has taken strong exception to the fact that the application of this measure proceeded before Parliament had even had a chance to start debating the issue, and we believe very strongly that that move represents a contempt of Parliament and the parliamentary processes, in particular when it is such a contentious measure as this. When it introduced the budget the Government knew that it was standard practice for oil companies to start charging any increase in the petroleum franchise one month before the Government would actually collect that franchise increase, and I believe very strongly that in those circumstances the Government should have waited at least until 1 December to allow Parliament to finalise debate before starting to commence collecting those petroleum fees from 1 November.

The Government decided that this was not the course it would follow, and that reinforces the contention of many in this community and certainly all Opposition members in this Parliament that the Government will go to any lengths to raise revenue at this desperate time in the State's finances. We believe very strongly that at a time when the State should be seeking to re-establish itself and generate wealth, business wealth in particular, the Government should be taking a lead and cutting its cloth to meet its anticipated income and not increasing income in this manner which we all know will have a devastating effect on business confidence and business capacity to grow and employ.

In the Adelaide area we will now have a circumstance where all motorists and all in the trucking industry will be paying the highest fuel taxes in Australia. I seek leave to incorporate in *Hansard* a purely statistical table which looks at State tax rates across Australia as at 3 September; it also includes the proposed South Australian tax fuel rates from 1 October.

Leave granted.

STATE FUELS TAX RATES AS AT 3 SEPTEMBER 1992

State	Motor Spirit	Distillate
SA—Zone 1 (0-50)	5.50	6.71
SA—Zone 2 (50-100)	4.24	5.50
SA—Zone 3 (100- +)	3.03	4.24
Vic—1 Zone	7.46	7.17
NSW—Default rate, Southern	6.75	6.79
NSW—Zone 6—ACT border towns	6.75	6.79
NSW—Zone 5—VIC border towns	6.75	6.79
NSW—Zone 4—151-200 km from Qld border	5.40	5.43
NSW—Zone 3—101-150 km from Qld border	4.05	4.07
NSW—Zone 2—51-100 km from Qld border	2.70	2.72
NSW—Zone 1—0-50 kms from Qld border	1.35	1.36
NSW—Zone 7—Towns on Qld border	0.00	0.00
ACT—1 Zone	6.53	6.57
Tas.—1 Zone	6.15	6.11
WA—1 Zone	5.67	7.45
NT—1 Zone	6.00	6.00
Qld—no Zone	0.00	0.00

PROPOSED SA STATE FUELS TAX RATES FROM 1 OCTOBER 1992

	Motor Spirit		Distillate
	Leaded	Unleaded	
SA—Zone 1 (0-50)	8.94	8.79	10.03
SA—Zone 2 (50-100)	6.65	6.50	7.80
SA—Zone 3 (100- +)	4.40	4.25	5.50

The Hon. DIANA LAIDLAW: Members will note that prior to the implementation of the measures in this Bill in zone one in South Australia the State tax on motor spirit was 5.5c and on distillate it was 6.71c; in zone two on motor spirits 2.24c and on distillate it was 5.5c; and in zone three for motor spirit it was 3.03c and for distillate it was 4.24c. What has happened with the increases is that in zone one the price of leaded motor spirit has leapt to 8.94c, for unleaded to 8.79c and for distillate to 10.03c. This is by far the highest tax that any State levies on fuel.

From the chart members will note that in Queensland there is no zone system because there is no such State tax levied. It is interesting, when one looks at State finances, population growth and all manner of other economic statistics, to see that Queensland is roaring ahead in the financial and economic stakes in this country—yet that State has no fuel taxes. Queensland can generate wealth through business growth and population growth, in contrast to this State, where we see a decline in business growth and population growth and an increase in taxation.

It is very depressing news for South Australia at large that at a time when we should be encouraging business growth and trying to stem the decline in population and outflow of young people to work in other States we find the Government is increasing the taxes on fuel. We now have the unsatisfactory and debilitating position where we have the highest State fuel tax of any State in respect of our capital cities, and it is not much different in country areas.

I find this increase in State fuel taxes to be at odds with so many of the public statements that have been made by Government Ministers on a variety of initiatives.

For instance, the former Minister of Transport (Mr Blevins) has agitated at the Federal level and through the public media that the South Australian Government would strongly resist Federal measures to increase road cost charges in this State to such a level that we would see our transport industry and industry in general disadvantaged compared to industry in other States.

Yet, what the Government is doing with this same measure is increasing the costs to South Australian transporters and to South Australian industry in general to a rate above what applies in the eastern States. So there is an irony between what the Government says in terms of road cost charges and the application of those charges and what the Government is doing with this measure. It also seems to me to be an irony that not only is the Government proposing that this State hereafter increase fuel taxes by the CPI but that, again, the fuel tax increases proposed in this Bill will further increase the costs of operating business and general living in this State. I think it is an irony, if not totally hypocritical, on the part of the Government to be proposing this measure at the same time as advocating that the Adelaide area be a transport hub for the rest of Australia. It is hypocritical in my view for the Government to be saying that it wants to promote tourism in this State, and particularly tourism to regional areas, while again increasing the costs of transport for people who wish to come to this State and enjoy what we have to offer in tourism terms.

Certainly, in terms of the Arthur D. Little report, measures such as the one that the Government is proposing in this Bill will make it increasingly difficult, notwithstanding public statements made by the Government, to attract new industry to this State. So for all those reasons the Liberal Party believes that this measure is an appalling move by the Government that will have immediate and long-term economic and financial ramifications for the State, and also major psychological ramifications for all those people who wish to live and operate in this State.

It is of interest that, in New South Wales, when the Greiner Government was elected several years ago, they imposed a tax called three by three, which was a 3c tax on fuel over three years. That has since been extended for a further three year term. But all of that 3c was hypothecated to road funding projects and it did not generate the confusion and outrage in the community that this measure has done, because people knew that it was going to road projects that were critically in need of attention, both in construction and maintenance terms, and they knew that all those road projects would be generating jobs. This Government, though, has not moved along the same path. It is simply generating more revenue for a variety of services that it now wishes to transfer to local government, and I will further address that matter in a moment.

In the meantime, it is important to note that, in contrast to the New South Wales Government, which did levy this special three by three tax, the Government in this State has been cutting allocation of funds derived from petroleum franchise fee collections to the Highways Fund. I seek leave to have incorporated in *Hansard* a statistical chart which details State fuel tax collections over the years 1979-80 to 1992-93.

Leave granted.

