LEGISLATIVE COUNCIL

Thursday 4 June 1981

The PRESIDENT (Hon. A. M. Whyte) took the Chair at 2.15 p.m. and read prayers.

STUDY TOUR REPORT

The Hon. J. A. CARNIE brought up the report of a study tour on the subject of public transport undertaken between April and July 1980.

MINISTERIAL STATEMENT: SMALL BUSINESSES

The Hon. K. T. GRIFFIN (Attorney-General): I seek leave to make a statement.

Leave granted.

The Hon. K. T. GRIFFIN: Honourable members will recall that in August last year I tabled a report entitled 'Deregulation—A Call of Action to Rationalise South Australian Legislation'. Amongst other things, that report identified the need for justification of existing licence and registration requirements, especially those affecting small business. Subsequently, the Government established a working party on Small Business Licensing, comprising representatives of Government, the Chamber of Commerce and Industry, and the South Australian Mixed Business Association. The report of that Working Party on Small Business Licensing, which is now available for public comment, represents a major achievement in the Government's deregulation policy. Indeed, it can be seen to translate both the Government's policy and the deregulation report itself, which the working party took as the overall guiding philosophy for its work, into concrete recommendations for the abolition of specific controls.

The report has identified many areas where existing controls are either unnecessary or could be improved. It has taken as its overriding purpose the need to simplify procedures wherever possible, whilst ensuring that safety requirements and other aspects of the public interest are retained. It makes the point that clarity and simplicity of control as perceived by Government is not necessarily clarity and simplicity for the public, who often have perspectives and priorities very different from those of the person administering or formulating the control. The report states:

> In these cases it is necessary for public servants as the proponents of controls to get outside of the system and gauge the effects of '. . . their controls' on ordinary people—builders, shopkeepers and businessmen. This should be a general principle for all new legislation.

After conducting an exhaustive study of all relevant Statutes, regulations and by-laws, the working party detected a number of licensing or registration requirements which duplicate other controls, or simply are unnecessary. To provide one example, since the turn of the century the Food and Drugs Act has required that persons who sell milk or cream should be licensed and their premises registered, at a current annual cost of $10 per year. The working party examined this and found it to be unnecessary, given that alternative general requirements exist within the Food and Drugs Regulations and, in addition, found the control no longer necessary, given improvements in storage and packaging of milk over the past decades.

The working party examined all such licensing and registration requirements and found that many do not contribute substantially to public safety and well-being, and as a consequence their abolition has been recommended. In many of these cases, revenue raised by licence fees is insignificant and out of proportion to the paper work burden and overhead costs associated with administering them. As well as examining substantive controls, the working party also considered streamlining administrative procedures generally.

For example, it examined the prospect of the various departments and authorities which issue licences unifying their notifications or other paperwork so that the licensee is confronted with only one account for the various purposes for which he or she is licensed. The possibility of paying that, or any other Government account, at the one point has also been considered, and outlines for the implementation of such a proposal appear in the report. In particular, the working party considered as important the need to improve the quality of forms used throughout the Public Service in order to reduce confusion, avoid duplication and eliminate the collection of unnecessary information. In this regard, some departments have already begun to simplify their licence registration controls.

Allied to the general need to reduce confusion, the working party examined and commented on the need to improve information services, thereby providing businesses with an accurate, up-to-date and easily accessible list of requirements facing them in their establishment and in their day-to-day operations. Copies of the report will now be circulated amongst employer, industry, consumer and other groups with whom the Government will consult closely as action on each specific recommendation is considered. In the interests of economy, I shall neither table the report nor move for its printing, but will ensure that the Leader of the Opposition is furnished with a copy and that additional copies are provided for all members in the Parliamentary Library.

QUESTIONS

PSYCHOLOGICAL BOARD

The Hon. J. R. CORNWALL: I seek leave to make a short statement prior to asking the Minister of Community Welfare, representing the Minister of Health, a question concerning the Psychological Board of South Australia.

Leave granted.

