LEGISLATIVE COUNCIL

Friday 6 November 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)—

Department of Premier and Cabinet annual report 1991-92.

By the Hon. C.J. Sumner, on behalf of the Minister of Transport Development (Hon. Barbara Wiese)—

State Services Department annual report 1991-92.

LEGISLATIVE REVIEW COMMITTEE

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

That the members of this Council appointed to the committee have leave to sit on the committee during the sittings of the Council on Tuesday 10 November.

Motion carried.

QUESTIONS

BAIL

The Hon. K.T. GRIFFIN: I seek leave to make an explanation before asking the Attorney-General a question about bail scams.

Leave granted.

The Hon. K.T. GRIFFIN: Police are becoming increasingly concerned about the use of what they have described as a bail scam which results in manipulation of the bail system. Recently, a building society at Hindmarsh was held up and the teller was shot. The alleged offender, Gerald Douglas Morrison, was arrested and charged with attempted murder and robbery with violence. It is alleged that Morrison did not abide by the conditions of the bail agreement, and the guarantor or surety asked to be released from the bail agreement. Morrison was brought before the court again. Bail was continued, with $10 000 cash deposit required, and apparently that was paid. A few days later the guarantor phoned the court, said he needed the cash and asked for it back. Remarkably, as told to me, the court returned the cash. One can guess what happened next. Morrison failed to turn up at the next hearing so the police, who consider him to be dangerous, are now searching for him.

The police who raised this issue with me say that this is not the only case where cash is deposited for bail and a few days later a request is made by the guarantor for the cash to be returned and, when it is, the defendant skips bail. There is an obvious cost in this in pursuing such defendants and, in some cases, danger to the public. The police who have raised this issue with me obviously take a very strong view about it. On occasions when the prosecutor opposes the bail, the magistrates grant it. That obviously is a discretion for the magistrates, but the police are becoming somewhat frustrated by the approach that is being taken. The case to which I have referred merely highlights the problems which the police say are now becoming—

The Hon. C.J. Sumner: Why do they return the money?

The Hon. K.T.GRIFFIN: I do not know; that is my question. It is not the police who return the money; it is the court, apparently.

The Hon. C.J. Sumner: Why do they do that?

The Hon. K.T. GRIFFIN: I do not know. That is really the question I want to ask the Attorney, and I now get to that. My questions are as follows:

1. Will the Attorney-General seek to ascertain ways by which the manipulation of bail as indicated can be avoided?

2. Will he also seek to ascertain how prevalent is the return of cash deposits in relation to defendants who then skip bail?

3. Is there any plan for a review of the operation of the Bail Act in relation to this difficulty and other difficulties which the police say they have with the system?

The Hon. C.J. SUMNER: If there was not a plan, there is now. If what the honourable member says is correct, it sounds somewhat strange to me. If money is deposited as surety for bail and it can then be returned at the request of the person who deposited it, it does seem to me to be somewhat strange. Certainly, I will investigate the matter. I hope that it is not prevalent but is an isolated instance. It has not been drawn to my attention, and I can understand some frustration with the approach if what the honourable member outlines is, in fact, the practice rather than being an isolated instance of a mistake.

STATE LIBRARY

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Minister for the Arts and Cultural Heritage a question about State Library opening hours.

Leave granted.

The Hon. DIANA LAIDLAW: Following Government cuts to the State Library this financial year, the board decided to cut the operating hours by closing the library at 6 p.m. on weekdays. I share the view that cuts to access should be a last resort, not the first. Indeed, the cuts in access to the State Library defy the board's own policy directions for the library, confirmed in a paper issued by the Chairman (Mr Des Ross) on 24 April 1991, following the controversial review and reorganisation of the library earlier that year. Point 6 of that paper reads:

The Libraries Board is committed to improving accessibility to the collections for all South Australians.

This commitment followed a survey in June 1990 of 1 961 users of library services. They were asked, 'When are you most likely to come here?' and 19.41 per cent nominated weekday evenings. So, the library and the Government know that almost one-fifth of the users of the library prefer to use it on weekday evenings, but they

are now to be denied such access from Monday to Thursday.

In New South Wales the State Library opens from 9 a.m. to 9 p.m. Monday to Friday and until 5 p.m. on Saturday and Sunday, and I ascertained that in Victoria the library opens on Mondays and Wednesdays until 9 p.m. The State Librarian in New South Wales (Ms Alison Crook) advises that in 1988 the board and management decided that they did not want to be sitting around in four years time saying that 'we are dying because the Government did not give us enough money—what a pity.'

Four years ago, therefore, the New South Wales State Library decided to become corporate, innovative and entrepreneurial. Today, the library's businesses, incorporating a business information service, an image library and technology access programs, generate about $3 million a year.

The Hon. T.G. Roberts: Are they selling the books?

The Hon. DIANA LAIDLAW: No, they are not selling the books, nor are they charging fees, but they have decided to generate income to maintain their services. My questions to the Minister are:

1. Is it correct that the Government cut the funds to the State Library's budget this year by $375 000, which is the figure nominated in the press, although I have not been able to gain confirmation of that amount?

2. Was the Minister consulted and did she endorse the decision by the board to close the State Library at 6 p.m. on weekdays?

3. Has she canvassed with the board options to generate income that would enable the State Library to continue its free lending service but also to re-open its doors until 9 p.m. on weekdays?

The Hon. ANNE LEVY: First, I could perhaps correct some of the statements made by the honourable member. She suggested that evening hours have been removed from the library. Evening hours have been cut from the library for three days each week. Prior to 28 September, the library closed at 6 o'clock on Mondays and remained open until 9.30 p.m.—not 9 p.m.—on four days a week.

Since 28 September the library has closed at 6 o'clock on four days a week and it remains open until 9.30 p.m. on the fifth day. The decision to reduce the number of evenings on which the library would be open was taken by the Libraries Board, but certainly there were consultations with me prior to the final decision being made. Surveys have been done of users of the library, both head counts of people in the library and the number of users, over a period of about three years, on all days of the week and at all times of the year. There was also the survey of the number of users, to which the honourable member has referred. From these results it was felt that, if the library was to remain open only one night per week it should be Friday night. That was certainly the preference expressed by the users and backed up by the head counts that were done in the library, that Friday night was the night of greatest appeal, although I think Tuesday ran a fairly close second. The Friday night late closing was certainly chosen by reference to surveys and head counts in the library.

In regard to the funding situation for the library this year, I am sorry but I cannot quote the exact figures; but I think the figure which has been quoted of $370 000 is what it would cost the library to maintain its previous opening hours. The State Library has undergone a fairly extensive reorganisation over the past two financial years and budget reductions certainly occurred at that time. The current difficulties have partly arisen because of the award restructuring that occurred towards the end of the last financial year, and this has placed extra pressure on the library budget.

Despite the comments that the honourable member has quoted, the members of the Library Board certainly discussed with me the alternative approach of maintaining hours as they had been but of reducing the materials and acquisition budget. It was their very strong feeling that it was important to maintain the materials and acquisition budget so that the materials and volumes in the library would not fall in quantity or quality and that it was important to maintain a very adequate collection, as indeed our library has, for the benefit of South Australians.

It was their preference to reduce the hours of access rather than to affect the materials and acquisition budget. I am sure that after careful consideration many people would agree that it is extremely important for our State Library to maintain its materials and acquisition program.

The honourable member also asked whether the Library was considering entrepreneurial activities. She may not be aware that our State Library did introduce a business information service at least 18 months ago; it may have been two years—

The Hon. Barbara Wiese: Longer.

The Hon. ANNE LEVY: They have certainly been supplying advice to business for quite a period, but a fully fledged business information service was introduced at least 18 months ago and has had quite a reasonable response from clients, although I think it would be fair to say that greater numbers could be accommodated by the library if they were forthcoming from the business community.

Certainly our library, the Libraries Board and the Director of the State Library are well aware of initiatives that are being taken elsewhere and have undertaken initiatives themselves to generate income and very successfully to maintain the extremely high quality service which our State Library provides to all South Australians.

AGED PERSONS

The Hon. R.I. LUCAS: I seek leave to make an explanation before asking the Minister representing the Minister for the Aged a question about abuse of the elderly.

Leave granted.

The Hon. R.I. LUCAS: I refer to the call in the national press last weekend for a national strategy to combat abuse of the elderly. Leading Australian National University researcher into the aged and population health trends, Dr John McCallum, made the call in an article in the *Weekend Australian* of 31 October-1 November stating that about 3 per cent of the over 65 population were victims of some form of abuse, in line with overseas figures. Dr McCallum pointed out that, while

the 3 per cent figure did not seem high by comparison, if the incidence of one form of cancer in people over 65 was 3 per cent it would be regarded as a major problem.

More than two years ago the *Advertiser* reported on a South Australian survey which had discovered 120 cases of abuse of the elderly during six months in 1989. Neglect cases included a bedridden individual not leaving her bedroom in six years and a wheelchair-bound person being left on the verandah all day throughout summer and winter with only a glass of water for sustenance.

In releasing the study in April 1990 the then Commissioner for the Ageing, Dr Adam Graycar, said that the number of abuse cases found in Adelaide showed that there was a problem that needed addressing. I am sure most members, and indeed you, Mr President, will be acutely aware that South Australia is and will remain Australia's oldest State. By 30 June 1991—

The Hon. Anne Levy interjecting:

The Hon. R.I. LUCAS: No, that was a compliment; no reflection was intended at all, Mr President.

The PRESIDENT: None was taken.

The Hon. R.I. LUCAS: By 30 June 1991 South Australia was the home for 184 542 people, or 12.8 per cent of the population, aged 65 years or more, and by the year 2020 it is expected that this figure will have risen to 335 195 or 19 per cent. Even if we use Dr McCallum's figure of the 3 per cent incidence of abuse of the elderly, which is probably conservative given overseas figures indicating that it is between 3 per cent and 10 per cent, it is clear that more than 5 500 South Australians are today potentially exposed to some form of abuse be it economic, psychological, physical or neglect.

In the *Weekend Australian* article Dr McCallum praised New South Wales for setting up a task force on the issue following the murders of elderly women in Sydney's North Shore, but said an Australian-wide campaign was needed for public and professional education about abuse of the elderly. My questions to the Minister are:

1. What action has the Government taken since the joint study into abuse of the elderly, conducted in 1989 by the Office of the Commissioner for the Aging in South Australia and the National Centre for Epidemiology and Population Health?

2. Does the Minister agree with Dr McCallum's call for a national strategy to combat abuse of the elderly and, if so, will he put it on the agenda as a priority when he next meets with his interstate counterparts?

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

LABOR CELEBRATIONS

The Hon. PETER DUNN: I seek leave to make a brief explanation before asking the Minister for the Arts and Cultural Heritage a question on Labor's tenth anniversary celebrations.

Leave granted.

The Hon. PETER DUNN: I understand that the Government's media liaison officer, Mr Paul Willoughby, recently sent a memo to all Government press secretaries seeking details of major achievements by the Labor Government during the past 10 years. The memo is brief and quite interesting, so I will quote it in full, as follows:

Dear colleagues, my previous efforts to get Ministers' offices to compile portfolio achievements for the 10th anniversary of our election were not entirely successful. As a result, the comprehensive document I wanted to compile is no longer possible. However, the event is almost upon us and we cannot ignore it because the liberals certainly will not.

So, with a more Stalinist approach, I want details of major achievements in all portfolio areas since this Government's election in 1982 provided to me by the close of business this Friday (October 6). If you can liaise with the press secretary in your former area and revive your work, fine. If you need to shake up a few bureaucrats, fine too. Just get it here.

It is surely incredible that Mr Willoughby should have to demand the details of this Government's achievements due to a lack of interest! My questions to the Minister are:

1. When was the Minister first contacted for details of the achievements in her portfolio, and was she one of the Ministers who did not initially respond?

2. Does the tardy response to Mr Willoughby's efforts at compiling a successful list indicate to her, and other Ministers', lack of achievement during the past decade, or simply a collective epidemic of modesty?