State Fuel Tax Collections

Year	Fuel Franchise Collections $ million	Fuel Franchise Credited to Highways Fund $ million	% To Highways Fund
1979/80	14.209	14.158	effectively 100
1980/81	20.230	20.167	effectively 100
1981/82	23.794	23.737	effectively 100
1982/83	25.792	25.726	effectively 100
1983/84	38.569	25.726	66.7
1984/85	48.487	25.726	53.0
1985/86	46.448	25.726	55.4
1986/87	47.285	25.726	54.4
1987/88	67.470	25.726	38.1
1988/89	76.200	25.726	33.8
1989/90	77.880	25.726	33.0
1990/91	70.133	25.726	36.7
1991/92	86.300	25.726	29.8
1992/93	129.900(est)	25.726	19.8

The Hon. DIANA LAIDLAW: This is an important table. In 1979-80, the fuel franchise collections amounted to $14.209 million. Almost 100 per cent of those funds were credited to the Highways Fund for road construction and maintenance purposes. That was so over the whole period of the Liberal Tonkin Government. However, in 1982-83, when the amount of fuel franchise collections came to $25.792 million, the Bannon Government froze the collections credited to the Highways Fund at $25.726 million. It has frozen the funds at that level since that time. We find that this financial year, when it is estimated that the Government will collect $129.9 million, it will be returning only $25.726 million to the Highways Fund, representing only 19.8 per cent. That is a dreadful indictment on this Government and on the interest that this Government has in road construction and maintenance programs.

I hope that the current Minister of Transport Development (Hon. Ms Wiese) will seek to ensure that that trend is reversed in forthcoming budgets—although the Government may not have another budget to deliver in this State. Certainly it is a matter that the Liberal Party will be addressing, because what we are finding in this State is that the Government is collecting more and more revenue from the transport industries and from motorists generally but returning less and less for road construction and maintenance purposes. In fact, over the 10 years of the Labor Government the fuel franchise collections have increased by 403 per cent, or 318 per cent in real terms, and yet we have seen, because that figure of $25.726 million has been frozen over the past 10 years, and when one takes account of inflation, the value of those fuel franchise fees returned to roads halved in relation to that figure of $25.726 million. So it is a pretty damning picture.

In addition to the transport responsibilities that I have within the Liberal Party, I have responsibility for local government relations, so this has been an interesting Bill for me to consider. The Government has been progressively seeking to transfer to local government various functions which traditionally have been undertaken at the State Government level. Throughout that process the Liberal Party has shared the concerns of the local councils in general that the State Government is off-loading responsibilities to local government but without passing on the resources to manage those responsibilities adequately. Essentially, it is raising the expectations of people in local council areas that their

local councils now have responsibility for additional functions, but the councils have been finding that they are increasingly unable to satisfy their ratepayers, because of inadequate funds to operate those services and functions.

Local government, quite rightly in my view, indicated that it would not tolerate the further transfer of functions after they had exhausted the memorandum of understanding process, and they indicated that they would not proceed to a further memorandum of understanding signed between the President of the LGA and the Premier until the Government had secured a source of funds for local government that also had a growth factor to take account of inflation or cost of living adjustments. The Liberal Party is sympathetic to that stand taken by local government represented through the Local Government Association. What the Liberal Party will not accept, however, is that the petroleum franchise fees are the right and proper approach in relation to the Government transferring funds to local government to match the functions that have been transferred. I understand that local government was prepared to accept a number of options and it certainly submitted proposals for receiving a proportion of property sales fees or land transaction fees. The other option would have been to receive a proportion of existing funds from Consolidated Revenue rather than increasing the level of funds raised from various taxes for Consolidated Revenue purposes.

I feel particularly outraged at the fact that this Government has decided to transfer functions to local government because it is not prepared to transfer funds which it used traditionally to provide those services. The Government is offloading functions to the Local Government Association but it is not offloading the funds that would have paid for those functions at any other time, and it will levy taxpayers in this State by regressive taxation to find additional funds. I cannot understand the logic, if there is any, in that process.

I am also concerned about the lack of negotiation to date in working out which functions will be transferred to local government and, therefore, determining the amount of money the Government wishes to raise to accommodate this transfer process. I have received correspondence from the Local Government Association, which outlines a range of projects submitted by various departments to Treasury proposing functions that could be transferred to local government. In all, they amount to $60.864 million and range from community amenities to sport, recreation and culture, health, child development and care, welfare services, protection of persons, their rights and property, natural resources, including coastal protection, economic development and assistance to local government not elsewhere calculated or considered. This year, the Government proposes that revenue raised from the petroleum franchise fees to be returned to local government will amount to half that figure, that is, $32.1 million and, in a full year, $42.7 million.

I am most concerned because, until the negotiations have been undertaken and confirmed, it is not known whether the responsibilities, if any, to be transferred will amount to $120 million or $20 million; yet the Government is prepared to levy this regressive tax, amounting to $32.1 million this year, without really knowing for what purpose it is levying those funds and whether those funds will be required to be transferred to local government to accompany the transfer of programs. That is another source of concern. At the same time, the Government continues to collect revenue from traditional sources, revenue that would have been used to pay for the functions that are to be transferred. With the collection of this new tax, we have not seen any proposal by the Government to reduce taxation in general to accommodate the void in finances that will result from the transfer of these programs.

There are other administrative difficulties with the Government's proposal and it has been put to me by several petroleum companies in this State that it is ill conceived because it will encourage zone hopping and the Government may not receive all the money that it anticipates it will reap from this taxation increase. Distributors in South Australia have had no reason to zone hop because the differential in motor spirit and distillate between zone one and zone three is 2.5c and 2.4c respectively. However, from tables that I have already incorporated into *Hansard,* members will note that in future the differential will be 4.5c for leaded fuel and 4.5c for unleaded fuel. That is quite a big difference and, in an industry that is as cut-throat and as lean and mean as is the motor fuel distributing industry and the transport industry—as the Minister of Transport Development will learn quickly—any advantage that can be gained by purchasing petrol at a cheaper price in zone three and bringing it into zone one is likely to be taken by the operators in those respective industries. That will be encouraged in future and it is disappointing that the Government will tolerate such practices because we should encourage fewer heavy vehicles to use our roads, not more, and not only will this measure encourage more vehicles in terms of zone hopping but it will also encourage more vehicles from interstate to refuel at our borders, come to Adelaide, return and refuel outside the State. It has been argued by members of the South Australian Road Transport Authority, the Motor Trades Association and individual oil companies that that will be the case.

For all the reasons that I have outlined, the Liberal Party will oppose this measure. Opposition members believe that it is regressive, ill conceived and damaging. Indeed, it is an outrage that it is even being considered, particularly when one considers that the funds will not be returned for road construction and maintenance purposes, but merely used to assist the transfer to local government of functions which the State no longer wishes to operate because of the debt and financial crisis which this Government has foisted upon all of us.