The Hon. J. R. CORNWALL: I have recently been approached by a constituent with complaints about a psychologist and the Psychological Board. I do not intend to reveal my constituent's name at this time, although I have his express permission to do so. The psychologist is Dr John Court, a wellknown anti-porn campaigner and some time friend of the Minister of Community Welfare and the Minister of Health. I have discussed the complaint with Dr Court and find his explanation somewhat dubious. I want to make it clear that in this matter I am acting on behalf of an individual and that that individual has no direct contact with the Citizens Commission on Human Rights, nor am I acting in any way for the C.C.H.R.

On 1 November 1976 Dr Court wrote to Mr Robin Millhouse by way of introducing my constituent who, for the sake of convenience, I will call Mr X, and in that letter he stated:

> What is of real concern to me is that he—

Mr X—

> shows the classic mixture of social ineptitude and concern over violence and hurting. I think it cannot be long before he commits some unpleasant crime involving sexual assault.

He also said in that letter:

> Mr X is a very disturbed man in many ways with a gross lack of social skills.

The contents of that letter were not known to Mr X at that time. In November 1977—12 months later—Dr Court, who expressed that view, visited Mr X in Fullarton Private Hospital and arranged for him to participate in the exercise of purchasing pornography, especially child pornography, from sex shops around Adelaide. In subsequent correspondence with the Psychological Board Dr Court described his logic as follows:

> Since he—

Mr X—

> has a great need to be appreciated and had repeatedly expressed a wish to assist me with my concerns over pornography I suggested to him that he might be able to assist by obtaining certain types of publications for a study I was undertaking. I was seeking to obtain various classifications of material and, knowing him to be a frequent customer of sex shops, I asked if he would obtain what was needed. Child pornography was only obtainable at that time by customers well known to the retailers.
>
> I provided a list of the types of material needed . . . I collected the books from him and expressed my great appreciation even though he was only partly successful. He was reimbursed from my research funds.

A man whom Dr Court had described 12 months previously as very likely to commit some unpleasant crime involving sexual assault was used in this porn-gathering exercise while a patient at Fullarton Private Hospital.

What manner of man is Mr X? He has a long history of psychiatric problems but has never been convicted of any crime—unpleasant, sexual or any other kind. I believe he has a high degree of credibility. He and his case are well known to many people of considerable status and reputation in the community. I will read what two of them had to say about the man. Justice M. D. Kirby, Chairman of the Australian Law Reform Commission, in a letter to Mr X, stated:

> Thank you very much for your letter of 18 January 1981. I am sorry that you have had emotional problems and feel that you have been treated very shabbily.

Mr Bob Maddison, Programme Co-ordinator of GROW, stated in a letter to Mr Justice Kirby:

> I should say that whilst I find Mr X unusually sensitive to the views others have about him, I also consider that he is both perceptive and articulate. His views are strongly and sincerely held and represent a frustration with what he sees as his treatment by members of the psychiatric profession who are (for whatever reason) apparently unable to cure his condition.

Mr X came into possession of the letter from Dr Court to Robin Millhouse in 1978. It was inadvertently forwarded to him with other correspondence from Mr Millhouse's electorate office. I may say that, from what I know of Mr Millhouse's early involvement in this story, I do not criticise him in any way.

Upon receipt of this letter Mr X tried to have Dr Court retract what he considered to be very damaging and inaccurate statements about him. He later laid a complaint with the South Australian Psychological Board against Dr Court. The complaint was made on 23 October 1980. Mr X was not called to give evidence before the board. To the best of my knowledge, there was no oral inquiry by the board. It conducted its investigation by correspondence. In a letter to Mr X dated 9 April 1981, the Chairman of the Psychological Board said:

> While it is agreed you could have reason to feel offended, as, for example, by certain statements in the letter of 1 November 1976 from Dr Court to Mr Robin Millhouse, M.P., the board—

that is, the Psychological Board—

> has decided that Dr Court's intention was to assist you and certainly not to harm you in any way. It considers Dr Court was not guilty of any professional misconduct.

In other words, the complaint was summarily dismissed without calling the complainant or allowing him any access to any of the evidence in rebuttal of his very serious complaints to the board. Mr X was understandably not satisfied with this result. He took the matter to the Legal Services Commission, which took up the matter on his behalf. On 16 February 1981 the Registrar wrote to the Legal Services Commission saying, *inter alia:*

> Upon consideration the board determined that the complaint was not one which required a full oral inquiry by the board.