3. Does the suggestion 'if you need to shake up a few bureaucrats, fine too' indicate that Government press secretaries are essentially useless without public servant support, or does it indicate a further example of the Government seeking to pass off blame for its own shortcomings?

The Hon. ANNE LEVY: I am not quite sure why the question has been directed to me. I am the sole Minister at the moment who does not have a press secretary, so—

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: —as I understand it, the fax to which the honourable member refers was sent to press secretaries. As I do not have a press secretary, there was no-one to whom it could go. I certainly hope that situation will be remedied in the very near future, but it is rather hard for me to comment on something that goes to press secretaries when I do not have one.

MULTIFUNCTION POLIS

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the before asking the Minister for Arts and Cultural Heritage a question about the environmental impact statement for the MFP.

Leave granted.

The Hon. M.J. ELLIOTT: I direct this question to the Minister for Housing, Urban Development and Local Government Relations because I believe it is that portfolio that now covers planning, and I assume it also looks after environmental impact assessment statements. I made an FOI request some months ago in relation to the environmental impact assessment for the MFP. None of the Government's submissions made during the EIS process was made available to the public, although all submissions made by members of the public are made available for members of the public to analyse. Following the FOI request, I received copies of the submissions

from various departments and the great majority of those 20-odd submissions raised serious concerns. I will focus on just a couple of those in my question today. In a letter dated 13 May 1992 and signed by Ross Farrow, the Director-General of the then Department of Mines and Energy, he states:

Of principal concern to my scientific staff in their areas of expertise in engineering geology, earthquake physics, environmental geology, soil mechanics, groundwater, industrial safety, mining administration, is the paucity of data on which to base the assessment of a massive and complex development. The geological model provided for part of the site in 1989 (Belperio and Rice, 1989) has been an invaluable aid to subsequent investigators, but its limitations should be recognised: the investigation concentrates on the Gillman site, and it is generally far too shallow and it is too limited in extent for the current concept of the MFP. It is our opinion that the subsequent geological and geotechnical studies have suffered severely from their dependence on reviewing data collected for other purposes, and from an uncoordinated and piecemeal approach to resolving single issues, rather than properly addressing the overall geotechnical tasks and related environmental ones in a systematic way.

Many of the statements made in the DEIS in sections 3 and 4 are bland to the point of being misleading. We are aware of the enormity of the task of preparing an EIS, and that it is easy to criticise, but it is felt strongly that the statements made should better reflect the state of the site and the status of the knowledge of the site conditions. The relevant sections should contain a succinct statement of what the effects and standards are, and what amelioration, impacts and management will involve. Section 4.7.2 is cited as an example of the problem. The blandness of these sections should be removed in order to increase the document's credibility to the public to whom it is addressed. Much of what is stated in the relevant sections of the draft EIS is based only on the consultant's experiences with similar materials elsewhere, and the Gillman-Dry Creek site is too complex for this to be appropriate. The specifics of the geotechnical and other matters are highlighted in the attachment.

My officers are concerned that groundwater may react unfavourably with both water quality in the lakes and the vegetation to be introduced to the area. These matters are clearly of crucial importance to the project and are considered to require a major investigative effort, including extensive modelling. The treatment of contaminated soils is a potentially expensive process and it has not been addressed in the DEIS in a way which would permit a meaningful evaluation of techniques, outcome or costs to be made.

I will cite only one other of the submissions, and more briefly. This submission comes from the acting supervising technical officer, contaminated lands section of the Department of Environment and Planning, to the Management Assessment Branch. Under the section entitled 'Management of contaminated sites', he states:

The managerial procedures surely can only be discussed in a superficial manner until the full extent of contamination is known. The EIS states that the limits of soil contamination have not yet been identified but, based on the limited analysis that has been undertaken to date, reiterates the contention that the site is only mildly contaminated when compared with other sites of urban pollution. The implications for costs of any necessary site remediation are significant. This division's experience with the costs of remediation indicates that costs from between $30 000 to $300 000 per hectare may be encountered. If one assumes that 10 per cent of the site (total 2343ha) requires remediation of contamination, then costs could range from approximately $7 million to $70 million. A more pessimistic estimate would result in significant increases in costs.

Among the other submissions made, a number of people made similar comments, such as the Housing Trust, amongst others. There is a repeated theme of inadequacy of research and suggestions that no proper decisions could be made on the basis of the investigations. Can the Minister assure this Council that there has now been a full investigation done on-site such that all the matters raised by these various departments have now been adequately considered so that realistic assessments can be made as to the likely impacts of the development there—economic as well as environmental impacts?

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

ABORTION

The Hon. BERNICE PFITZNER: I seek leave to make a brief explanation before asking the Minister representing the Minister of Health a question about the abortion clinic at Mareeba.

Leave granted.

The Hon. BERNICE PFITZNER: Recently it has been reported that a patient in her mid-trimester (that is, three to six months) underwent an abortion operation. I understand that there was severe haemorrhage together with perforation of the uterus and bladder complications. There was some problem as to how to transport the patient across to the Queen Elizabeth Hospital. The patient finally arrived at the Queen Elizabeth Hospital to intensive care and had her uterus removed. Her blood haemoglobin (that is, blood iron) was 3 grams; a normal reading is approximately 15 grams. It was lucky that she survived. Although I am not against abortion—indeed, in some cases it is essential—the overriding issue must be that the procedure is safe. My questions are:

1. Will the Minister investigate this case, which was done approximately two weeks ago?

2. How many mid-trimester abortions have been performed at Mareeba?

3. What transportation is at hand for such emergencies, and how was this particular case managed?

4. What was the time lag from the initial emergency call to the patient arriving at the Queen Elizabeth Hospital?

5. Will the new Minister investigate the safety of this procedure done at Mareeba as against the procedure done at the Queen Elizabeth Hospital?

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

WAITE CAMPUS

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Minister representing the Minister of Primary Industries a question about two gum trees that were cut down at the Waite Institute campus.

Leave granted.

The Hon. J.F. STEFANI: On 22 October 1992 the Minister of Primary Industries, Hon. Terry Groom, advised the House of Assembly that two trees aged between 100 and 150 years were felled at the Waite campus on 21 October and were to be donated to the Milang Historic Steam and Shipping Museum for milling into planks and beams for the restoration of a historic paddle steamer. I have been advised that the bottom part of one of these trees, weighing approximately 20 tonnes, has disappeared. My questions are:

1. Will the Minister advise whether he is aware that this section of one tree has disappeared?

2. Can the Minister confirm whether the remaining portions of the trees are sufficient to provide the timber required to restore the paddle steamer?

3. Will the Minister initiate an immediate investigation to establish who has removed the bottom portion of the tree from the Waite campus and where the tree has gone?

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

MANAGEMENT FEES

The Hon. I. GILFILLAN: I seek leave to make a brief explanation before asking the Attorney-General, as Minister of Public Sector Reform, a question about management fees.

Leave granted.

The Hon. I. GILFILLAN: Enterprise Investments Trust was formed in 1989 as a sole beneficiary for the South Australian Finance Authority (SAFA), and the sole contributor of funds to that entity is SAFA. The trust was formed from a restructuring of a similar entity started in 1984 totally funded with Government funds, and it has been conducting its business as an investment company in chosen companies in South Australia with particular aspects of potential technology for export potential.

According to the financial statements of the company for the year ended 30 June 1992, Enterprise Investments operated with a capital base of $33 million. When the trust was first established, the State Government pledged more than $15 million to its start-up, with its main role to support and to be an equity partner in ventures seen to be for the greater good of South Australia. On 30 June 1989 the trust received a further $28 million from SAFA.

Enterprise's focus has been in the area of technology and export, and it has investments in companies such as Kinhill, AMDEL, and Rib-Loc; only 14 companies are involved. It is a modestly useful enterprise in South Australia, comfortably protected by Government moneys and guarantees and, as such, one could hardly describe its management team as facing high risk or personal loss. The company is managed by BCR Venture Management Pty Limited and BCR Financial Services Pty Limited.

The co-founders and directors of the management group are Dr Ron Bassett and David Ciracovitch, who are also directors of the trustee Enterprise Investments Limited. In other words, they are both directing the management company and directors of the board that is placing the money and making the investment. In the last financial year, Enterprise Investments Trust returned a net profit of just $1.2 million. However, according to the Auditor-General's Report dealing with the notes to and forming part of the accounts of Enterprise Investments Trust, the fees paid to BCR as the company's management group were $1.1 million.

I compare that with the $1.2 million net profit. The fees, according to the notes, are 'influenced by the value of funds invested and movements in the CPI', but apparently not related in any way to performance. So, the fee is definitely to be moved if the CPI goes up or if more funds are invested, but there is no relationship to the actual efficiency or performance of those funds. The report states:

> ...fees amounting to $1 026 424 were paid to BCR Venture Management Pty Limited during the year,

with an additional $20 931 paid to BCR Financial Services Pty Limited for accounting services and $37 000 paid in consulting and directors fees. In other words, an amount equivalent to almost the entire net profit of Enterprise Investments Trust in the 1991-92 financial year has been paid out in management fees, a situation that appears to fit the pattern that has emerged in South Australia in Government connected organisations, giving some of the best paid jobs in the State, whether they turn a profit or not, such as the State Bank or the Grand Prix board. My questions to the Minister are:

1. Are the fees paid to BCR Venture Services for its management performance related and, if not, why not?

2. Who determines the fee structure?

3. Are the fees a pacesetter for similar fees in other Government or semi-Government projects?

4. Will the Attorney-General provide the detailed account of the fees paid to BCR Venture Management Pty Limited and BCR Financial Services Pty Limited?

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

MARBLE HILL

The Hon. J.C. IRWIN: I seek leave to make an explanation before asking the Minister representing the Minister of Environment and Land Management a question about Marble Hill.

Leave granted.

The Hon. J.C. IRWIN: In 1987 the responsibility for managing and maintaining the 32 hectare property and ruins of the former Governors' residence known as Marble Hill was handed over to the National Trust. The property is owned by the State Government. Since 1967, volunteers of the National Trust have restored the Governor's study, and sections of the garden have been re-established and maintained. Nine months ago, the former Minister for Environment and Planning (Hon. S.M. Lenehan) decided that the Government would no longer support the National Trust in its endeavours to maintain Marble Hill, and rejected the trust's plea for $20 000 for critical maintenance work on the property.

Marble Hill has been vacant now for four months and, as a result of no maintenance for 12 months, is in urgent need of attention. The National Trust, through its volunteer workers, has upgraded the Marble Bill property to a standard worthy of attracting tourists. Last year alone, the property had 10 000 visiting it, yet it was open

for only two and a half days per week. That is an average of 80 visitors per day over the whole year, taking into account some of the miserable months of winter when, I guess, the visitors would not be 80 per day, thus making it much more attractive on other days.

I believe that the local council has offered to assist with mowing the grass, an essential fire protection measure on this 32 hectare property, which has already been burned out by bushfire. The National Trust manages 140 properties, 36 of which are owned by the State Government. The State Government's allocation to the National Trust to maintain these properties is the huge amount of $34 000 per annum. My questions to the Minister are:

1. Is the Government going to stand by and watch the historic heritage Marble Hill property disintegrate?

2. Has the Government prepared a management plan for the Marble Hill property? If so, what is this structure and what will it cost?

3. If not, what plans does the Government have for the future of Marble Hill?

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

ACTS INTERPRETATION ACT

The Hon. J.C. BURDETT: I seek leave to make a brief explanation before asking the Attorney-General a question about the Acts Interpretation Act Amendment Act 1992.

Leave granted.

The Hon. J.C. BURDETT: The Acts Interpretation Act Amendment Act 1992 was passed in the previous session of Parliament and assented to on 16 April 1992. It provided that an Act or a provision of an Act passed after the commencement of this subsection—that was amending subsection (4) of section 7 of the principal Act—that is to be brought into operation by proclamation will be taken to come into operation on the second anniversary of the date on which the Act was assented to by or on behalf of the Crown, unless brought into operation before that second anniversary.