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

PAY-ROLL TAX (EXEMPTIONS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 15 October. Page 466.)

The Hon. R.I. LUCAS (Leader of the Opposition): The Opposition supports this Bill, which seeks to extend

from 1 July 1992 to 30 June 1995 the exemption for paying payroll tax for trainees employed under the Australian traineeship system.

The cost of the exemptions to State revenue will be $260 000 for this financial year and $333 000 for the full financial year 1993-94. When the Labor Government came to office in November 1982, payroll tax collections were worth $222 million to State revenue. The importance of payroll tax now as a revenue source for State expenditure is evidenced by the fact that payroll tax collections are anticipated to be $496 million in 1992-93. That is an increase of some 123 per cent, or 38 per cent in real terms, over the 10 years of 'hard Labor' that we have had here in South Australia.

Many people talk about wanting to get rid of payroll tax as a disincentive to employment and a disincentive to the creation of new jobs in South Australia and, whilst we agree with the minor tinkering at the edges that this Bill entails, it is really only a return of some $260 000 out of nearly $500 million. That is not what you would call an overly significant sum. Of course, the only way that State Governments can ever afford to get rid of such a large revenue earner as a payroll tax is, in effect, for payroll tax to be replaced by something else.

In the Federal Coalition Fightback package, we have that replacement in the goods and services tax which, amongst other things, will result in the abolition of some eight or nine Federal taxes, and the important one, from South Australia's viewpoint, is the abolition of payroll tax. Of course, there will then be a compensating payment to be made to State Government to reimburse it for the loss of the taxation revenue.

The Fightback package, as enunciated by the Federal Coalition Leader (Dr John Hewson), is an important package, particularly in relation to the abolition of payroll tax in South Australia and, therefore, the potential creation of many thousands of jobs.

The Federal Coalition's high growth road scenario, if I can use that phrase, using the assumptions of high growth over the next eight years, indicates that between 1.5 million and 2 million new jobs would be created for Australians over the next 10 years as a result of the implementation of the Fightback package. If that were to be proved correct, obviously we would be looking at between 150 000 and 200 000 new jobs in South Australia. As an economist, I realise the assumptions implicit in those statements. Nevertheless, it is obviously a desirable goal and, whilst many politicians have talked about the desirability of getting rid of payroll tax, it is really only John Hewson who has been prepared to bite the political bullet on the issue.

I conclude by saying that we support this provision, which is a very small amount of relief for some employers, but reiterate that in the total budget context of payroll tax it is small beer. Also, in relation to the total budget package, when we have the doubling of the BAD tax, significant increases in petrol tax, tobacco tax, liquor tax, stamp duties, etc., this small amount of $260 000 in increased exemption, whilst welcome, will not do much in relation to generating new jobs that are desperately needed here in South Australia.

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

SOUTH AUSTRALIAN COUNTRY ARTS TRUST BILL

Consideration in Committee of the House of Assembly's amendments:

No. 1. Clause 3, page 1, after line 18—
Insert new definition as follows:
'area', in relation to a Country Arts Board, means that part of the State in relation to which the Board is established;.

No. 2. Clause 5, page 2, after line 32—
Insert new subclause as follows:
(4) The Local Government Association of South Australia may, on such terms and conditions as it thinks fit, appoint a suitable person to be the proxy of a member of the Trust appointed on the nomination of the Association.

No. 3. Page 5, after line 26, insert new clause 14 as follows:
Power to borrow money
14. (1) The Trust may, with the consent of the Treasurer, borrow money at interest from any person upon such security (if any) by way of mortgage or charge over any of the assets of Trust as the Trust may think fit to grant.
(2) The Treasurer may, on such terms and conditions as the Treasurer thinks fit, guarantee the repayment of any money (together with interest) borrowed by the Trust under this section.
(3) Any money required to be paid in satisfaction of a guarantee given pursuant to subsection (2) will be paid out of the Consolidated Account which is accordingly appropriated to the necessary extent.

No. 4. Page 6, line 1, insert new clause 16 as follows:
Gifts, etc.
16. (1) The Trust may accept—
(a) grants, conveyances, transfers and leases of land whether from the Crown or any instrumentality of the Crown or any other person;
(b) rights to the use, control, management or occupation of land;
and
(c) gifts of personal property of any kind to be used or applied by it for the purposes of this Act.
(2) Notwithstanding anything in the Stamp Duties Act 1923, no stamp duty is payable on any instrument by which land or an interest in or a right over land is granted or assured to, or vested in, the Trust or on any contract or instrument executed by the Trust for the purposes of disposing of any property.

No. 5. Clause 21, page 7, line 28—
Leave out 'part of the State in relation to which the Board is established' and substitute 'area of the Board'.

No. 6. Clause 21, page 7, line 35—
Leave out 'is a local resident' and substitute as follows:
'—
(a) is a local resident;
or
(b) is resident outside the State in an area defined in the regulations that is adjacent to the area of the Board.'

No. 7. Clause 21, page 7, after line 36—Insert new subclause as follows:
(4) Regulations prescribing a class of persons who may make nominations for the purposes of subsection (1) *(c)* may prescribe a specified body or class of bodies with a membership or memberships wholly or partly of persons resident outside the State in an area defined in the regulations that is adjacent to the area of the Board.

No. 8. Clause 22, page 8, line 17—Leave out 'a local resident' and substitute as follows:
'—
(a) local resident;
or
(b) resident outside the State in an area defined in the regulations that is adjacent to the area of the Board.'

No. 9. Schedule, page 12, table—Leave out 'New body' and 'Old body'.

The Hon. DIANA LAIDLAW: I was reading through the House of Assembly debate on this matter only today and want to clarify whether the Minister had also read the debate prior to the deadline for corrections, because what is identified in this debate when it comes to the Committee stage is that the first amendment we are to look at, namely, to insert a new definition of 'area' was not included in the *Hansard* record of the debate in the other place. I am not sure what identifies that this definition of 'area' is valid. Is it the fact that the Chairman in another place indicated that it is valid, even though the *Hansard* record does not show any record of its having been moved and passed? What the *Hansard* record identifies is that one of the other amendments, that in relation to page 5, after line 26, was in fact moved and passed twice.

The Hon. ANNE LEVY: I did notice that in the *Hansard* record but not before the correction time for *Hansard* had expired. However, *Hansard* is not the official record of what is passed in the Parliament. The official record is that which is maintained by the clerks. I presume that, if the Speaker has, on the advice of his clerk, signed these as the amendments passed by the House of Assembly, that is authenticated by the official records maintained by the clerks, and in consequence there may have been an error in the production of the *Hansard* which may or may not have been corrected in the final version. However, we do not go by the *Hansard*: we go by what is authenticated by the clerks.