Mr X had been described in 1976, without his knowledge, as a person highly likely to commit some crime involving sexual assault. He had subsequently been used by Dr Court in what appears to have been a very kinky exercise collecting child pornography at a time when he was a patient at Fullarton Private Hospital, yet the board considered his complaint did not warrant a full oral inquiry. The Legal Services Commission, which had been sympathetic and helpful to Mr X in the light of the evidence he had presented—

The PRESIDENT: Order! The honourable member—

The Hon. J. R. CORNWALL: I am getting close to the finish, Mr President. It is a very important matter that I felt had to take up a lot of time. The Legal Services Commission was unable to take the matter any further. On 23 February 1981 the commission wrote to Mr X, stating:

> Our chief counsel has investigated this matter and I regret that it appears that there is nothing further we can do to assist you. While it may be reasonable for you to seek copies of the report, in law it is not possible for you to establish any right to see them.

A complaint to the Ombudsman met a similar fate, despite the fact that it was diligently pursued. That is the end of my statement, you will be pleased to know, Mr President. First, subject to my supplying the name and address of the complainant to the Minister, will the Minister initiate an urgent investigation into this case? Secondly, will the Minister, with her colleague the Attorney-General, review the operation of all *quasi* judicial professional boards in South Australia? Thirdly, will she take action to ensure the rights of patients and clients to give evidence to these boards? Fourthly, will she amend the legislation to ensure that these boards, particularly the Psychological and Medical Boards, have to issue a summary of evidence and an explanation for the decisions that they reach? Fifthly, will she examine and report to the South Australian Parliament on the vexed question of patients' rights to medical records?

The Hon. J. C. BURDETT: I note that the honourable member has not hesitated to name Dr Court but has not named Mr X. This has been a most scurrilous attack on a reputable psychologist. I recall that earlier this week the same honourable member made an attack on a doctor in Whyalla which has been refuted by the Minister of Health. I would hope that the honourable member would be prepared to say this outside the Council, and I believe he should. He asked, 'What manner of man is Mr X?' I would ask, 'What manner of man is the honourable member?' I will refer the question to my colleague and bring down a reply.

MAFIA CONNECTIONS

The Hon. C. J. SUMNER: I seek leave to make a brief explanation before asking the Attorney-General a question about Mafia connections in South Australia.

Leave granted.

The Hon. C. J. SUMNER: During the last week a series of allegations have been made in the press about alleged links between Mafia organisations in Italy and Italians in Australia and particularly South Australia. It has been alleged that there is a Calabrian brotherhood operating in South Australia with strong links to members in Italy and that these organisations are heavily involved in the production and distribution of drugs, particularly marijuana. This speculation and publicity has caused particular concern amongst the Italian community in this State. Mr Tony Giordano, Secretary of the Italian Chamber of Commerce, a journalist and delegate of an Italian welfare agency, ANFE, has expressed his concern. Mr R. DeMarco, an M.B.E. and also prominent in South Australia's Italian community, said that South Australia's Italian community was 'upset and offended' at the way the media had reported the recent uncovering of a major drug racket. Mr DeMarco said the South Australian Italian community was hot under the collar at what many of its members interpreted as a campaign of racial slander and looked for a more responsible approach from the media in the future. Another Italian welfare organisation, FILEF has also expressed concern. The problem is that the allegations are made and the rumour mill is fed. Many Italians feel offended by the racial slur. Most Italians in South Australia are law-abiding; indeed, statistics indicate that the crime rate among Italians is lower than the averae and yet continuous allegations of a general nature of a Mafia connection present the Italian community in a bad light.

I am sure that the great majority of Italians in Australia do not condone the illegal activities that are being alleged and would welcome the apprehension of any criminals involved. The problem is that the articles contain generalisations which reflect on the whole Italian community. The matter is further complicated by the fact that the New South Wales Royal Commission into drug trafficking, which made similar allegations, has been severely criticised by Mr Alfred W. McCoy in a recent book *Drug Traffic*. I drew these criticisms in this book to the attention of the Government in the Parliament on 4 November 1980. At that time I indicated that Mr McCoy had said that at times the Royal Commission took on 'overtones of an anti-Italian vendetta'. He states:

> In this sort of atmosphere, the use of the term Mafia by Mrs McKay, the media and the Royal Commission was probably based more on ethnic stereotypes than on hard evidence.