Members will know that, if an Act does not say when it shall come into operation, it comes into operation on the date of the royal assent. But, in the case of very many Acts, as contemplated by the Act to which I refer, it is provided in the Act that they come into operation on a date to be proclaimed. The reason for that is that it is often necessary to have regulations ready to go and otherwise to set out the administrative procedures that are necessary to bring the Act into operation.

During the previous session of Parliament and before that, I referred on many occasions to the large number of Acts—and provided a list of them—that had not been proclaimed, or portions of them that had not been proclaimed because the Act to which I have referred applies to portions of Acts that have not been proclaimed as well as to Acts themselves. Some of them meant many years, and some of them, it was obvious, were never going to be proclaimed at all.

I suggested that this was a mischief in regard to parliamentary Government, because it should be the Parliament that passes laws and the Parliament that has the control of bringing them into operation. The Acts Interpretation Act Amendment Act set out to remedy this mischief by providing that, if the Acts had not come into operation by proclamation by the second anniversary of the date on which the Act was assented to—

The Hon. C.J. Sumner: Good initiative from the Government!

The Hon. J.C. BURDETT: It did not initially come from the Government, as I recall. I think it came from the member for Elizabeth.

The Hon. C.J. Sumner: Now a member of the Government.

The Hon. J.C. BURDETT: But it was watered down by the Government. It was not a list of achievements because, as introduced by the member for Elizabeth, it was to be one year, and the Government accepted it only on the basis of its being two years. I said at the time that it would have been a better provision had the Act provided that it should lapse, if the Act was not proclaimed within 12 months, as the initial Bill said, which would have been an even better incentive for the Government to decide whether or not it was going to proclaim it. The Act to which I have referred applies only to Acts passed after the commencement of the provision in the subsection, that is, after 16 April 1992. I know that the Minister cannot answer this off the cuff and that he will have to provide the information, but I ask him whether he can provide a list of Acts passed before that date which still have not been proclaimed, because certainly there are some, and when it is expected that those Acts passed before that date and not yet proclaimed will be proclaimed.

The Hon. C.J. SUMNER: I will seek that information. In fact, I did take up the honourable member's earlier questions on this topic and referred them to Ministers for responses. But I will get an up to date report.

EASTERN STANDARD TIME

The Hon. R.I. LUCAS: I seek leave to make an explanation before asking the Minister representing the Minister of Labour Relations and Occupational Health and Safety a question about Eastern Standard Time.

Leave granted.

The Hon. R.I. LUCAS: Members will be aware that the Government has introduced legislation in the other place to introduce Eastern Standard Time in South Australia. Government Ministers and some advisers have certainly been indicating publicly that the proposal was a response to the recommendations and work of the consultants Arthur D. Little and their report into problems confronting the South Australian economy. As a result of the introduction of the Bill I have made a close study of the various volumes of the Arthur D. Little report, in particular volumes 1 to 3. It is important for members to appreciate the way in which the Arthur D. Little consultants went about their task of looking into the problems confronting the South Australian economy. They employed a range of consultants in South Australia to provide information, involving people like the South Australian Centre for Economic Studies, Ernst & Young, Mark Coleman and Associates, and a variety of other consultants. Then, as the head consultants, they then

absorbed all the information and made their judgments, which they published in volume 1 of a 3 volume final report as their considered opinion of the major issues that confronted South Australia and the major things that needed to be done to turn around the South Australian economy.

Volumes 2 and 3 in fact constitute appendices, which comprise all the various subconsultants' reports to the head consultants Arthur D. Little. Certainly in the analysis that I have done of the final report of Arthur D. Little, volume 1, there is no reference or recommendation by the head consultants on the issue of eastern standard time. So my question to the Minister is: will he confirm that there is no recommendation by the consultants Arthur D. Little on Eastern Standard Time in their final report—and in particular I refer to volume 1, not the appendices, which are the subconsultants' reports—on the important issues needing to be addressed for a revival of the South Australian economy?

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

The Hon. Peter Dunn interjecting:

The Hon. C.J. SUMNER: I think—

The PRESIDENT: Order! The Attorney-General will address the Chair.

The Hon. C.J. SUMNER: I agree, Mr President. The honourable member has interjected and I am answering him.

The PRESIDENT: The Attorney shall address the Chair if he is answering the interjections.

The Hon. C.J. SUMNER: I will, too; he should interject through the Chair! My understanding is that the A.D. Little consultant group did recommend the Bill that has been introduced in the other place and, no doubt, the honourable member can debate this matter when it arrives here. However, he has asked me a particular fact about whether it was in the final report or not, and I said that I will check it.

PUBLIC AND CONSUMER AFFAIRS

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

Leave granted.

The Hon. K.T. GRIFFIN: It has been reported to me that currently an extensive review is being undertaken of the Department of Public and Consumer Affairs and that this review is directed towards identifying ways in which the department can be wound down. My questions to the Minister are:

1. What are the terms of reference of the review?

2. Who is undertaking it?

3. What is the time frame within which the review must be completed?

4. Can she give any indication of the cost?

The Hon. ANNE LEVY: I am totally unaware of any such review being conducted in the department, and I am certainly not aware of any suggestions that its very important role of consumer protection should in any way be wound down. Obviously, though, as with all Government agencies, the department is looking for greater efficiencies and at ways it can best achieve its aims with minimum resources. This, I am sure, is a continuing process right through all the divisions of the department. However, I am quite unaware of any such plan to which the honourable member has alluded.

The Hon. K.T. GRIFFIN: Mr President, I ask a supplementary question. I take it from what the Minister has said that there is no review.

The Hon. ANNE LEVY: There is a review into the Office of Fair Trading, which is being undertaken at the moment, an ongoing review which has been continuing for some time and which will be wound up at the end of the year. But that is not by any means with a view to closing down the Office of Fair Trading. It is certainly not a review into the department; it is a review into one division of the department in terms of its efficiencies and how well it is meeting its obligations to the South Australian community and whether what it undertakes can be achieved more efficiently.

The Hon. K.T. Griffin: That is an external review or an internal review?

The Hon. ANNE LEVY: It is a review being undertaken by a public servant from a different agency; so I do not know whether one would call that internal or external. It is certainly not involving an outside consultant, but it is not a review being undertaken by someone from the Department of Public and Consumer Affairs. The aim, though, is certainly not to close down the Office of Fair Trading.

PORT MACDONNELL

The Hon. M.J. ELLIOTT: I believe that the Attorney-General has an answer to a question that I asked on 13 August in relation to Port Macdonnell.

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

Leave granted.

The former Minister of Marine has provided the following response:

The decision to close the slipway at Port Macdonnell was not based solely on the cost of removing sand to enable it to remain operational as implied in the question. By letter to SAFIC in May, 1992, the Minister pointed out that it was necessary to phase out the use of the slipway because of:

(a) the declining use attributable to:

(i) fisherman building their own trailers for slipping;

(ii) the trend towards larger vessels which exceed the capacity of the slipway;

(b) the overall difficulties relating to the safe operations of the facilities.

The slipway and boatyard operating loss is $40 000 per annum which is met by the Department of Marine and Harbors. The fishing industry is aware that the Department is progressively moving towards full cost recovery from the industry. In 1991-92, the cost of services provided to the industry exceeded receipts by $1.48 million. This deficit was funded by DMH.

The former Minister of Marine has publicly stated that the breakwater, mooring basin for the fleet, the jetty and channel access to allow continued operations at the port would remain a State responsibility and be effectively maintained for that purpose.

The sand build up is a consequence of constructing the Port Macdonnell breakwater to create a safe haven for the fishing fleet using the port. The natural movement of both water-borne and shore sand is interfered with and deposits of sand accumulate, both on shore and in the vicinity of the breakwater. The Department of Marine and Harbors have no record on file of

fishermen advising of the need to leave a 200 metre gap at the shore end of the breakwater at the time of planning or construction and it was not raised during the hearings of the relevant Public Works Standing Committee.

There has been an estimated 6 000 cubic metres of sand accumulated inside the head of the breakwater since its construction. The level of sand building up is, at the present time, not sufficient to prevent vessels moving in and out of the haven. By periodic soundings, DMH have been monitoring the build-up and will arrange dredging as and when necessary.

The proposal in relation to the breaching of the breakwater is under consideration as one of the options for the future management of the port in consultation with the local council and the Fishing association. However, the Department of Marine and Harbors does not support this course of action and it is also a matter of conjecture between specialist coastal engineers, local residents and fishermen.

Maunsell and Partners and Chappell Engineers, have examined the sand accretion problems. Maunsell has not recommended the breaching of the breakwater. Chappell has and in so doing, has foreshadowed the entry and deposition of sand into the harbor adjacent to the breach.

DMH believe that breaching the breakwater will:

- not result in the simple, quick fix solution to the sand and seaweed accumulation problems that the fishermen believe it will;
- enable additional sand and seaweed to enter the harbor. This will accumulate in the eastern comer and will ultimately have to be removed. In proposing the breach, Chappell Engineers acknowledged that sand will enter and accumulate at this point;
- not solve the problem of sand being transported along the beach from east to west under wave action from south-easterly winds. Sand would continue to accumulate at the slipway site and would still require periodic removal;
- not permit sufficient water to inflow to prevent saltation at the head of the breakwater;
- result in additional water-borne sand being deposited between the breach and the breakwater head;
- improve harbor water circulation and more than likely solve the problem of the obnoxious smelling seaweed growing in the harbor.

The proposal for a local contractor to remove sand from the entrance and the slipway at concessional rates, if he is permitted to retain it, is being investigated and a case is being prepared for presentation to the Coast Protection Board for consideration. Alternative management arrangements for the slipway and the boatyard are currently the subject of discussions between the District Council and the Department of Marine and Harbors.

OIL SPILL

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Minister of Transport Development a question about oil spill reports.

Leave granted.

The Hon. DIANA LAIDLAW: I asked a question of the Minister on 22 October about the receipt and release of these reports and she said that she understood she was to have a briefing on this matter in the next few days. At that time I am aware that the report by the State committee was in the hands of the department and that it would now have been with the department for at least three weeks. Subsequent to asking that question, I read in the *Advertiser* that a spokeswoman for the Minister said that the Department of Marine and Harbors investigation into the clean-up aspect of the spill had not been completed, and the reason for this was that there were problems, on which the spokeswoman would not elaborate. Would the Minister do so now, and indicate when the other report will be released?

The Hon. BARBARA WIESE: We cannot always believe what we read in the newspapers, unfortunately, and on this occasion I am informed by my spokesperson that she was misquoted by the *Advertiser* journalist who prepared that article. In fact, she tells me that she did not use the word 'problem' at all when she was discussing the progress on these reports with the journalist concerned.

I am not aware of any problems that exist with the preparation of the second report. I believe that it is proceeding without difficulty, but naturally there are a number of issues that must be carefully considered, and these are being carefully considered by the appropriate people. Although I have not heard this week, at least a couple of weeks ago I was informed that it was likely that that second report would be available some time during the next week or so. Once that report has been completed and I have received it and have had an opportunity to review the matters that are contained in the two reports, there will be a public release of those reports and announcements made about the content of the reports.

The Hon. DIANA LAIDLAW: As a supplementary question, does the Minister then intend to hold onto and not release the first report until she has received and assessed the second report?

The Hon. BARBARA WIESE: Yes, that is my intention. The first report alone does not provide useful information. The two reports, it seems to me, should be considered together and, once that second report is complete, they will be released and the public and the parliamentary committee will have an opportunity to examine them.

REPLIES TO QUESTIONS

The Hon. ANNE LEVY: Mr President, I seek leave to have inserted in *Hansard* without my reading them replies to two questions asked by the Hon. Mr Lucas.

Leave granted.

SCHOOL DISCIPLINE

In reply to **Hon. R.I. LUCAS** (8 October).