The Hon. Diana Laidlaw: Even though the public goes by the *Hansard*?

The Hon. ANNE LEVY: The public may go by the *Hansard*, but that is not the official record. The official record is the record which is kept by the clerks.

The Hon. Diana Laidlaw: Then the Minister has confirmed that the definition area has actually been recorded as passed in the House of Assembly?

The Hon. ANNE LEVY: I have not done that. I have accepted that the message from the other House is the accurate indication of what the other House has done and that the clerks have kept the official records and prepared the message for the Speaker to send to the Legislative Council. That is what the Parliament works on, not on *Hansard,* which does occasionally, I know, have errors in it. That is not a criticism of *Hansard* as an organisation, but they are not the official record of what has been passed in the Parliament. I certainly presume that the first proof of *Hansard* is in error because they mention the one amendment having been passed twice, which obviously would be a nonsense.

The CHAIRMAN: In support of the Minister, for clarification, what we have up here is a schedule of amendments sent to us by the House of Assembly signed by the Clerk of the House of Assembly, so that is what we work on. From my understanding, while *Hansard* may be the official record of Parliament, it would not stand up in a court of law. What stands up in a court of law is the minutes of the House taken by the clerk. What we have in front of us officially is the schedule sent up by the Clerk of the House of Assembly.

Amendment No. 1:

The Hon. ANNE LEVY: I move:

That the House of Assembly's amendment No. 1 be agreed to.

The first five amendments relate to the same matter, so I would like to discuss them altogether. These amendments arise in relation to a request from the existing country arts trusts, in particular that in the South-East, which was concerned that membership of the new Country Arts Board might be limited in a minor but nevertheless important way with the definitions as they then stood.

As the Country Arts Trust Bill originally stated, to be a member of a country arts board, an individual had to be a resident of the area which was covered by that board. But, in the South-East of this State there exist a number of arts organisations, and there is arts activity which crosses the border into Victoria, and there is quite an area that regards itself as one area for many purposes, including considerable artistic activity. It was felt that if an organisation has members from both sides of the border—and this organisation is undertaking a lot of arts activity—any member thereof should be eligible to be a member of the requisite board, even though they may happen to live just over the border in Victoria.

It seemed very reasonable to us that, where one has an organisation which undertakes arts activity and which has membership from both sides of the border, the border in effect is a most artificial line cutting through such an organisation, and that any member of that organisation should be able to be considered for membership of the Country Arts Board, in particular, the South-East Country Arts Board. The first five amendments are to allow for that fact: if there is an organisation with membership from both sides of the border, that organisation can be regarded as a South Australian one, and any of the members should be eligible for consideration as members of the South-East Country Arts Board.

All but the second amendment relate to amending various parts of the Bill to enable that to occur. It means a new definition of an area and then it provides that people on a country arts board must be either a local resident or resident outside the State in an area defined in the regulations that is adjacent to the area of the board. What will obviously happen is that regulations will be set down which will define an area just over the border into Victoria as being one from which membership of the South-East Country Arts Board could come if such persons are involved in general artistic activity throughout the area and belong to organisations with membership that crosses the border. That, of course, is an explanation of a series of amendments. The first amendment is just a definitional one to allow the others to make sense when agreed to.

Motion carried.

Amendment No. 2:

The Hon. ANNE LEVY: I move:

That the House of Assembly's amendment No. 2 be agreed to.

This was an amendment which I promised during debate in this place and which I arranged for my colleague in another place to introduce as an amendment when the Bill was in the Lower House. It follows from the discussion which we had when the Bill was in Committee last time on the question of proxies and ensures that there is a proxy for the Local Government Association representative.

The Hon. DIANA LAIDLAW: I support the amendment. I have just read through the debate in this place on 8 September, and I see that this matter was

actually first raised by the Hon. Mr Gilfillan in respect of the Local Government Association, because he pointed out that my move and that of the Minister to provide for proxies for other country trust members, while he supported it, was inconsistent with what was being provided for the Local Government Association.

So, I am pleased to see that the Minister has moved as she indicated she would on this matter. I just point out that I remain concerned about the composition of the trust and I do not accept the fact that from all the country arts boards the Minister has asked for the nomination of two people to the Country Arts Trust of which she will select one and the other will be the proxy but, when it comes to the Local Government Association, she seeks the nomination of only one person to go directly to the trust as a member and then the Local Government Association will also be empowered to appoint a person as a proxy. That same right is not extended to the Country Arts Board. I think that is disappointing and inconsistent; nevertheless, I accept the amendment.

The Hon. ANNE LEVY: If I could elaborate on this, as I mentioned when this matter was being debated previously in the Council, it is important that the Country Arts Trust has a balanced representation of a number of artistic interests and a number of different skills. It was for this reason that it was suggested that each Country Arts Board would nominate two people and from those could be selected the five who would provide the balance which the trust requires. When it comes to the Local Government Association, I think the situation is different: the Local Government Association is being asked to nominate someone who has a local government background and interest. It is not a question of what art form they might favour or have interests in; they are not expected to have any skills other than that of a background and intimate knowledge of local government, so the same questions of balance do not arise where the local government representation is concerned, and it is for that reason that it was felt desirable to have the amendment in the form that takes. While I realise that there is a slight difference between the Local Government Association representative and the representatives of the Country Arts Boards, I think there are very valid reasons for making the slight difference.

Motion carried.

Amendments Nos. 3 and 4:

The Hon. ANNE LEVY: I move:

That the House of Assembly's amendments Nos 3 and 4 be agreed to.

Motion carried.

Amendments Nos. 5 to 8:

The Hon. ANNE LEVY: I move:

That the House of Assembly's amendments Nos 5 to 8 be agreed to.

These amendments all relate to the question which I discussed in terms of amendment No. 1. They are all part of the same group and consequential upon one another.

Motion carried.

Amendment No. 9:

The Hon. ANNE LEVY: I move:

That the House of Assembly's amendment No. 9 be agreed to.

The Hon. DIANA LAIDLAW: Can I ask questions in respect of the transfer of staff, which is part of schedule No. 1?

The CHAIRMAN: We are confined to discussion on the House of Assembly's amendments at this stage. We are discussing the schedule presented by the House of Assembly, so we are not opening or broadening the debate at this stage of the Bill.