He also states:

> The Commission's documentation of these links is incredibly detailed and quite convincing. Clearly, there was some kind of criminal organisation in Griffith even if there was no formal *L'Onorata Societa*.

He continues:

> Despite an impressive amount of digging and a great mass of detail about the financial transactions of the suspect cannabis growers, Mr Fisher failed to corroborate his earlier claim of a powerful nationwide Italian Societa Onorata. Instead, he had come full circle back to Griffith where he found a small network of Calabrian peasant farmers cultivating cannabis at the bottom rung of the distribution ladder.

He further states:

> The evidence for the operation of L'Onorata Societa at Griffith does not appear terribly strong.

He said that there was some kind of organisation in Griffith, although no formal Mafia-type organisation was present. Now allegations in keeping with those of the New South Wales Royal Commission into drugs have been made in South Australia by the *Advertiser*. It comes in the wake of arrests in Italy of people allegedly with connections in Australia. Clearly the matter must be resolved to the benefit of the good name of Italians in South Australia and good community relations. The innocent must be cleared and the guilty brought to justice. The Government has a clear responsibility to say where it stands on this issue, as it is clear that many of the allegations that have been made in the *Advertiser* article come from the South Australian police. The Government should say whether it agrees with these allegations. If so, it should state what action it is taking to resolve them. The allegations are, amongst others, as follows:

1. That Adelaide is the home of at least seven organised crime cells involved in the national production and distribution of marijuana.
2. That these cells rarely involve non-Calabrians in key positions of the cell hierarchy.
3. That all are linked in some way or another to the recent New South Wales Royal Commission which followed the death of anti-drug campaigner, Donald Mackay.
4. That one family which constituted a cell has been imprisoned.
5. That the cell operates behind a shroud of respectable business practices with drug funds being laundered and disguised behind a facade which involves several well-known Adelaide business houses.
6. That one of the families involved operates otherwise reputable retailing shops.
7. That one family has contributed to and aided the formation of a new charitable community organisation in South Australia, and that that same family has often extended dinner invitations and other invitations to prominent South Australian politicians and other influential community leaders and public servants.
8. That one travel agency which has a police record for the illegal provision of passports is a vital cog in the cells in moving their members in and out of Australia as confidentially as possible.
9. That there are many documented examples of seemingly poor Italian peasants carrying hundreds of thousands of dollars from Italy.
10. That many of the people involved often appeared in the community as respectable businessmen leading respectable family lives.

All these allegations are serious but are of a very general nature. The way in which they have been reported in the press constitutes a slur on the Italian community. The Government must now say where it stands on this issue and in particular whether it agrees with the conclusions of the *Advertiser* team.

Will the Attorney say whether the Government agrees with these and other allegations made by the *Advertiser* team? Secondly, does the Government believe that the media, and the *Advertiser* in particular, in presenting these facts has reported them in a way that is biased against the Italian community? Thirdly, what action does the Government intend to take?

The Hon. K. T. GRIFFIN: I am not in any position to comment on the direct allegations to which the honourable member has referred or to throw any light on their authenticity. However, I am in a position to say (and I think that this view is shared throughout the Government and the South Australian community) that all respectable, law-abiding citizens of whatever origin would dissociate themselves from any personal group with a criminal background.

The Italian community is no exception to that, because that community, other ethnic communities and those Australians of Anglo-Saxon background hold strongly the

view that, where crimes are committed, the offenders ought to be brought to justice. All those people concerned, who are in fact law-abiding citizens, would want to dissociate themselves from those criminal acts in every way.

Only last weekend, the Hon. Mr Hill, at a function involving members of the Italian community, said that neither he nor the Government supported the criticism, which had been made in such sweeping terms, of the Italian ethnic community. He went further by saying that there is by far a great majority of persons of Italian origin who are making substantial contributions to the life of the South Australian community and to that of the wider Australian community.