The Hon. ANNE LEVY: The Minister of Education, Employment and Training has provided the following response:

1. The estimates differ because they relate to different groups of students. The Stratmann Report indicated that 1 per cent have ongoing severe behavioural difficulties. This 1 per cent is not evenly distributed across all schools.

Five per cent of students have social, emotional and/or behavioural difficulties which from time to time require major intervention.

The Acting Director-General of Education was speaking in relation to the 'Procedures for Suspension, Exclusion and Expulsion' and was citing 100-150 students in relation to exclusion during stage one of the trial anticipated at that stage in two districts.

2. Departmental officers are aware that incidents of violence require consequences first and counselling later. Any student assaulting a teacher will be immediately suspended for up to 10 days and the teacher supported to lay an assault charge against the student. As part of the suspension process the incident would be discussed.

As the honourable member was unable to supply the details of the departmental officer who allegedly 'told the school that it

was inappropriate for the student to be suspended for that period of time and it would be better if the school and the student talked the matter through', the allegations were unable to be followed through.

COMPUTER SOFTWARE

In reply to **Hon. R.I. LUCAS** (14 October).

The Hon. ANNE LEVY: Computer software is not a prescribed item under the prices Act 1948 and the prices of computer software are not subject to any price control in South Australia. Neither the Commissioner for Consumer Affairs nor the Commissioner for prices have undertaken any investigation into the pricing or marketing of computer software in South Australia.

It is clear that the Australian market for computer software is considerably smaller than the American market and therefore the number of units sold by dealers and retailers is lower than that of their American counterparts. As a result I would expect their mark up per unit sold would be higher in order to meet their overhead costs with the consequences that retail prices are correspondingly higher.

It would not be possible to assess whether the mark ups applied by dealers and retailers are excessive or whether retail prices are excessive unless an investigation were undertaken into the cost and pricing structures of each individual dealer and retailer. Such an investigation is not proposed.

It is not appropriate for me to comment on the recommendation of the prices Surveillance Authority that import restrictions be lifted to reduce the prices of computer software. That is, as I advised the honourable member previously, a Federal matter.

STATE TRANSPORT AUTHORITY (AUTHORISED OFFICERS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 27 October. Page 575.)

The Hon. I. GILFILLAN: I view this Bill with very serious concern. It seeks to empower the authorised officers who have a specific task to limit offences in the public transport arena, both on the vehicles and on property and land that is under the control of the STA. Proposed new section 23a, which relates to the power of arrest of authorised officers, provides:

> Where an authorised officer has reasonable cause to suspect that a person is committing, or has committed, an offence on, or in relation to—
>
> (a) the system or public transport service;
>
> or
>
> (b) any property of the authority,
>
> the authorised officer may—
>
> (c) Require that person to State in full his or her name, address and date of birth;
>
> and
>
> (d) If the officer considers that it is appropriate in the circumstances, apprehend that person.
>
> (2) Where an authorised officer has reasonable cause to suspect that a name, address or date of birth is stated in response to a requirement under subsection (1) (c) is false,
>
> the officer may require the person making the statement to produce evidence of the correctness of the name, address or date of birth as stated.
>
> (3) a person who—
>
> (a) refuses or fails, without reasonable excuse to comply with a requirement under subsection (1) (c) or (2);
>
> or
>
> (b) In response to a requirement under subsection (1) (c) or (2)—
>
> and I remind the Council that that is in relation to the giving of the name—
>
> (i) states a name, address or date of birth that is false;
>
> or
>
> (ii) Produces false evidence of his or her name, address or date of birth,
>
> is guilty of an offence.
>
> Penalty: Division 8 fine.

It is interesting that it does not appear as if this Bill makes it an offence to resist the apprehension of the person by an officer as spelt out in proposed new subsection (1)(b). It is on the matter of apprehension that I particularly want to address my comments.

I start by pointing out that in considered opinion the actual apprehension in itself is a form of arrest. I will be quoting some material from the South Australian Police *General Duties Manual* and this year's *Law Handbook,* and a little further on in that material is the expressed and deliberate opinion that to apprehend a person under these circumstances is in fact to effect an arrest.

I will quote some parts from the *Law Handbook,* which I think is written in language that I can understand, and I hope this is useful for others. Chapter 4, relating to 'being arrested' states:

> SUSPECTS.
>
> The police officer who has reasonable cause to suspect that a person has committed, is committing or is about to commit an offence, or may be able to assist in the investigation of an offence or a suspected offence, can require the person to give his or her correct name and address however trivial the events may be. If there is reasonable cause to suspect that the name or address given is false the police officer may require the person to produce evidence, for example, a drivers' licence, of its correctness.

That is quite clearly identical to what is expected in relation to compliance with the authorised officer in the Bill. Under the heading 'Volunteering information', with the subheading 'Going with the police', it states:

> It is not uncommon for the police when investigating an alleged offence to ask a person to go with them to the police station. This is simply an invitation. Unless arrested, that person is not obliged to accompany the police anywhere for any reason. A decision made by a suspect in these circumstances is subject to the same considerations as refusing to answer.

It contains other comments in relation to volunteering information which do not specifically apply to the matter that is dealt with in the Bill. The document continues:

> The police have no power to detain a person unless he or she has been lawfully arrested. To detain a person other than by lawful arrest is false imprisonment and is a civil wrong.

The powers that we are apparently going to give in this Bill to transit officers are powers that even the police do not have. Under the heading 'arrest', the document further states:

> The first section of this chapter was concerned with the procedures followed in investigating an alleged offence. The suspect may be arrested where those investigations result in the identification of a suspect and evidence linking the suspect to the alleged offence. Arrest is where a person is no longer at liberty

to come and go as he or she pleases. To be detained, apprehended—

and I emphasise 'apprehended'—

or in custody, are all being under arrest. Usually a person is told both that he or she is under arrest and why. In many instances there is a clear reason for the arrest. Failure to tell people that either they are under arrest or why they have been arrested does not make an arrest unlawful.

However, it is still an arrest. It is interesting to comment on a citizen's arrest because one may say that in these circumstances perhaps the authorised officers are only exercising some power that every citizen has. The document states:

With the growth of the modem Police Force, the right of the private citizen to make an arrest is rarely used today. The right still exists, but it is limited. Mere annoyance, disturbance or insulting or abusive language are not sufficient to allow one person to arrest another. Before a citizen's arrest is made it is important to be sure that the situation is as it seems because an innocent person who has been wrongly arrested can sue for false arrest.

The final sentence in the paragraph states:

There is no power to make a citizen's arrest when a person is attempting to commit a misdemeanour.

It is quite clear that the powers in this Bill are not enjoyed by anyone else currently under the law as it stands. It then speaks of how to make an arrest. The situation is becoming clear to me that if we are to give these authorised officers such powers it is virtually a de facto arrest. The document continues:

For an arrest to be valid, the person making the arrest should say to the person being arrested, 'You are under arrest,' and may at the same time touch, take hold of, or otherwise make it clear to the person that he or she is being arrested. Unless it is obvious, the person should also be told the reason for the arrest. It is not necessary to state the charge precisely, as long as the arrested person is made aware of the act for which he or she is being arrested. A police officer may use as much force as is reasonably necessary to arrest the person. Unreasonable force is assault...The use of handcuffs or a similar restraint is an example of reasonable force where it is believed that the arrested person might attempt to escape.

That is one of the questions that I will be raising specifically: the extent to which authorised officers will be enabled to effect that apprehension or arrest. The document continues:

It is an offence to resist a police officer in the execution of his or her duty. That duty includes the making of a lawful arrest. Merely lying down and refusing to cooperate is not resisting arrest. To be an offence, the resistance must be active. However, a person can be guilty of hindering the police in the execution of their duty by passive actions. Running away from a police officer before a valid arrest has been made is not resisting arrest. But the action of running away might be used as evidence of the consciousness of guilt if the person is later charged with an offence or brought before a court.

Under the heading 'Questions asked by the police', it states:

Police have a power to question a person before making an arrest. Where a person has been arrested, whether as a result of a warrant or not, that person has a number of rights.

I emphasise that a person has a number of rights.

The Hon. Diana Laidlaw: Not in this Bill.

The Hon. I. GILFILLAN: No, not in this Bill, as the honourable member rightly interjects. The document continues:

A member of the Police Force is obliged to advise the person of those rights as soon as reasonably practicable after the arrest of that person. Included amongst those rights is the right to silence. The police are obliged to warn a person as soon as reasonably practicable after an arrest that anything said may be taken down and used against him or her in evidence.

The document goes on to spell out legal rights and puts more details into the right of silence. It outlines special rights regarding Aborigines and children. It goes through the case of where legal rights are not given and the consequences of that, all of which is interesting background.

The main thrust of my comments on the Bill are that we are empowering non-commissioned police officers with a power that is well beyond the current power of commissioned police officers.

From the SA Police *General Duties Manual* I will quote some details. If we are to support this measure (and I am certainly reluctant to do so), it will need to be clearly established that this apprehension is not an arrest but, if that cannot be done, the apprehension stands as a form of arrest in which all the qualifications required in an arrest by a police officer must apply; and we must, at the same time, ensure that these people making such arrest are competent and well trained to do so. It may well be that my argument is that, unless these people have the same training and qualifications as a police officer, we should not give them these powers. The police manual, under the heading 'Arrest criteria', states:

Notwithstanding the broad terms of section 75 of the Summary Offences Act members should not exercise their power of arrest unless one or more of the following criteria exist, viz., there are reasonable grounds for belief that the apprehension is necessary to:

1. ensure appearance before a court;
2. prevent the loss or destruction of evidence;
3. prevent the continuation or repetition of the offence;
4. prevent the commission of other offences.

In forming that belief, members will take into account:

1. the need to exercise the powers contained in section 81 of the Summary Offences Act 1953 (e.g., medical examinations, finger prints, etc.
2. the gravity of the offence;
3. the likelihood (if any) that the offender would, if not apprehended:
   (i) abscond;
   (ii) offend again;
   (iii) interfere with evidence, intimidate or suborn witnesses, or hinder police inquiries;
4. where there is a victim of the offence—any real or perceived need the victim may have for physical protection;
5. any other relevant matters.

Further on, under the heading 'Arrests—Legal and Technical considerations', it states:

When a member decides to exercise power of arrest he will ensure that:

2.3 the offender is informed in clear words that he/she is being arrested and the reason for the arrest. When the offender's behaviour or condition prevent him/her from being so informed at the time of arrest and the reasons for arrest are obvious to the

person, he/she is to be advised as soon as reasonably practicable thereafter,

Under the heading 'Accusations by third parties', it states:

When a member receives any accusation made by a third party that any person has committed an offence and any doubt exists to the sufficiency of evidence to support the charge the member will not arrest the offender.

In quite emphasised terms, it is a clear instruction that a person will not make an arrest. Where do we find those sorts of instructions being given to authorised officers? The document continues:

Arrest—Refusal to assist by the public: When a member [that is, a police officer] is attempting to lawfully arrest an offender and is subjected to resistance the member may call upon members of the public to assist. The failure of members of the public to come to the aid of the constable is an offence in certain circumstances. Should such an incident occur, a report will be submitted to the member's divisional officer prior to any legal action being instituted. The person refusing to assist the member is not to be arrested. The report will include: the name and address of the person refusing to assist; the facts leading to the decision to arrest; details of why it was necessary to call upon the member of the public to assist; whether the person called upon had any physical disability or lawful excuse to refuse to assist.

Will these authorised officers have power to order you, Sir, who may be sitting behind the person they want to apprehend, that you must aid in this apprehension and that, if you do not do it, you will be charged with an offence? We do not know. The Bill certainly does not spell it out, but if it is indeed, as I argue, an arrest and the person who is affecting the arrest has the equivalent authority of a police officer, one can assume that that will be the case and you could finish up in dire trouble because you failed to assist someone who sees it as their duty to arrest an alleged offender, perhaps on evidence that someone had given third-hand.