The Hon. ANNE LEVY: I seek your guidance on this matter also, Sir. When the Bill was debated in another place, members asked various questions of the Minister there and made comments, and I have information here, which I would be very happy to give in reply to those questions, and I do not know whether it is permissible for me to do so at this time. I am sure it would be welcomed by the members in the other place who asked for this information and in that respect it would get the answers to their questions into *Hansard.*

The CHAIRMAN: I would strongly suggest that, rather than the Minister's reading them to us, she table a document relating to that and leave it at that, because if she starts talking across the Chamber and answering a question relating to what she has, it will only open up the debate, and we cannot do that. My suggestion is that she table them if she has them in that form.

The Hon. ANNE LEVY: I will not table them, because that does not get them into *Hansard*; I will wait for Question Time tomorrow and have them asked of me and provide an answer and so get them into *Hansard.*

The CHAIRMAN: I suggest that that would be the best course.

The Hon. ANNE LEVY: This amendment is one that was overlooked in this Chamber. It is consequential on amendments that were moved by the Opposition and accepted by this Council and in consequence there just needs to be a change of wording in the schedule to accommodate those amendments. This was not picked up at the time those amendments were moved and accepted by this place.

Motion carried.

ANIMAL AND PLANT CONTROL (AGRICULTURAL PROTECTION AND OTHER PURPOSES) (IMMUNITY FROM LIABILITY) AMENDMENT BILL

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

The Hon. BARBARA WIESE (Minister of Transport Development): 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

The object of the Bill is to make an amendment which has been shown to be desirable since the Act was introduced to provide an integrated system for the control of proclaimed plants and animals under the guidance and direction of the single authority, the Animal and Plant Control Commission.

The present section 70 of the Animal and Plant Control (Agricultural Protection and Other Purposes) Act 1986 provides protection from civil liability for members of the commission or its staff or persons acting at the direction of the commission and also for local control boards, their members, staff or contractors.

The liability attaches to the Crown. The introduction of the Local Government Mutual Liability Scheme which provides comprehensive liability cover for local boards has made it desirable to amend the section to attach the liability for boards actions to the local board. I commend the Bill to members.

Clause 1 is formal.

Clause 2 repeals section 70 of the principal Act and a proposed section is substituted that provides that no liability attaches to—

- a member of the commission or its staff;
- a State authorised officer;
- a person who accompanies and assists a State authorised officer at the request of the officer;
- a person acting at the direction of the commission;
- a local authorised officer or other person appointed or employed by a control board;
- a person who accompanies and assists a local authorised officer at the request of the officer; or
- a person acting at the direction of a control board,

for an honest act or omission in the exercise or purported exercise of a power or function under this Act.

Proposed subsection (2) provides—

- that a liability that would, but for subsection (1), lie against a member of the commission or its staff, a State authorised officer, a person who accompanies and assists a State authorised officer at the request of the officer, or a person acting at the direction of the commission, lies against the Crown;

and

- that a liability that would, but for subsection (1), lie against a member of a control board, a local authorised officer or other person appointed or employed by a control board, a person who accompanies and assists a local authorised officer at the request of the officer, or a person acting at the direction of a control board, lies against the relevant control board.

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

FRUIT AND PLANT PROTECTION BILL

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

The Hon. BARBARA WIESE (Minister of Transport Development): 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

This Bill is to replace the Fruit and Plant Protection Act 1968 which had its origins in the 1880s. Despite various amendments, the current Act seems not to have broken from those origins and remains somewhat archaic. For example, the Act speaks of 'importation' and 'introduction' but not of sale or possession. These words recall the days of the interstate transport system before railways predominated when the arrival of goods was mostly by sea or river. Rail, in turn, has yielded to road transport which is particularly suited to perishable goods, so there now is great rapidity and diversity of interstate trade in plant products.

The measure before honourable members mirrors those changes and recognises that speed is of the essence in quarantine as it is in fire control. I do not believe it unfair to say of the present Act, that it would be hard pressed, in a legal context, to meet any dire quarantine emergency. This is largely because it requires either the making of regulations or ministerial notices before some types of action can be taken.

These remarks must be qualified by relating that South Australia has been fortunate, perhaps unique, in that the persuasive powers of departmental officers and cooperation by the public, has seen action precede legal formalities. However, it might equally be said that we are yet to face a true emergency and that the powers envisaged by this Bill ultimately must come into full play.

On a broader note, some may argue that the proposed measures are necessary as a buffer to the Commonwealth's revised quarantine policies. That point is as valid as the argument that the ease of contemporary travel and commerce between the States are sufficient reasons for the proposals.

Two things are quite clear—both industry and consumers (who were consulted on the issue) want to see this type of legislation, embodying the appropriate powers, retained. Secondly (and obviously), if South Australia had no such Act it would stand alone in this nation and would almost certainly be spurned as a trading partner both here and overseas.

The background to this Bill should not be concluded without stating that South Australia has developed sensible conditions of entry for a range of fresh products sought by both traders and consumers and moreover with the clear objective of reducing costs to the nation's growers and merchants, South Australia has impressed on other States, the need for rationalisation of interstate quarantine criteria. Thus far it appears to have succeeded in the most significant of areas, namely, the provisions concerning fruit fly hosts.

As to specific aspects of the Bill, I believe several warrant examination. First, organisms previously defined as either diseases or pests appear under the single definition of 'disease' in the Bill. This change simply is for ease of expression in the Act and subordinate measures.

The general powers of inspectors in clause 9 have much the same intent as those of the present Act and in the main would be concerned with items illegally introduced from interstate. However, in recasting these along the lines of the Stock Act which Parliament saw fit to pass in 1990, there would be provision for the entry of residential premises under a justice's warrant. Such warrants would be desirable on rare occasions involving serious breaches of the Act or grave plant health threats. In addition, clause 9 provides for scientific testing of fruit and other items for the presence of disease or chemical residues. The objective in testing for the latter would be to substantiate any claim that a seized product had undergone a prescribed treatment before entering the State.

Proposed provisions for the reporting and investigation of diseases again are modelled on the Stock Act 1990. These are followed by clause 13 which, in prohibiting or controlling the entry of various things from interstate, mirrors the current Fruit and Plant Protection Act and adds two features. First, it is proposed that the Minister may, after appropriate consultation, permit the introduction of a disease for the purposes of research or biological control. It is possible that the current Act allows such action but it seems appropriate to clearly spell this out in the Bill. The use of sterile fruit flies in the biological control of that pest is one project that could be launched under this provision. Necessary safeguards would, of course, be attached to such proposals.

The second feature makes it an offence to purchase or take delivery of anything introduced or imported into the State in contravention of the Act. This would overcome the doubts expressed at the opening of this report and make it clear that the Act extends beyond 'importation' and 'introduction' of such goods.