But for the involvement of ethnic communities in the life of South Australia, and Australia generally, we would be very much poorer in our cultural experience and development and in other areas which contribute to the character of a community. I support the Hon. Mr Hill's comments on that occasion, when he said that the Government certainly does not support the wide-ranging criticisms that have been made about the Italian ethnic community. I do not agree that those wide, sweeping generalisations should have been made, such that ordinary law-abiding and respectable members of that community and other ethnic communities should have been unduly concerned about the criticism and adversely affected by it.

The Government can take very little action against people who make those sorts of statements except to protest its own point of view, which is that by far the substantial majority of all members of the community, of whatever background, are respectable and law abiding and would not in any way want to be associated with persons in the criminal arena. That is a strong protestation of the Government's view, which should reaffirm our affection for the members of all ethnic communities and respect for the very significant contribution they make to our community.

The Hon. C. J. SUMNER: The Attorney-General has not answered part of my question. I also asked about the intention of the Government and the Attorney-General in relation to the allegations. What does the Government intend to do about the allegations, many of which came from the South Australian Police Force?

The Hon. K. T. GRIFFIN: I would have thought that it was obvious that many of them did not come from the police. However, I am prepared to have some inquiries made of the police to assess the authenticity of the allegations.

SITTINGS AND BUSINESS

The Hon. FRANK BLEVINS: I seek leave to make a brief explanation before asking the Attorney-General a question about the sitting hours of the Council.

Leave granted.

The Hon. FRANK BLEVINS: I think all members would be concerned about what went on in this Chamber yesterday, when the Government insisted on the Council sitting until about 3.45 a.m. this morning. I realise that we were considering very important legislation, but I do not think that any member at that time of the morning, after being on his feet—and certainly out of his bed—for 20 hours or more, would have been in a 100 per cent fit condition to give that legislation the attention it deserved, particularly when it was only the second day of the sitting after a break of almost three months. Members on this side believe that it is totally absurd that this Government cannot sit for three months and can then suddenly expect members to sit virtually around the clock. If that is the best that this Government can do with Parliament, no wonder it is not doing very well organising the community.

Members interjecting:

The PRESIDENT: Order!

The Hon. FRANK BLEVINS: I do not wish to be controversial about this. However, I am absolutely sure that all members of this Council who are not members of the Government would completely agree with me that that is a totally unnecessary and stupid way to organise the affairs of this Parliament and the State. Not only is it very bad for the health of members, who are at least well paid for putting up with stupidity like that, but the staff in this place are also affected and they are not paid a fraction of what members are paid to put up with such stupidity. It is one thing if the Government has no regard whatsoever for members of Parliament, but to have no regard whatsoever for the staff in this place, who have literally been on their feet for many hours beyond 12 hours, must be condemned.

If these late sittings were necessary, one could understand and perhaps excuse them, but how on earth is it necessary when this Parliament has not sat for one day in three months? On the second day back in Parliament, the Government wants to destroy the health of members and the staff, simply because the Government is incompetent in organising its programme. Will the Government, in conjunction with the Speaker, the President and the Opposition, immediately conduct an inquiry into the way the Government carries out its Parliamentary business, with a view to stopping the quite unnecessary and stupid practice of attempting to legislate in the middle of the night?

The Hon. K. T. GRIFFIN: I recall only several years ago that the previous Government sat for two, three or four weeks in February and would then adjourn and not sit again until the end of July. On this occasion, as with last year, the Government has adopted the view that Parliament should sit in June to deal essentially with matters including Supplementary Estimates, and other important legislation. The Government does have consideration for the staff and the way that Parliament runs, as well as endeavouring to have consideration for its own members and members of the Opposition Parties. However, if members want to have their say (and it was important legislation to pass), we will just have to continue sitting until the legislation is completed, to enable every member to have his views placed on the record. The Government will not conduct any investigation, because it is quite inappropriate in respect of the way the Government conducts its business and the way the Opposition conducts its opposition.