The document then refers to handcuffing prisoners. I think it is important to ask, and have the question answered, how well the authorised officers will be equipped to effect this apprehension. Will they be given firearms, batons, handcuffs and running shoes so they can actually run and catch these people? What equipment will be necessary, because the circumstances in which the apprehension will take place as outlined in this Bill could require extraordinary circumstances?

The Hon. T.G. Roberts: A horse and a lasso.

The Hon. I. GILFILLAN: The interjection was 'a horse and a lasso'. The handcuffing of prisoners is subject to quite a detailed instruction in this police officers' manual so, obviously, it cannot be taken lightly if this Bill intends to empower these people to have the use of handcuffs to take in people whom they are apprehending.

The document further deals with arrest of children. There are some quite clear guidelines as to what restraints there should be in the arrest of children. It seems very likely to me that children will form a very large proportion of the people who will be targeted by these authorised officers. In the Bill there is no restraint as to what age restrictions there may be on an authorised officer apprehending (read arresting) a child. However, I will read this paragraph, because I think it is important in the context, under the heading of 'Arrest of children'. Paragraph 8.3 states:

Where a member proposes to detain a child, following arrest pursuant to section 78(2) of the Summary Offences Act, permission to do so is to be requested forthwith from a commissioned officer. If prior approval cannot be obtained, the arresting member is to advise an appropriate commissioned officer as soon as practicable after the period of detention commences. The detention provisions of the Summary Offences Act should not be used in relation to offences involving children which, although falling within the definition of 'serious offence', are not, in reality, serious. For example, a larceny offence where the value of the property involved is minimal.

8.4 In essence, where a child is concerned, common sense and discretion should be exercised where an arrest or period of detention is being considered. Where any reasonable doubt exists as to the proper course of action which should be taken, direction from a supervisor is to be sought.

Clearly, on a moving bus there will not be opportunity for the advice of a supervisor or commissioned police officer to be sought, and we will have people who in my judgment are totally inadequately trained for this work to be making an on-the-spot decision, quite often having been subjected to some provocation. What is at risk is the intrusion and summary arrest with totally unacceptable powers by a person who has not had any training for it.

Under the title 'Legal assistance—general requirements', point 4.2 of this same document states:

A reporting/arresting member shall submit a complete brief including a record of conversation and witness statements ...

I wonder whether indeed there will be even compliance with that from the people who will be empowered through this Bill. I ask the question that I hope will be answered in the second reading response. What powers will be given to the authorised officers to compel a person to comply with their apprehension? What is the difference between 'apprehension' and 'forceful taking away' and 'arrest' in all other meanings of the word?

I see that there are some amendments on file from the Hon. Diana Laidlaw and some of those quite patently move to mitigate the circumstances somewhat, and there is the very wise introduction of a sunset clause, but I feel far too profoundly disturbed about the implications of the Bill at this stage to even consider that it is a power that should be given to transit officers. Either transit officer training needs to be far more comprehensive—

The Hon. Diana Laidlaw: Have police officers do it.

The Hon. I. GILFILLAN: I consider that that is certainly the most appropriate approach to a circumstance which is the equivalent of arrest. The argument would be that there are inadequate numbers of police officers to do this work. This is an attempt to deal with a public nuisance, principally graffiti, I might say, and no-one welcomes or accepts that we should tolerate a level of graffiti offences in our community and we should take appropriate steps to control it. This is virtually the first of what I consider to be two steps of moving towards a police state. It is a quasi-police state; not even commissioned police are given these powers.

When we come to the search for implements, which I intend to discuss a little later on this or the next day of sitting, I am even further stunned by what this so-called Government of the little people is prepared to put in place as a knee-jerk reaction to a rash of offences which

on any criterion of offences cannot be rated very highly as destructive to society, damaging to people or morally corrupt. In many cases it is mischief, which must be addressed, but to address it in a way which is totally without precedent and landing on those people with barely six or seven weeks' training the powers of arrest without even obliging them to comply with the normal requirements that a police officer has to comply with is ridiculous.

I indicate that unless there is a lot more satisfaction forthcoming to my concerns from the Attorney's summary and possibly some other amendments, I am inclined to oppose the Bill. I will support it to go through the second reading stage and the Committee stage, but I can only emphasise that I think it is the wrong track; it is a massive over-reaction. I believe that having personnel on buses, just the presence of those people properly trained, can control the nuisance value and mischief of graffiti and I think that in this measure we are seeing an excessive reaction, the downside of which is just intolerable in a free, democratic society.

The Hon. T.G. ROBERTS secured the adjournment of the debate.

FRUIT AND PLANT PROTECTION BILL

In Committee.

(Continued from 28 October. Page 591.)

The Hon. BARBARA WIESE: Since we last considered this Bill, further discussions have taken place between officers of the department, the Hon. Mr Dunn and the Hon. Mr Elliott concerning issues relating to penalties for some offences created under this Bill. I believe that agreement has been reached on some of these matters but that there is likely to be disagreement on others. I suggest that we go through the whole Bill and then reconsider all its clauses, which will be tidier.

Remaining clauses (18 to 30), schedule and title passed.

Bill recommitted.

Clause 11—'Reporting'—reconsidered.

The Hon. M.J. ELLIOTT: I move:

Page 6, line 12—Leave out 'division 6 fine' and substitute 'Division 4 fine or division 4 imprisonment'.

There are two issues we might need to address in relation to this clause. The first is the question of whether or not a division 6 fine is appropriate and whether it is harsh enough. In my amendment, I suggest a division 4 fine, which means that the maximum amount of the fine is lifted from $4 000 to $15 000, a significant increase. I have gone a step further and suggested that division 4 imprisonment, which could be to a maximum of four years, also be contemplated.

I will be moving similar amendments in relation to other clauses. The question of whether we go to a division 4 fine is one question, and the other question is whether or not we also allow for imprisonment. Even if there are disagreements as to the imprisonment question, that may not be true in relation to each offence that we debate throughout the various clauses. I hope that the other Parties treat each of these clauses separately.

DISTINGUISHED VISITOR

The ACTING CHAIRMAN (Hon. M.S. Feleppa): I draw to the attention of the Council the fact that we have present in the gallery at the moment the Hon. Sam Piantadosi from the Western Australian Government, and we thank him for visiting us.

FRUIT AND PLANT PROTECTION BILL

Debate in Committee resumed.

The Hon. M.J. ELLIOTT: The sort of concern I had in relation to clause 11 was that a person may find that they have a disease on their property or a pest, for instance they may discover that they have fruit-fly on their property, and having lived in a fruit-growing area for some six years I can guarantee that there are people in those areas—and not atypical from people living elsewhere—who, if they found fruit-fly, would be tempted not to report it. Their first temptation would be to think that it is in only one or two trees so that they should get rid of that fruit and pick the rest on the property and that that would be all right. I can guarantee that that would be the reaction on the part of some individuals.

In relation to many of the clauses that we are looking at it is a matter of whether or not the potential benefit of the crime is greater than the potential penalty. At this stage the Government has the potential penalty at $4 000, assuming that the maximum fine is applied. The way that the courts behave in relation to these matters, the fine is likely to be very light. So, I really believe that we need a penalty that matches the crime and that a maximum penalty of $15 000 is far more appropriate than $4 000. I also believe in having the potential for imprisonment.

If a person knowingly has pests such as fruit-fly or other dangerous diseases on their property and fails to report them, they are putting the whole of the horticultural industry at risk. If it were fruit-fly, for instance, we would lose our markets in Japan and in the United States immediately and in fact we would probably lose much of our export markets for citrus. We would lose a market, which is worth probably tens of millions of dollars in export income, due to the carelessness of a single individual. I think we have to make it very plain that we are serious about stopping these pests and diseases from getting into areas that are currently free.

We do need to have heavy penalties available. It is, though, finally up to the courts to decide the extent to which it will apply a penalty. I must say that it would be very rare that a court would choose to use imprisonment. I base that observation on one experience in the courts fairly recently. In that case we had a couple of individuals in the Adelaide Hills, apple growers, who brought bud wood over from New Zealand. When those two growers found themselves before the court they were given community service orders. The risk that they were taking in that case was the introduction of fire blight, which would have wiped out our apple industry. That was the risk that was being taken and the court's attitude was that it was deserving of a community service order. I think that shows the way the courts are reacting at the moment. The last thing we should be doing is sending

signals to the courts that we are not serious, by having very low penalties. Frankly, I do not think the penalties that I am suggesting for this and in relation to other offences in other clauses are too harsh when measured against the potential damage that would be done to our community.

The Hon. BARBARA WIESE: The Government generally agrees with the argument that has been put by the Hon. Mr Elliott with respect to his proposition that in various parts of this Bill the penalties should be made more severe. Since the Hons Mr Elliott and Mr Dunn raised their concerns about some of these matters last week, a closer inspection has been made of the various sections of the Bill where penalties are provided, and it is generally agreed that the penalties should be increased in those areas that have been identified by those honourable members. However, the Government parts company with the Hon. Mr Elliott in that we believe that it would be inappropriate at this time to provide for division 4 imprisonment as part of the possible penalty. Although there may be some community support for such a penalty, the fact is that there has not been any consultation with industry organisations or with other interested community organisations about raising the penalty to that extent. The Government feels that such consultation should take place before such a severe penalty is contemplated. So the Government's position is that we support an increase in the penalties in those clauses that have been identified by the Hons Mr Elliott and Mr Dunn but we do not support that part of the amendment that provides for division 4 imprisonment. Accordingly, I move to amend the Hon. Mr Elliott's amendment as follows:

Leave out the words 'or division 4 imprisonment'.

The Hon. PETER DUNN: The Liberal Party agrees with the Minister in this case. We believe that the division 4 imprisonment penalty is a bit severe. We do not have it in other legislation that deals with this business of carrying disease or infected material from one area to another. The transfer of disease can be very silent and the consequences quite horrific and devastating to an area. It relates not just to the person or persons carrying the disease or to the immediate persons to whom the disease may be carried or the immediate property to which the disease may be carried but also to the fact that diseases can be rapidly transmitted throughout an area.

In the past we have had some rather serious outbreaks, for instance, onion smut in the Adelaide Hills which was under quarantine for about 12 or 15 years (I cannot exactly recall), and when someone re-planted onions on that patch we had another long period when it was again out of production. We do not want that to happen as it can be very expensive. Fortunately that was in a fairly small and confined area, but if an area such as the Riverland were to be infected with a highly contagious disease we could have a major disaster.

For all those reasons I can understand why the Hon. Mike Elliott has introduced the division 4 imprisonment, but I really do not think that the courts need to be instructed to that degree for an offence such as this. It is not an offence against the person, and we tend to leave such severe penalties for that. I would hate to think our gaols would fill up with people who had deliberately, or not deliberately perhaps, caused the spread of disease.

However, I agree that the fines need to be taken up to a division 4 fine, and that is a very severe penalty. A fine of up to $4 000 is a very severe penalty and I think it is adequate. Provided the Government advertises the fact that those penalties have been imposed, I feel that it would be quite adequate for the purpose. In fact, I have spoken to the industry about it and it was relatively happy to have a division 5 fine. A division 4 fine is a little more severe than that and I am quite happy with it.

The Hon. M.J. ELLIOTT: I think it is pleasing that the division 4 fine is to be adopted. I agree that the division 4 imprisonment, on the face of it, some people may see as being severe but, if you want to talk about a crime against the person, if one person does manage eventually to introduce fruit fly into the Riverland they will decimate the economy of the Riverland essentially overnight. The potential to export citrus and stone fruit would be gone. That export is the only bright ray of hope the Riverland has at this stage. It only takes one person to commit an act like that, and they will commit some very serious crimes against persons; it will not be as direct as striking a physical blow but a lot of people will be destroyed and the economy of the region could be destroyed by one person's thoughtless act. Frankly, I do not think imprisonment would be too harsh a penalty for a person committing such an act. Of course, the courts have always had the discretion to decide whether to use that or to use a fine.