Declaration by the Minister of quarantine areas under clause 14 and the imposition of disease controls within these, are provisions taken from the current Act. These powers have been used successfully and, I might add, have been accepted by producers during outbreaks of the disease Onion Smut. The provisions have particular application to long-lived organisms such as that just mentioned. An addition to the existing powers is to be found in the proposal concerning prohibitions on the entry of material into a quarantine area.

Clause 15—orders relating to disease affected fruit or plants—is designed for the unexpected, such as the sudden emergence of a virulent exotic disease. The provisions are not unlike those currently in place but in conferring on the Chief Inspector the power to order things to be done, there is no longer a requirement to make regulations beforehand. However, that power is balanced by the proviso that the Minister must first approve the action to be taken by the Chief Inspector.

This feature sets the Bill slightly apart from the Stock Act 1990 which does not require ministerial approval of such action. In this instance however, it is recognised that unlike farm livestock, fruit and plants are grown both by commercial producers and householders. This makes eradication campaigns more socially complex and justify ministerial overview. The proviso is also in line with the green paper which broadly argued that all such powers rest with the Minister.

The concept contained in clause 18 of accredited production areas was raised by industry and while the provisions are quite broad, their application is unlikely to go beyond the objective promoted by the industry. That objective simply is to reinforce with interstate authorities the fact that a particular area is free of disease and in so doing, ease the entry of produce to another State or States.

Payment of compensation for losses due to quarantine action is modelled on a provision of the Fruit Fly Act 1947. There would be no compulsion to make such payments.

Provision for the expiation of offences in clause 21 is a further suggestion by industry. In addition, penalties for serious offences would undergo a significant increase, but within this, it is proposed to set lower penalties for illegal introductions of material for personal use.

Clause 30 picks up a provision of the current Act which has proved to be particularly worthwhile since its passage by Parliament in 1986. Specifically, the operation of the Plant Quarantine Standard under a ministerial notice has set this State ahead of others in the speedy and effective administration of interstate plant quarantine. This standard has been accepted readily by importers and has enhanced the development and policing of sensible conditions of entry or where required, stringent restrictions.

The power to make regulations has been incorporated in the Bill but in all the circumstances is unlikely to be taken beyond the setting of fees.

This Bill will repeal the current Fruit and Plant Protection Act 1968 and also secures the repeal of the Fruit Fly Act for the reasons already given as well as two moribund measures, the Fruit and Vegetables (Prevention of Injury) Act 1927 and Sale of Fruit Act 1915. Neither of these has application to today's packaging and handling technology.

Finally, it is proposed to concurrently amend the Phylloxera Act 1936. This simple change would provide that the Minister consent to the introduction of vines into the State by the Phylloxera Board. At present the Governor gives such consent but that process in an era of numerous introductions, is unnecessarily burdensome.

I commend the Bill to members.

Part 1 of the Bill ('Preliminary') is comprised of clauses 1 to 5.

Clauses 1 and 2 are formal.

Clause 3 provides for the definitions of words and phrases used in the Bill.

Clause 4 provides that, for the purposes of this Act, the Minister may, by notice in the *Gazette*, declare that a condition of fruit or plants is a disease. Such a notice may be varied or revoked.

Clause 5 provides that the Minister may, by notice in the *Gazette*, declare a place to be a quarantine station in which fruit, plants, soil, packaging or other thing may, subject to this Act, be held, examined, disinfected, treated, destroyed or otherwise disposed of. Such a notice may be varied or revoked.

Part 2 of the Bill (comprising clauses 6 to 10) deals with administrative matters.

Clause 6 provides that the Minister may, by instrument in writing, appoint persons to be inspectors for the purposes of this Act. Such an appointment may be conditional and the Minister must provide an inspector with a certificate of appointment setting out any such conditions. Subclause (4) provides that an inspector must, at the request of a person in relation to whom the inspector has exercised or intends to exercise powers under this Act, produce his or her certificate of appointment.

Clause 7 provides that the Minister may, by instrument in writing, appoint a person to be the Chief Inspector for the purposes of this Act and a person to be the deputy of the Chief Inspector. The person appointed as the deputy has, while acting in the absence of the Chief Inspector, all the powers and functions of the Chief Inspector.

Clause 8 provides that the Chief Inspector may delegate to any person (including an inspector) any of the Chief Inspector's powers or functions under this Act. Such a delegation may be subject to such conditions as the Chief Inspector thinks fit, is revocable at will and does not derogate from the power of the Chief Inspector to act in any matter himself or herself.

Clause 9 provides that an inspector may, for the purposes of exercising any power conferred on the inspector by this Act or determining whether this Act is being or has been complied with—

- enter and search any land, premises, vehicle or place;
- where reasonably necessary, break into or open any part of, or anything in or on, the land, premises, vehicle or place or, in the case of a vehicle, give directions with respect to the stopping or moving of the vehicle;
- take photographs, films or video recordings;
- require a person to answer questions or to provide information;
- require a person to produce any books, documents or records in his or her possession or control;
- require a person to produce any information stored by computer, microfilm or by any other process;
- examine, copy and take extracts from, or provide copies of, any books, documents, records or information produced under this section.

Subclause (2) provides that an inspector may—

- identify any land, building or other structure, fruit, plant, soil, packaging or thing in respect of which powers have been exercised under this Act;
- require the owner of any fruit, plant, soil, packaging or other thing to deliver it to a quarantine station;
- seize and retain anything that may constitute evidence of the commission of an offence against this Act;
- seize any fruit, plant, soil, packaging or other thing brought into a place, removed from a place, or moved from one place to another, in contravention of this Act;
- use reasonable force to prevent the commission of an offence against this Act.

Subclause (3) provides that an inspector must not exercise the power conferred by proposed subsection (1) *(b)* in relation to any residential premises except on the authority of a warrant issued by a justice who must be satisfied (by information given on oath) that the warrant is reasonably required in the circumstances.

Subclause (5) provides that where an inspector seizes any fruit, plant, soil, packaging or other thing under proposed subsection (2) *(d)*, the inspector may do one or more of the following in relation to it:

- retain it;
- cleanse, disinfect or otherwise treat it or subject it to treatment;
- submit it for scientific testing and analysis for the purposes of determining whether it is affected by disease or a chemical residue;
- return it to its owner subject to any specified conditions;
- destroy or otherwise dispose of it.