The Hon. FRANK BLEVINS: I desire to ask a supplementary question. The Attorney has said that he will not conduct an inquiry. Is the Attorney aware that the Federal Parliament is very concerned about this practice of sitting late, which has built up over the years and is obviously occurring here, because it is seriously endangering the health of members? The Federal Government has conceded, through *ex gratia* payments, that the way Federal Parliament has been managed significantly contributed to the deaths of both Senator Greenwood and Senator Knight. Is the Attorney-General aware of that, and is he also aware that all Parties in Federal Parliament are being circularised with draft proposals to alter the sitting hours, not just in the interests of the members' health and welfare but that of the whole community, because the legislators, after working often for up to 24 hours, are making decisions on matters that

affect every member of this nation. Is the Attorney-General aware that that is happening in the Federal Parliament?

The Hon. K. T. GRIFFIN: I am aware that there is that concern at the Federal level.

EDUCATION FACILITIES

The Hon. ANNE LEVY: I seek leave to make a brief statement before asking the Minister of Local Government, representing the Minister of Education, a question about education facilities.

Leave granted.

The Hon. ANNE LEVY: Yesterday the press reported an announcement from the Minister of Education regarding a new scheme on renting out State school premises to community groups and clubs. It was reported that school councils will be able to hire out their premises to any community groups or clubs setting their own charges for this instead of using the recommended charges set out some years ago by the Education Department for renting out such school premises. Further, 10 per cent of the cost is now to go back to the department to meet running costs. True, charges will increase considerably as a result of this measure.

I know of one case where the cost of hiring the school hall by outside groups has increased from $100 to $250 for one night's hire. It is rather beyond me to understand how increasing charges in this way will result in greater community use, as fewer community groups will be able to afford such charges. The Minister's statement indicated that some of the groups using school premises will be exempt from hire charges, and one such group was defined by the Minister as 'religious organisations using facilities for religious purposes'. I seek an explanation of why churches wishing to hold religious ceremonies of any sort should be allowed free access to State schools?

The Hon. K. T. Griffin: What about the Labor Party holding sub-branch meetings in Government offices?

The Hon. ANNE LEVY: We pay for them, and we pay the charges set down by the schools.

Members interjecting:

The PRESIDENT: Order! This is the last time that I will call for order. If I do not get it, I will take other action.

The Hon. ANNE LEVY: Can the Minister say whether this exemption granted by the Government means that this Government has determined that church and State are no longer separate in South Australia and that, in addition to a host of considerable concessions which are already allowed to churches, they can now move from their own premises on to public property to conduct sectarian ceremonies free of charge?

Obviously, one would have no objection to their paying the same charges for the use of the facilities as everyone else but I, along with many others, object to the free use of school premises by religious organisations for religious purposes which means, in effect, that the State and hence the taxpayers are subsidising religion. Can the Minister explain why the churches should be given this free exemption? Was there any consultation on this issue with organisations representing non-religious groups such as the Humanist Society, and can non-religious groups such as the Humanist Society also use school facilities without hire charges?

The Hon. C. M. HILL: I will refer those questions to the Minister of Education and bring down an explanation and a reply.

JOHNSON GROUP OF COMPANIES

The Hon. C. J. SUMNER: I seek leave to make a brief explanation prior to directing a question to the Minister of Corporate Affairs about the collapse of the Johnson group of companies.

Leave granted.

The Hon. C. J. SUMNER: On 6 May I wrote to the Minister expressing my concern about problems flowing from the collapse of the Johnson group of companies, which were involved in the Port Adelaide Mall development. I indicated particularly that there was a problem in regard to subcontractors engaged by that group who had not been paid, and I asked the Attorney what steps he would take to ensure that responsibilities to subcontractors and employees were met. Subsequently the Minister replied to me and said that he was having the matter investigated and would reply as soon as possible.

Since then, I have received further representations from a number of people in the community reiterating their concern about the difficulties that subcontractors are finding themselves in and also that the failure to resolve the difficulties of the Johnson group is holding up development and continuation of the mall project. When does the Attorney think that a report will be available on this matter and could he approach the Corporate Affairs Commission to ensure that a report is presented to him as soon as possible?

The Hon. K. T. GRIFFIN: I will inquire of my officers at the Corporate Affairs Commission as to the present position with that reply, and I will let the honourable member know as soon as possible.

LAWYERS' TAXATION

The Hon. J. E. DUNFORD: I seek leave to make a brief explanation before asking the Attorney-General a question about lawyers' taxation and Government policy.