I probably would have argued this even more strongly in relation to later clauses because the potential reward for individuals is much greater particularly when you get to the potential for re-boxing material which I think relates to clause 13. Wherever you have the potential to make a reward much greater than the potential penalty you really are not going to produce much of a deterrent. The potential benefit perhaps would rarely get over $15 000 in relation to this clause, but in relation to some of the other clauses it well may do so. Even the division 4 fine, I would argue, will not be a deterrent for some people in relation to some of the later clauses but I will not insist on that amendment and look for a division on it in relation to this clause.

The Hon. Barbara Wiese's amendment carried.

The Hon. Mr Elliott's amendment as amended carried; clause as amended passed.

Clause 12 passed.

Clause 13—'Prohibition on introducing or importing fruit, plants, etc. affected by disease'—reconsidered.

The Hon. M.J. ELLIOTT:. I move:

Page 7, line 9—After 'division 4 fine' insert 'or division 4 imprisonment'.

We are now starting to move into the area where perhaps a grower is more knowingly doing things again. Here we have a person deliberately importing into the State a disease or materials affected by disease who at most faces a penalty, at the moment, of $15 000. I will guarantee that some primary producers would like to get their hands on the characters who introduced the plant pest which has only just got to the Murray Bridge area and which has the potential to wipe out quite a few crop types (although I forget its name at the moment). It has decimated several industries in Spain and Morocco and now it has got into South Australia.

Incidentally, it may have come on the bottom of someone's shoes but it is more likely that it came in the bottom of someone's pocket or case as they tried to introduce some plant they wanted. When a person is trying to bring something into this State knowing it to be diseased (I guess that is what is happening here) I do not think imprisonment is too harsh.

The Hon. BARBARA WIESE: The Government opposes this amendment for the reasons that I outlined in the debate on the previous amendment that was moved by the Hon. Mr Elliott. The division fine is already at a high level. I think we all agree that the level of the fine is appropriate, but the Government feels that it would be inappropriate to provide for division 4 imprisonment as an additional penalty here, particularly in the absence of prior consultation with industry bodies on this matter.

The Hon. PETER DUNN: The Liberal Party has the same stance; it agrees with the fine but not the imprisonment. However, I have another question of the Minister if she would put the answer into *Hansard*; I did not ask it in my second reading speech. Under clause 13(4), where the Minister gives consent for a research officer to bring in material, I presume under those conditions the Crown is liable, should that disease break out.

The Hon. BARBARA WIESE: As I understand it, the subclause is worded specifically to provide that the Minister only is the authorised person to allow such matters to take place. It is only the Minister after consultation with relevant scientific advice and what have you who can authorise such introduction. Therefore, if that were to lead to the introduction of disease it is considered that the Crown would be liable.

Amendment negatived; clause passed.

Clause 14—'Quarantine areas'—reconsidered.

The Hon. BARBARA WIESE: I move:

Page 8, after line 6—Insert the following subsection:

(3) A person who contravenes or fails to comply with a notice under this section is guilty of an offence.

Penalty: Division 4 fine.

The final clause in this division, clause 17, provides for a division four penalty for contravention of orders issued under the Act. It also could be construed that the penalty applies to contravention of ministerial notices gazetted under clause 14, but the connection is not particularly clear. For the sake of consistent interpretation, I move for the additional subclause (3) to be inserted to provide a division four fine for contravention of a ministerial notice. It is considered that the severity of such an offence warrants this level of penalty.

The Hon. PETER DUNN: The Opposition supports the amendment.

Amendment carried; clause as amended passed.

Clauses 15 to 17 passed.

Clause 18—'Accredited production areas'—reconsidered.

The Hon. BARBARA WIESE: I move:

Page 9, line 26—Leave out 'Division 7 fine' and substitute 'Division 4 fine'.

I am increasing the severity of the penalty for this offence. On full examination the department concedes that abuse of a ministerial notice of accreditation would go further than misrepresentation or false advertising. If, for example, diseased produce was deliberately packed in cartons bearing an accreditation endorsement, the standing of the accredited area on export markets may be downgraded. In the worst circumstances, the area, through no fault of its own, could lose a valuable market. So, there must be an adequate deterrent to such practices, and with new consideration it is considered than an increase from a division 7 fine to a division 4 fine is appropriate. I believe that others members agree with that idea.

The Hon. M.J. ELLIOTT: I had an amendment which, like other amendments, contained not only a division 4 fine but also division 4 imprisonment. Probably in relation to this clause more than any other, it would have been necessary. Reboxing of produce is happening on a grand scale in South Australia already. A lot of produce is coming into the Riverland, being reboxed and going out again. If we are to get into the concept of area accreditation, the system will need to work very well. There is not only the risk of disease getting into an area but also the risk of an area that does not have a disease getting a bad name. One only has to look at what almost happened to our beef exports to the United States when kangaroo meat found its way into the boxes.

The Hon. Peter Dunn interjecting:

The Hon. M.J. ELLIOTT: Yes. I guarantee that this process goes on and will continue to go on while this area accreditation process is proceeding. It will undermine its credibility. The fact that an area can be accredited will provide incentives for people to bring in fruit from outside because fruit that cannot get into certain export markets will be able to do so by being reboxed and labelled as coming from that area. There is an incredible risk of import of produce from outside an area, and the fact that it is coming from an area that has not been accredited means that it will probably have the disease, and the produce that will come in is the most likely produce to be diseased.

This is the biggest risk clause of the lot—the one which of all of them deserves a very high penalty. The division 4 fine will not match the potential financial benefit of people who care to abuse the system. As such I suggest that even a $15 000 fine will not stop some operators. On that basis, if a $15 000 fine will not do it, this is the area above all others where imprisonment should be considered seriously. It has been indicated by the other Parties that they are not supportive. That is a grave mistake, as it could undermine the area accreditation system badly and we may pay dearly for it when it is finally abused. Those sort of abuses are happening here and now.

The Hon. PETER DUNN: I agree with much of what the Hon. Mike Elliott says, except that imprisonment is a severe fine. If I were fined $15 000, I assure members that I would not do it again. An amount of $15 000 is the extra that one would get by selling the produce through the accredited area. There could be cases where there is that much profit in it, but I doubt it. Lid swapping (I believe is the term used) is where material is taken from one area and sold into another area that has been accredited for whatever reason, and is free of disease in this case; and I agree that there should be severe penalties. However, if we tell the community, growers and those who are doing it now that they are up for a

fine of $15 000, it should cause them to think again. I support the Government's stand on the matter.

Amendment carried; clause as amended passed.

Clause 19 passed.

Clause 20—'Prohibition on sale of fruit or plants affected by disease'—reconsidered.

The Hon. BARBARA WIESE: I move:

Page 10, line 2—Leave out 'Division 7 fine' and substitute 'Division 4 fine'.

This amendment is designed to increase the penalty from the division 7 fine to a division 4 fine. When the Bill was drafted a division 7 penalty was applied to reflect the fact that the clause is aimed at the innocent receiver of diseased produce, for example, a retailer who may have accepted items from another party in good faith.

When the Bill was drafted a division 7 fine was chosen to reflect that relationship. However, following further discussion that took place in the past week between officers of the department and the Hon. Mr Elliott in particular, and upon further consideration, it has been decided that an increase in penalty may very well be warranted.

The Hon. PETER DUNN: Is there strict liability, or a defence, in that clause? There does not appear to be.

The Hon. BARBARA WIESE: As I understand it, the defence of a person, say, a retailer in this situation, is the approval that he or she may receive from the chief inspector so that, for example, if the chief inspector indicates that such produce could be sold subject to spraying of a particular chemical, that would be the defence for the individual concerned.

Amendment carried; clause as amended passed.

Remaining clauses (21 to 30), schedules and title passed.

Bill read a third time and passed.

STATUTES AMENDMENT (PUBLIC ACTUARY) BILL

Adjourned debate on second reading.

(Continued from 29 October. Page 635.)

The Hon. R.I. LUCAS (Leader of the Opposition): The Opposition rises with much delight to support the second reading of this Bill, the major function of which is to remove from various Acts references to the statutory office of the Public Actuary. As well as being a statutory position, the Public Actuary is also referred to in a number of other pieces of legislation. It has a wide range of duties, some of an actuarial nature, for example, under the WorkCover legislation and third party legislation. Some of the functions of the Public Actuary are regulatory and some involve sitting on various boards and committees.

The Bill provides for most of the functions currently being performed by the Public Actuary to be handled generally in one of three ways, and I quote from the Minister's second reading explanation, as follows:

The actuarial functions will be required to be undertaken by a qualified actuary. The regulatory tasks will be carried out by persons nominated or given delegated authority by responsible Ministers; and board or committee memberships will be taken up by persons nominated by responsible Ministers.

As I understand it, the long-term position of the Government in relation to this concerns the relatively free (not free in cost terms) availability and accessibility of actuarial services in the private sector in Adelaide. The Hon. Mr Elliott and I are on good acquaintance terms with one of those private sector actuaries in South Australia—someone who had a fine academic record at the Mount Gambier High School, who has gone on to take a position as an actuary and who is now one of the leading actuaries in South Australia; but indeed, he is only one of a number of actuaries who provide services on a fee-for-service basis here in Adelaide.

With that availability, the need for greater flexibility within the public sector in relation to the position of the Public Actuary has been taken up by the Government by way of the legislation that we have before us. The Minister notes in his second reading speech that it has always been difficult to attract and also to retain qualified actuaries in the Public Service. The salaries and packages that are paid to actuaries in private service would make you blush, Mr President, and me blush as well; they are certainly well-paid individuals and, when one compares their remuneration packages and the package that would be available to the Public Actuary, one sees that there would certainly be no comparison.

That is not only a problem that we see in the Public Service in relation to the Public Actuary: we also see that in the law and in relation to the senior chief executive officers and a range of other positions in the Public Service.

Of course, the persons who go into public service sometimes go into it for reasons other than the attractiveness of the remuneration package. Nevertheless, there is some considerable financial sacrifice and, as a result of that, it is difficult for the public sector to retain qualified actuaries in the Public Service. The Minister again notes that in January 1990 Treasury had three qualified actuaries, two of whom had qualified in the service in the previous four years. However, as of now we have only one qualified actuary here in the Public Service.

So, the proposition in the Bill to abolish the statutory position of Public Actuary, to amend the affected statutes which are referred to in the second reading explanation and to provide greater flexibility and efficiency in use are certainly provisions that the Liberal Party is prepared to support. I noted that my colleague, the shadow Treasurer, raised a number of questions in debate in another place, one of which picked up an error (I take it) in the Bill, given the probable time lag between the drafting of the original Bill and its introduction in the House.

I take it that the Attorney-General has moved or given notice of an intention to move an amendment to that provision. A number of the other questions that the Liberal Party had were satisfactorily resolved. The only question I put on notice to the Attorney-General, if he is handling the Bill, for the Committee stage or perhaps in his response to the second reading debate, is whether he could clarify for me the Government's intention in relation to the person who currently holds the position of Public Actuary.

I noticed that in another place, in response to a variety of questions, the Treasurer indicated that for the time being the Public Actuary will continue to do various

things. The phrase 'for the time being' was always used. Will the Attorney-General clarify that it is the Government's intention that whilst the current person holds the position of Public Actuary that will continue but, should the current person leave the position at any stage, there would not be a replacement within the public sector; or would it be the Government's intention to replace that person should the incumbent leave for whatever reason? With only that question, I indicate the Liberal Party's support for the legislation. We do not intend to move any amendments, but we will support the amendment to be moved by the Attorney-General.

Bill read a second time.

In Committee.

Clause 1—'Short title.'

The Hon. C.J. SUMNER: In answer to the Hon. Mr Lucas' question, I am advised that the functions that have been carried out by the statutory office holder of Public Actuary will continue to be carried out by the current occupant of that position, although it may be that outside actuarial consultants will be used on occasions. I am advised that he is, in fact, the only qualified actuary in Government service at the present time. His current title is Manager of the Actuarial Insurance Services Branch within the Treasury Department, and that is the substantive title with which he will continue.