Subclauses (6) and (7) provide that a person may be required to answer a question put by an inspector or to produce books, documents, records or information notwithstanding that the answer to the question or the contents of the books, documents, records or information would tend to incriminate him or her of an offence. If a person objects to answering such a question or to producing such books, documents, records or information, the answer to the question or the contents of the books, documents, records or information are not admissible against that person in criminal proceedings (except in proceedings for an offence under this Act of making a false or misleading statement).

Subclause (8) provides that an occupier of land or premises or a person apparently in charge of a vehicle must give to an inspector (or a person assisting an inspector) exercising or proposing to exercise any powers under this Act such assistance and provide such facilities as the inspector may reasonably require.

Subclause (9) provides that an inspector (or a person assisting an inspector) who addresses offensive language to any other person or who, without lawful authority or a reasonable belief as to lawful authority, hinders or obstructs or uses or threatens to use force in relation to any other person, is guilty of an offence and liable to a penalty of a division 6 fine ($4 000).

Clause 10 provides that an inspector incurs no civil or criminal liability for an act or omission in good faith in the exercise or performance, or purported exercise or performance, of a power or function under this Act and that civil liability that would, but for this clause, lie against a person lies against the Crown.

Part 3 of the Bill (comprising clauses 11 to 20) deal with the control of disease in relation to fruit and plants.

Clause 11 provides that where a person knows or has reason to suspect that fruit or plants owned by him or her or in his or her possession or control are affected by disease, the person is guilty of an offence if he or she does not report the matter to an inspector by the quickest practicable means, does not furnish the inspector with such information as reasonably required and does not take all reasonable measures to prevent the spread of the disease. The penalty for such an offence is a division 6 fine ($4 000).

Subclause (2) provides that a report is not required with respect to a particular matter if the person knows or reasonably believes that the matter has already been reported to an inspector.

Subclause (3) provides that a person who grows, propagates or processes fruit or plants for profit or gain will, if the fruit or plants are affected by disease, be taken to know or have reason to suspect that the fruit or plants are so affected in the absence of proof to the contrary.

Clause 12 provides that an inspector may carry out an investigation as reasonably necessary for the purposes of determining whether fruit or plants are affected by disease and/or identifying or tracing any cause or source or potential cause or source of disease. For this investigatory purpose, an inspector may examine, take samples from or test any insect, fruit, plants, soil, packaging or other thing.

Clause 13 provides that, subject to this proposed section a person must not introduce or import into the State a disease, or any fruit, plant, soil, packaging or other thing affected by disease.

Subclause (2) provides that the Minister may, by notice in the *Gazette*, declare that the introducing or importing into the State of any fruit, plant, soil, packaging or other thing of a specified kind that the Minister reasonably suspects is or might be affected by disease is prohibited absolutely or subject to exceptions and conditions specified in the notice. Such a notice may be varied or revoked by the Minister by further notice in the *Gazette* (proposed subclause (3)).

Subclause (4) provides that the Minister may, for the purposes of furthering agricultural interests, scientific research or the biological control of a disease, by notice in writing, exempt a person from complying with this section subject to conditions set out in the notice. Before taking action under proposed subsection (4), the Minister must consult widely with, and take into account the advice of, members of the agricultural and scientific communities. Such a notice may, by further notice in writing, be varied or revoked by the Minister.

Subclause (7) provides that a person who contravenes or fails to comply with this proposed section or a notice under it or who purchases or takes delivery of anything introduced or imported into the State in contravention of this proposed section or a notice under it is guilty of an offence. The penalty for this offence is two-tiered. If the offence consists of introducing or importing into the State not more than one kilogram of fruit or five plants for the person's own consumption or enjoyment or any soil, packaging or thing (other than fruit or plants) not intended for sale or use for commercial purposes (a 'prescribed offence'), the penalty is a division 7 fine ($2 000). The fine, in any other case, is a division 4 fine ($15 000).

Clause 14 provides that the Minister may, by notice in the *Gazette*, declare a portion of the State to be a quarantine area in respect of all diseases or in respect of those diseases specified in the notice. A notice under this proposed section may—

- prohibit the removal from a quarantine area of any fruit or plant of a species or kind or any packaging or other thing of a kind that might transmit a disease;
- require the owners or occupiers of land or premises within the quarantine area to take measures that are necessary for the control or eradication of a disease;
- require the owners or occupiers of land or premises within specified portions of the quarantine area to take more stringent measures than the owners or occupiers of other land or premises within the quarantine area;
- prohibit the planting and propagation of plants, or plants of a specified species or kind, within the quarantine area during a period specified in the notice;
- prohibit absolutely or subject to exceptions and conditions specified in the notice the importing into the quarantine area of any fruit or plant of a species or kind or any soil, packaging or other thing, specified in the notice;
- be varied or revoked by the Minister by further notice in the *Gazette*.

Clause 15 provides that where the Chief Inspector knows or reasonably suspects that any fruit or plant is or might become affected by disease, he or she may, with the approval of the Minister, issue such orders under this section as may be reasonably necessary to prevent the outbreak or spread of the disease to the person who owns or has possession or control of the fruit or plant or to the owners or occupiers of land or premises in the vicinity.

Subclause (2) provides that one or more of the following orders may be issued in relation to any fruit, plant, soil, packaging or other thing that is or might become affected by disease:

- requiring that it be kept at a specified place for a specified period;
- requiring that it be subjected to specified treatment;
- requiring that it be subjected to examinations or tests at specified intervals or that other specified action be taken for the purposes of determining the presence of disease;
- restricting or prohibiting its sale or supply or restricting the purposes for which it may be used;
- requiring that it be destroyed or disposed of in a specified manner;
- prohibiting the planting and propagation of plants, or plants of a specified species or kind, on specified land during a specified period.

Subclause (3) provides that where the Chief Inspector cannot locate after reasonable inquiry a person of whom the Chief Inspector intended to make any requirement for action by order under this proposed section the Chief Inspector may cause the action to be taken by an inspector or other person and recover costs and expenses reasonably incurred by action in a court of competent jurisdiction as a debt owed by the owner of the fruit, plant, soil, packaging or other thing in respect of which action was taken by the inspector or other person.

Clause 16 provides that an order under proposed Division 2 of Part 3 (comprising clauses 13 to 17) must be in writing but may be of general or limited application and may, by further order, be varied or revoked. If it is an order that is of a continuing nature, it has effect for such period as is specified in the order.

Subclause (4) provides that where an order of a continuing nature is issued under this proposed Division on the basis of a suspicion, the Chief Inspector must, as soon as practicable, take reasonable steps to determine whether that suspicion is correct.