Leave granted.

The Hon. J. E. DUNFORD: I wrote to the Attorney on 12 May and received a reply on 2 June. It may be that some of my statements the other day bore fruit. However, now that I am happy about the Attorney's replying so promptly, I am still unhappy about the content of his reply. I do not know whether he still does not understand my letters but I certainly understand his replies, which avoid answering the questions that I have asked of the Attorney.

First and foremost, this bulletin is available in the Parliamentary Library. It is called the *Law Society Bulletin,* and this is the April edition. Under the heading 'Etiquette Rulings', very briefly the bulletin states:

> On 30 March 1981 the Council resolved to amend Rule 33 (Vol. 1 Practitioners Handbook, Section A Index 2b, page 2) to increase the class of persons with whom income can be shared. That ruling now reads as follows:
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> A practitioner should not pay any sum of money or allow any benefits to any unqualified person on the introduction of any professional matter or any business to the practitioner nor should the practitioner in any circumstances make over to or share his costs or remuneration or any portion thereof with any unqualified person whether in the form of commission, rebate, or in any other way whatever—provided that a practitioner may agree to and may share the receipts for work done in his practice if such agreement is in writing and provides:
>
> 1. That such receipts are to be shared only with one or more of—
>
> *(a)* the spouse, parents, child or children, or other

issue of the practitioner, or their respective spouses

(b) other approved persons

(c) an approved company or

(d) an approved trust.

'Approved' means approved by the Council.

Later, the bulletin states:

Council resolved to amend Rule 33 to increase the class of persons with whom income can be shared. The effect of the resolution is that sub-paragraph *(a)* of the ruling will read:

(a) The spouse, parents, child or children, or other issue of the practitioner, or their respective spouses.

Rule 33 as amended appears in the Professional Information column of this bulletin.

After reading that, I wrote to the Attorney-General and stated:

As a party to that decision, were you applying Government policy?

When he replied, he stated:

My *ex officio* membership of the Law Society Council does not make me a party to every majority decision of the Law Society. I was not present when the matter to which you refer was considered.

He is a party, even though he was not present. I have often been absent from union meetings where there has been a decision, and I have been bound by that decision. My question asked whether it was Government policy. If he maintains that he was not present and was not a party, is it policy for the Law Society to make these rules? He is part of the organisation and he is the Attorney-General. I asked him another question. I dealt with this matter only last night, after 20 hours of sitting. I am not young and healthy. I have had to work hard. I am exhausted, but am not concerned for myself. I am like the Hon. Frank Blevins and am more concerned about the workers here who get low pay. The Hon. Mr Hill mumbled something about double time. Last night was an important night in regard to the Legal Practitioners Bill. The Attorney-General spoke very well, but in the letter I wrote to him, I asked him:

What amendments will be needed to the Legal Practitioners Act to prohibit this highly immoral method of tax avoidance?

To that he said that my questions were not within his legal authority and that I should direct them to the Law Society. I ask you whether I should ask the Law Society what amendment I have to move to the Legal Practitioners Act. This is the sort of prattle you get from the Attorney-General through the post. What about the poor typist who has to type it? He must be crazy. I am addressing him as Leader of the Government in the Council. These people probably have been at it for years.

The PRESIDENT: The Hon. Mr Dunford has asked his question, has he?

The Hon. J. E. DUNFORD: Yes, Mr President.

The Hon. K. T. GRIFFIN: If the member is concerned about the letters he gets from me in the post, the way his colleagues in the postal union are going, he will not get any more letters from me.

The Hon. J. E. Dunford interjecting:

The Hon. K. T. GRIFFIN: Do I take that as an authority that you do not want to get any more letters from me?

The Hon. J. E. Dunford: Certainly. I do not want to get any letters for the rest of my life. Who wants to get a letter with that rubbish in it?

The Hon. K. T. GRIFFIN: The honourable member has access to Parliamentary Counsel, as has every other member of this Council, and to Parliament.

FAMILY DAY CARE

The Hon. BARBARA WIESE: I seek leave to make a brief statement jprior to directing a question to the Minister of Community Welfare concerning family day care.

Leave granted.