The Hon. R.I. LUCAS: In another place, the Treasurer stated:

> When I first became Minister of Finance, I suggested that we should do away with the position of Public Actuary, amend the Acts accordingly and buy our expertise outside.

When the current incumbent chooses to leave the Public Service, for whatever reason, is it the Government's intention to continue with the position of Manager of Actuarial Services or does the Government intend to do as the then Minister of Finance indicated and buy the expertise from outside?

The Hon. C.J. SUMNER: I understand that the intention will be to buy in the actuarial services from outside. I suppose that, if there were someone within the service who could do the job, it would be possible for that job to be filled by a person with those qualifications, but I am advised that the present incumbent is the only qualified actuary in Government service at the moment and that, if he leaves to go to another job, either within or outside the public sector, some alternative arrangements would need to be made to take over the jobs that he currently does in the actuarial field as well as the other jobs that involve Government insurance and risk management functions and, at the present time, at least, the administration of the Friendly Societies Act.

The Hon. R.I. LUCAS: I understand that, but if the incumbent were to leave, for whatever reason, I understand that, in the interim, no-one would be left, so would it be the Government's intention to seek to appoint another Public Actuary or Manager of Actuarial Services to fill that position?

The Hon. C.J. SUMNER: I do not think so. We are abolishing the position of Public Actuary, for all the reasons that have been outlined. I suppose that someone could be appointed within Government with actuarial qualifications, if you could get them. I guess that that is an open question but, as I understand it, Government policy is not specifically to seek out someone with actuarial qualifications to take that job.

Clause passed.

Clauses 2 to 31 passed.

Clause 32—'Amendment of first schedule.'

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

Page 8, line 11—leave out '1992' and substitute '1995'.

During the passage of the Bill through the House of Assembly it was agreed that the reference to 30 June 1992 in clause 32 of the Bill would be reviewed. The clause relates to triennial investigations of the Mining and Quarrying Industries Fund. Investigation as at 30 June 1992 has been carried out, therefore, as discussed in the House of Assembly, it is appropriate that the date in the Bill be altered to 30 June 1995.

Amendment carried; clause as amended passed.

Title passed.

Bill read a third time and passed.

FRIENDLY SOCIETIES (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 29 October. Page 637.)

The Hon. K.T. GRIFFIN: The Opposition will support this Bill, which seeks to make a number of amendments to the Friendly Societies Act, some as a result of the abolition of the office of Public Actuary and others as a result of some changes proposed by friendly societies to enable them particularly to offer other products. The Bill, therefore, is relatively uncontroversial. Friendly societies have a long history: the Friendly Societies Act goes back to 1919 and, if one looks at the schedule to that Act, a number of Acts were repealed at the time that was enacted, going back as far as 1852, and I presume that they would go back even further than that. A number of notable South Australian institutions have been and still are friendly societies: Manchester Unity of Oddfellows; Independent Order of Oddfellows; Rechabites; and a number of other organisations that were originally established to provide a community of interest and, by combined activities and combining resources, to provide benefits to members.

They are essentially a mutual society, making provision in the area of funeral benefits, hospital and medical benefits, pharmacy benefits, and a whole range of other benefits, which vary from institution to institution. They have played a significant part in providing services to South Australians for well over 100 years. There have, of course, been developments in friendly societies as the societies have become more complex and other services have been required. We now have Lifeplan Community Services, for example, which has a whole range of services at its disposal, and, again, they provide services efficiently and benefits at generally competitive costs, and sometimes at costs lower than those in other organisations in the private sector.

We see an amendment in this Bill that seeks to allow friendly societies to provide for the education of members, their husband, wife, children or grandchildren of any degree, and there has been some promotion of that on television, which I have seen on those rare occasions

that I watch television, where one sees some advertisements pop up for services which fall into that category. That is again a development to assist not only members but other members of the public to meet some of the expenses of living, both now and in the future. It is in that context that we indicate support for the Bill, which enables additional services to be provided and removes public actuary. It has always seemed rather strange to me that friendly societies should be responsible ultimately to the Treasurer. There is certainly an element of financial management involved, but it has always seemed to me to be more appropriate that friendly societies, being bodies corporate, should be regulated originally by the Corporate Affairs Commission when it was in full swing but probably now the State Business Office and the Corporate Affairs Commission. But I understand that there are some developments which may ultimately mean—and the Attorney-General may be able to give some information on this—that friendly societies come under the control of the AFIC legislation, which will provide a much more intense regulatory regime with which friendly societies have to comply.

I make no observation on the merits of that, except to say that friendly societies are getting more and more involved in more complex schemes, raising funds from the community, and it may be that there is a need for some greater uniformity in regulatory obligations across Australia. Can the Attorney-General indicate whether this is a proposal in the medium term to bring friendly societies closer to control under the AFIC legislation? If that is likely to happen, can the Attorney give some indication as to when that may occur?

The other aspect to which I would like some response relates to clause 34, which deals with delegations by the Minister. As the Minister will have very wide powers under the amended Act, and there is a power of delegation, can the Attorney give some sort of indication as to the sorts of powers that will be delegated and to whom they will be delegated in some interim period, up to whenever the friendly societies come under the umbrella of the AFIC scheme legislation. If it is not intended that they should be covered by the umbrella of the AFIC scheme legislation, is some consideration being given to bringing friendly societies into the same orbit as associations and building societies under the State Business Office? Subject to those matters I indicate support.

The Hon. C.J. SUMNER (Attorney-General): Some consideration is being given as to whether it is appropriate for friendly societies to be administered on a uniform basis through the Australian Financial Institutions Corporation (AFIC). However, no finality has been reached on that matter. I am and have been for a long time an advocate of uniform regulation of financial institutions around Australia, and indeed of any area of activity which operates nationally and which has an impact on our economy. So I certainly support moves to regulate friendly societies in a uniform way around Australia. Whether or not it is appropriate to do that through AFIC is a matter that will have to be looked at. It has been suggested by some that the products emanating from the friendly societies are not really of the same nature as those of building societies and credit unions and that the regulation of friendly societies ought more appropriately to be a function of the Federal Insurance Commissioner, in the sense that the products that they sell are more in the nature of insurance.

However, whether that is likely to come about I cannot say. I imagine that the Commonwealth Government would not want to take on an additional function, the same as it did not want to take on the function of regulating credit unions and building societies. So that is the position on that issue. It is being examined but in the meantime the administration of the Act will remain where it is. I think that whatever happens it is probably true that there is a need for a revamp and a modernisation of the friendly societies legislation. If it is decided that it should be administered on the basis of uniform legislation, obviously that review will occur as part of the process.

In relation to clause 34, I am advised that in the short term delegation of the day to day administration of the Act will be to the current Public Actuary, but in the longer term, if these Federal initiatives do not come off, the administration of the Act may be transferred to the State Business and Corporate Affairs Office.

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

EXPIATION OF OFFENCES (DIVISIONAL FEES) AMENDMENT BILL

Consideration in Committee of the House of Assembly's amendment.

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

That the House of Assembly's amendment be agreed to.

This amendment is of a technical nature. As members would be aware, one of the objects of this legislation is to secure parity for a person picking up a piece of legislation so it will be evident from the Act itself which penalties are expiable and which are not. The same clarity is desirable in regulations. The Expiation of Offences Act currently makes expiable certain offences under regulations of the Education Act, Explosives Act, Dangerous Substances Act and West Terrace Cemetery Act.

As it is not possible to amend regulations by an Act of Parliament it is intended that these individual regulations will be amended with effect from the proclamation of this measure. In order that there is no doubt this can occur, this amendment makes certain that, where the regulation-making power in an Act permits the prescribing of a penalty for breach of the regulation, that power will be taken to include the power to prescribe an expiation fee not exceeding a division 9 expiation (which is $100). The making of any regulation and reliance on the power under this section will of course be subject to the usual scrutiny of the Legislative Review Committee.

The Hon. K.T. GRIFFIN: I support the proposal. I can see that there is good sense in authorising regulations to be made in relation to these matters. It is very important also that the maximum expiation fee be provided for in this legislation and that the expiation fee is not an unlimited amount as it may have been if there had been no limit set upon it.

Motion carried.

SUMMARY PROCEDURE (SUMMARY PROTECTION ORDERS) AMENDMENT BILL

Consideration in Committee of the House of Assembly's amendment.

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

That the House of Assembly's amendment be agreed to.

The message from the House of Assembly relates to the change in the time during which the police can detain a person against whom a restraint order is likely to be made. During the debate in this Council, the time that someone could be detained was a matter of some concern to the Opposition and the Australian Democrats and I undertook to examine the matter while it was waiting to be considered in the House of Assembly. In particular, I wanted to check with the police to see whether two hours would be satisfactory from their point of view instead of the three hours, which was the original compromise reached in this Council initially (the original compromise being from the original proposition of the Government for four hours).

The police have advised that the two hour limit will be adequate in 99 per cent of cases and that normally they would hope to spend much less than two hours at these incidents. Obviously, the police would prefer three hours. I hope that the 1 per cent of cases where they say that three hours might be necessary does not turn out to be that case that causes major problems or results in someone suffering injury when they ought not to have done so.

However, I understand the concerns that have been expressed in this matter and, in the light of police advice, the Government moved to reduce the detention time from three hours to two hours, and that is the matter that is before us. I understand it should now be acceptable to the Council.

The Hon. K.T. GRIFFIN: Two hours is better than three hours, so we are prepared to accept that. My original amendment was one hour. I am particularly sensitive to detention for any period of time without warrant, and I would have preferred one hour. I concede the Attorney-General has taken some advice from the police and that they believe they can operate satisfactorily within the two hour limit rather than the three hour limit, and I am therefore supportive of that.

One issue I did not raise during the course of the debate on the Bill when it was first before us was whether the police might be persuaded to keep a record of the occasions where telephone orders are sought and made and the time within which that will occur. That information might be useful in reviewing the operation of this provision, if the police were able to maintain some records which would provide evidence for any review of the operation of the provision some time in the future.

I suggest that it is unlikely to be burdensome, and if it were covered in General Orders or some other form of reporting we could find it to be particularly helpful in the future. Whilst I do not expect an unequivocal undertaking from the Attorney-General now, when he is caught on the hop with this, if he could give a commitment to examine the possibility and let me have a response at some time in the future I would be satisfied with that.

The Hon. C.J. SUMNER: I will refer the matter to the Minister of Emergency Services for transmission to the Police Commissioner and advise the Commissioner's response.

The Hon. I. GILFILLAN: I indicate a similar reaction to the Hon. Trevor Griffin's. I accept that the police feel that they require more than an hour to adequately cover the circumstances that they see arising under the restraint mechanism, but I hold the same view that I hold in other legislation, that the apprehension and retaining of people in some form of custody wants to be kept at a minimum level in our community.

I would be interested to review this time requirement after some experience has been gained, and I assume from the request that has just been put by the Hon. Trevor Griffin that there will be some assessment of how this operates. At such time I think we must look again to see whether the time could be limited to one hour instead of two, which for the time being I am prepared to support.

Motion carried.

WATERWORKS (RESIDENTIAL RATING) AMENDMENT BILL

Second reading.

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

That this Bill be now read a second time.

In light of the fact that the matter has been dealt with in another place, I seek leave to have the detailed explanation inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

In 1991 the Government introduced a residential rating system that significantly reduced the property rating component in the annual water bill for most consumers. The new system made substantial inroads into reforming the residential rating system, and achieved it with minimal adverse effects to most consumers.

Public opinion however, was clearly in favour of the total abolition of the property rating component. Recognising this, Government undertook a further review and decided to move quickly to the next step and introduce a system of residential rating that completely removes the property rating element.

In the new system, for residential properties there will be two distinct rates. The supply charge for water supply availability and the water rate based on consumption is retained.

However, the supply charge under the new system will be a flat amount per ratable property ($120 in 1993-94). The consumption charge will only apply to water consumed above the allowance (136 kL for 1993-94). The allowance is not tied to the supply charge.