Subclause (5) provides that if a person refuses or fails to comply with an order issued under this proposed Division, the Chief Inspector may cause an inspector or other person to take any necessary action to give effect to the order and the Chief Inspector may recover costs and expenses reasonably incurred in such a case by action in a court of competent jurisdiction as a debt owed by the person to whom the order was issued.

Clause 17 provides that a person to whom an order has been issued under this proposed Division who contravenes or fails to comply with the order is guilty of an offence and liable to a penalty of a division 4 fine ($15 000).

Clause 18 provides that where the Minister is satisfied that, through the exercise of good management by the producers and processors of fruit and plants in a specified area, the area is free of a specified disease or diseases, the Minister may, by notice in the *Gazette*, declare that area to be free of the disease or diseases specified in the notice and authorise the use of specified statements in respect of fruit or plants produced or processed in that area when advertising, packaging or selling those fruit or plants. Such a notice may be varied or revoked. It is an offence for a person to use a statement specified in a notice under proposed subsection (1) otherwise than in respect of fruit or plants produced or processed in the area specified in the notice which carries a penalty of a division 7 fine ($2 000).

Clause 19 provides that the Minister may pay compensation to any person who has suffered loss in consequence of an order made under proposed Division 2 of Part 3. Such an application

for compensation must be in writing, must be made in a manner and form determined by the Minister and must be supported by such evidence as the Minister may require. No action lies against the Minister to compel him or her to make any payment of compensation.

Clause 20 provides that a person who, without the approval of the Chief Inspector, sells or supplies any fruit or plant affected by disease or any fruit or plant subject to an order under proposed Division 2 of Part 3 is guilty of an offence and liable to a penalty of a division 7 fine ($2 000).

Subclause (2) provides that the owner of land or premises in relation to which an order is in force under proposed Division 2 of Part 3 must notify the Chief Inspector of any intended sale of the land or premises at least 28 days before the date of settlement. The penalty for non-compliance with this proposed subsection is a division 7 fine ($2 000).

Subclause (3) provides that where a person is guilty of an offence against this proposed section, a court may (in addition to any other penalty that may be imposed) order the person to pay to the person to whom the fruit, plant, land or premises were sold or supplied such compensation as the court thinks fit.

Part 4 of the Bill (comprising clauses 21 to 30) deals with miscellaneous matters.

Clause 21 provides that a person must not—

- hinder or obstruct an inspector, or a person assisting an inspector, in the exercise of powers under this Act;
- refuse or fail to comply with any request or requirement made by an inspector under this Act;
- falsely represent, by words or conduct, that he or she is an inspector;
- remove or interfere with any identification mark or device used for the purposes of this Act.

The penalty for offending against this proposed section is a division 6 fine ($4 000).

Clause 22 provides that a person who, in furnishing information under this Act, makes a statement that is false or misleading in a material particular is guilty of an offence and liable to a division 6 fine ($4 000).

Clause 23 provides that a notice or order required or authorised by this Act to be given or issued to a person may be given or issued by delivering it personally to the person (or his or her agent), by leaving it for the person at his or her place of residence or business with someone apparently over the age of 16 years, by posting it to the person (or his or her agent) at his or her last known address or by transmission by facsimile machine to a facsimile machine number provided by that person for that purpose.

Clause 24 provides that for the purposes of this Act, an act or omission of an employee or agent will be taken to be the act or omission of the employer or principal unless it is proved that the act or omission did not occur in the course of the employment or agency. It is further provided that where a body corporate commits an offence against this Act, each member of the governing body of the body corporate is guilty of an offence and liable to the penalty applicable to the principal offence unless it is proved that the member could not by the exercise of reasonable diligence have prevented the commission of that offence.

Clause 25 provides that in any legal proceedings, a document apparently executed by the Minister certifying as to a matter relating to—

- the appointment of an inspector under this Act;
- an order or approval of the Chief Inspector or any other inspector under this Act;
- a delegation under this Act;
- the amount of costs and expenses incurred in taking any specified action under this Act,

constitutes proof, in the absence of proof to the contrary, of the matters so certified.

Subclause (2) provides that an allegation in a complaint—

- that a specified person is or was the owner or occupier of specified property;
- that specified fruit or plants were within a specified area;
- that specified fruit or plants are or were affected by disease;
- that something done was done without the approval of the Chief Inspector,

constitutes proof, in the absence of proof to the contrary, of the matters so alleged.

Clause 26 provides that an offence against this Act is a summary offence and that proceedings for such an offence can be commenced at any time within three years from the day on which it is alleged the offence was committed.

Clause 27 provides that where an offence against a provision of this Act is committed by a person by reason of a continuing act or omission, the person is liable, in addition to the penalty otherwise applicable to the offence, to a penalty for each day during which the act or omission continues of not more than an amount equal to one-fifth of the maximum penalty prescribed for that offence and if the act or omission continues after the person is convicted of the offence, the person is guilty of a further offence against that provision and liable, in addition to the penalty otherwise applicable to the further offence, to a penalty for each day during which the act or omission continues after that conviction, of not more than an amount equal to one-fifth of the maximum penalty prescribed for that offence.

Subclause (2) provides that for the purposes of this proposed section, an obligation to do something is to be regarded as continuing until the act is done notwithstanding that any period within which, or time before which, the act is required to be done has expired or passed.

Clause 28 provides that it is a defence to a charge of an offence against this Act if the defendant proves that the offence did not result from any failure on the part of the defendant to take reasonable care to avoid the commission of the offence.

Clause 29 provides that a notice given by the Minister, or a regulation made, under this Act may be of general or limited application and may apply, adopt or incorporate, with or without modification, any code, standard or other document prepared or approved by a body or authority referred to in the notice or regulation as in force from time to time or as in force at a specified time.

Subclause (2) provides that where a code, standard or other document is applied, adopted or incorporated in a notice or regulation, a copy of it must be kept available for inspection by members of the public, without charge and during normal office hours, at the office of the Chief Inspector. This subclause further provides that in any legal proceedings, evidence of the contents of the code, standard or other document may be given by production of a document apparently certified by or on behalf of the Minister as a true copy of the code, standard or other document.

Clause 30 provides that the Governor may make such regulations as are necessary or expedient for the purposes of this Act including prescribing a fine, not exceeding a division 7 fine ($2 000), for contravention of the regulations.

Schedule 1 of the Bill repeals the Fruit and Plant Protection Act 1968, the Fruit and Vegetables (Prevention of Injury) Act 1927, the Fruit Fly Act 1947 and the Sale of Fruit Act 1915.

Schedule 2 of the Bill provides for consequential amendments to the Phylloxera Act 1936.

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

ADJOURNMENT

At 5.58 p.m. the Council adjourned until Wednesday 21 October at 2.15 p.m.