The system will still provide considerable flexibility as there can be independent changes to the:

- supply charge;
- water allowance, and
- price(s) per kilolitre.

The level of charges proposed for the 1993-94 financial year represent no change from those that applied in 1992-93 except the residential property component has been abolished. This represents a real terms reduction in charges for all consumers of water.

It is proposed that from the 1994-95 financial year a step price of $1.08/kL for consumption above 700 kL will be introduced. The level of 700kL is nearly three times the average residential consumption (based on 1991-92 of 267 kL) and based on the 1991-92 residential consumption file would only apply to some 2.5 per cent of residential customers.

The step price which adds 20c per kilolitre is a subtle message to people who consume water at levels well above the average

customer. This level of consumption increases the need for use of River Murray water, often at times when the Murray has least flow, which in turn places additional costs on water supply. These are the pumping costs and potential for salt damage in all areas of the system, including private assets.

These additional costs need to be signalled to those customers who are responsible for them so they will be motivated to review their water use habits.

Residential properties include houses and strata units. However, residential customers who share a meter (for example, strata title flats) will not be subject to the step price from 1994-95.

Vacant land was previously excluded from the residential rating system as, *prima facie,* a vacant block is not a residence. There are of course, many situations where a vacant block is purchased with the sole intent of building a residence on it. The Government believes that it is appropriate that such land be regarded as residential for the purposes of rating. This Bill provides the power to do that.

There are no changes to non residential rating.

Existing concessions will not be affected.

I commend the Bill to the House.

Explanation of Clauses

Clause 1: Short title is formal.

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

Clause 3: Amendment of s. 65a—Interpretation strikes out the definition of 'threshold value' and provides for other amendments which will allow the Minister to classify vacant ratable land as residential land for the purposes of rating. Under the proposed new subsection (3), the Minister may determine that vacant land is residential land if satisfied—

(a) that the land is situated in a predominantly residential locality and 0.1 ha or less in area or similar in size to other allotments of residential land in the locality;

or

(b) that a person is in the process of constructing or planning the construction of a residential building on the land and that the land will be used primarily for residential purposes and will not, before such use is made of the land, be subject to division under Part XIXAB of the Real Property Act 1886.

The Minister may make such a determination on his or her own initiative or on written application and on the basis of such evidence as the Minister may require.

Clause 4: Amendment of s. 65b—Rates on residential land amends section 65b of the Act to provide that rates on residential land will be made up of a supply charge and a water rate based on consumption.

Clause 5: Amendment of s. 65c—Declaration of rates, etc., by Minister will allow the Minister to fix the supply charge and the water rate.

Clause 6: Amendment of s. 94—Time for payment of water rates, etc. makes a consequential amendment to section 94 of the Act.

Clause 7: Transitional provision provides that water rates continue to be payable under the Act in respect of residential land for any period prior to 1 July 1993 as if this measure had not been enacted.

The Hon. R.I. LUCAS secured the adjournment of the debate.

STATE TRANSPORT AUTHORITY (PREVENTION OF GRAFFITI VANDALISM) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 27 October. Page 573.)

The Hon. I. GILFILLAN: I oppose the Bill. The matter is closely aligned to its sister/brother Bill relating to authorised officers for the State Transport Authority that I addressed earlier. The power intended to be given to authorised officers under this Bill is emphatically over the top in dealing with the problem of graffiti. The Bill clearly states:

Damaging, or marking graffiti on, property of the authority and possession of graffiti implements.

25. (1) A persons must not damage, or mark graffiti on, property of the Authority.

Penalty: Division 7 fine or division 7 imprisonment or both.

(2) Upon conviction of a person for an offence against subsection (1), the court may order the convicted person to pay to the Authority such an amount as the court thinks just to compensate it for loss arising from the commission of the offence.

So far, so good. I have no problem with either of those clauses. However, subclause (3) provides:

(3) A person who—

(a) without lawful excuse, is in possession of a graffiti implement of a prescribed class while on any land or premises owned or occupied by the Authority or on any vehicle owned or operated by the Authority;

or

(b) is in possession of a graffiti implement with the intention of using it to mark graffiti on property of the Authority,

is guilty of an offence.

Penalty: Division 7 fine or division 7 imprisonment or both.

That is totally unacceptable. A further clause under the heading 'Search for and seizure and forfeiture of graffiti implements' deals with the power and behaviour available to an authorised officer and provides:

25a. (1) where an authorised officer has reasonable cause to suspect that a person has used or is in possession of a graffiti implement in contravention of this Act, the authorised officer may—

(a) search the person's clothing or baggage for any such implement;

(b) seize any such implement in the person's possession.

It is beyond belief that these powers are being given to people who suddenly come out of the woodwork as being the protectors of law and order and good behaviour in the public transport arena, powers that have no precedent or equivalent elsewhere in the legal system. It is not made any better by the comment, which is optimistic beyond belief, in the second reading explanation:

In addition proper training regarding the full implications of this proposed legislation will be conducted by the South Australian Police managers and supervisors of the Transit Police Division to ensure that infringement of civil liberties and harassment of any kind does not occur.

It is hopeless! No-one can train people to make this sort of statement, that infringement of civil liberties and harassment of any kind does not occur. The reality will be that these united transit officers will have a difficult and challenging task, but this asks them to go further and actually frisk people on the vague understanding that they believe that somebody is in possession of a graffiti implement with the intention of using it to mark graffiti on the property of the State Transport Authority. Will it be a VDU that comes up with the sign, 'I intend to use the up-to-now hidden graffiti implement in a way which will be illegal. Therefore, come and go through my possessions or search me to find it.' If there is no VDU or denial of it, what possible grounds can there be in defence to say that the transit officer had harassed or infringed on the civil liberties of an ordinary member of the public? Taking a wider step in this scenario, I suggest that it is not impossible to conceive that a transit officer may well have a dislike, either personal or as a reaction

to the behaviour of an individual, and virtually victimise them with this procedure.

I do not need to expand on it, except to emphasise that I regard it as an infringement of anything that I would tolerate in the way that we conduct our affairs in this State and we intend to oppose the second reading. The Bill should not get into Committee. The aspect of graffiti being an offence and the offender having a division 7 fine is all right—there is no problem with that. Why we are drawn into this bizarre and totally unnecessary step outside normal police powers and police behaviour in this State is beyond me. It is yet another example of an incredible over-reaction to what is a temporary environmental disturbance of graffiti offences. It is so far over the top that the Bill should not pass the second reading.

The Hon. G. WEATHERILL secured the adjournment of the debate.

STATE LOTTERIES (SOCCER POOLS AND OTHER) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 28 October. Page 589.)

The Hon. C.J. SUMNER (Attorney-General): In reply, I thank members for their support. In speaking to this measure, the Hon. Dr Pfitzner raised three questions. The first related to the operations of the Hospitals Fund. The honourable member may find it helpful to refer to page 182 of the most recent Auditor-General's Report, which describes the revenues credited to the fund and points out that all these revenues are transferred to the budget to help defray the costs of running public hospitals. In 1991-92, for example, an amount in excess of $120 million was transferred for this purpose. This was very much less than the net budget of the Health Commission, which was $774 million in that year.

The second question related to the purpose for which the balance of the accumulated unclaimed prizes at 30 June 1992 would be used. The balance of $4.5 million will remain with the Lotteries Commission and be used to supplement future lottery prizes.

The third question related to the future level of funding for the Festival of Arts. As the honourable member has noted, the Government has promised that an amount of $2.5 million will be made available for the 1994 festival. The effect of the decision to credit 50 per cent of future unclaimed prizes to the Hospitals Fund is that the balance available in that fund for transfer to the budget will be higher.

Since the total amount to be spent on public hospitals is determined quite independently of the amount available from the Hospitals Fund, it is fair to say that the budget in the first instance will be slightly better off as a result of the decision to treat future unclaimed prizes in this way. The extra benefit to the budget from this change will, however, be broadly offset by the cost to the budget of the promised support for the 1994 festival of $2.5 million. The promised support for the festival can be provided without detriment to the budget result, because the budget will benefit from the 50 per cent share of future unclaimed lottery prizes.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Interpretation.'

The Hon. BERNICE PFITZNER: I want to clarify the definition of 'special lotteries'. I wonder whether this definition is to be linked with the outcome of sporting or recreational activity or whether it will immediately go into what is called the 'sports lottery'.

The Hon. C.J. SUMNER: I am not sure that I understand the question.

The Hon. BERNICE PFITZNER: The two definitions in clause 3(c) are 'special lottery' and 'sports lottery'. The sports lottery is linked to the outcome of sporting activity; will the special lotteries ever be linked with a sporting activity in its own right and, if it is, will it then revert to being called a sports lottery? The outcome and profits of a sports lottery go into the Recreation and Sports Fund, whereas the special lottery goes into separate funding.

The Hon. C.J. SUMNER: What are you suggesting: that special lotteries could be characterised as sports lotteries and therefore the money would go into sporting activities?

The Hon. BERNICE PFITZNER: That is right; yes.

The Hon. C.J. SUMNER: And that the Hospitals Fund would be denied access to it?

The Hon. BERNICE PFITZNER: Yes.

The Hon. C.J. SUMNER: Well, I do not imagine it would happen; that is not the intention of the legislation. I am not the Minister directly responsible for this legislation. I do not think one could characterise a sports lottery; one could call something a sports lottery, without its depending on the outcome of sporting or recreational activity. I suppose the honourable member's argument might be that 'recreational activity' is such a broad term that one could almost include anything under that. Is that the point she is making?

The Hon. BERNICE PFITZNER: Yes; that is right.

The Hon. C.J. SUMNER: What is the undertaking you are seeking?

The Hon. BERNICE PFITZNER: I would like clarification that, if special lotteries were ever linked with the outcome of sporting or recreational activity, it would then be characterised as a sports lottery, or that special lotteries would never be linked with the outcome of sporting activities. Can the Minister give me an assurance that special lotteries will never be linked with the outcome of a sporting activity? Also, if it were ever linked, would it then be called a sports lottery? I want clarification because that funding goes to different areas.

The Hon. C.J. SUMNER: I think the honourable member's concern is that, by some device, the Government might end up getting money that should go into the Hospitals Fund and to sport. Is that the problem she has?

The Hon. BERNICE PFITZNER: Yes.

The Hon. C.J. SUMNER: Well, I do not think special lotteries relate to sporting or recreational activity and, if they do, they are characterised as sports lotteries. I do not think there is any trick in this—at least, not as far as I know. I cannot give any specific undertakings today,

except to say that my impression is that if a lottery involves sporting or recreational activity, it will be a sports lottery and the proceeds will go to sports. However, if it is a special lottery, which does not involve sporting or recreational activities, it will be dealt with in accordance with the legislation. As I understand it, special lotteries would not be connected with sporting or recreational activity, and there would not be an attempt to link them artificially.

The Hon. BERNICE PFITZNER: That is my understanding, and I am happy if the Attorney-General also concurs with me in that, if it were any different, he would bring back a reply.

The Hon. C.J. SUMNER: I do not have any of the officers here today, but I will have them examine that question and answer and, if the situation is different from that which I have outlined to the Council, I will advise the honourable member.

Clause passed.

Clauses 4 to 9 passed.

Clause 10—'Offences.'

The Hon. C.J. SUMNER: A question was asked earlier by the Hon. Dr Witmer on another clause, to which I gave an answer which, according to my adviser (who is now present), is correct, but I will still have the question read and the answer checked to make sure that there is no misunderstanding. If there is, I will arrange for a response to be sent to the honourable member.

Clause passed.

Schedule and title passed.

Bill read a third time and passed.

[Sitting suspended from 5.28 to 6 p.m.]

APPROPRIATION BILL

The House of Assembly intimated that it had agreed to the Legislative Council's suggested amendments, without amendment, and had amended the Bill accordingly.

ADJOURNMENT

At 6.4 p.m. the Council adjourned until Tuesday 10 November at 2.15 p.m.