The Hon. BARBARA WIESE: I have been approached by a number of people who are concerned about the future of the family day care programme in South Australia. Their fears for this programme are based on the fact that funds for a number of family day care positions have been frozen for the past few months. Staff shortages are causing severe difficulties for some Family Day Care services. Many people also fear that the Federal Government may be planning to transfer responsibility to the State Government for Family Day Care funding. My questions to the Minister are: first, to allay the fears of those concerned about family day care, will the Minister reaffirm his support for the programme in South Australia? Secondly, is he aware of any Federal Government proposals to transfer responsibility for family day care to the State Government? Thirdly, can he assure the Parliament that he will vigorously resist any such proposal?

Fourthly, can he confirm that $50 000 of this year's financial allocation from the Federal Government for family day care positions has not yet been spent by the State Government? Fifthly, if this is so, how can he justify his department's apparent decision to freeze Family Day Care positions?

The Hon. J. C. BURDETT: The Family Day Care programme is federally funded and it is federally funded on a regional basis. One of the problems that the State Government has had has been that it has not been possible for us to transfer funds from one programme to another. With some programmes, there are adequate funds or even a surplus. In other programmes, there are inadequate funds. We do not have the ability under the guidelines laid down by the Federal Government to transfer funds from one programme to another. There have been some programmes that we have had to curtail because we have been out of funds for that programme.

I have made representations to the Federal Minister, first for more money and, secondly and perhaps more urgently in a sense, to be able to transfer funds from one programme to another, accounting, of course, for the funds and giving reasons for the transfer. That has been refused. I am still bound by the guidelines laid down by the Federal Minister that funds are not transferable from one programme to another. To answer the questions, yes, I reaffirm my support for the Family Day Care programme. I think that it is the sort of thing that is necessary, and I strongly support the programme. I have seen it in operation.

Secondly, I am not aware that the Federal Government has said that it will not continue to fund. Thirdly, I will resist any action on the part of the Federal Government to refuse funding. The fourth question was whether I can confirm that there is $50 000 held by the State in Federal funding unexpended. I do not know what sum is unexpended but, as I said before, the problem is that the State Government and I have no ability to transfer funds from one programme to another. There may or may not be that sum. If there is, I am quite sure that it is in programmes that have adequate funding and that it has not been possible to transfer it to other programmes. I will ascertain the amount of money for the honourable member and advise her whether it does in fact total $50 000 or not.

WATER RESOURCES

The Hon. N. K. FOSTER: I address my question to the Minister representing the Minister of Water Resources. Will the Minister examine the speech and the proposal indicated in the private member's Bill moved in the House of Representatives by the member for Hawker, Mr Jacobi, M.H.R., as that Bill is of momentous consequence to the State of South Australia and the Murray River and water resource research and the acceptance of Commonwealth responsibility in this matter of human survival as we know it? Will the Minister have every endeavour made both politically and at public and departmental levels to ensure that the Bill referred to is accepted through both Houses of the South Australian Parliament as complementary legislation and vital to every citizen of this State?

The Hon. C. M. HILL: The honourable member asked whether I would look at the Bill. I think he meant to ask me to ask my colleague to look at it.

The Hon. N. K. Foster: I said that.

The PRESIDENT: I understood the honourable member to say that.

The Hon. C. M. HILL: I will not argue the point. I will be pleased to pass the information on to my colleague and I am sure he will investigate the matter for him.

BLOOD ALCOHOL TESTERS

The Hon. FRANK BLEVINS: I seek leave to make a short statement before asking the Minister of Consumer Affairs a question on blood alcohol content testers.

Leave granted.

The Hon. FRANK BLEVINS: I am sure that the Minister is aware of the report of the Select Committee of this Council into random breath testing. It states in part:

> Although there is a need for the public to have access to a cheap and convenient means to self-test blood alcohol levels, no such means was brought to the attention of the committee.

The committee attempted to test one or two of those things that we had access to around the place and they were found to be totally useless. In yesterday's *News* there was an advert by a firm that I will not name advertising a breath alcohol level tester. The original price was $79.95 and it was reduced to $9.95. It has gone from $79.95 to $9.95—that is a considerable saving, if it works. It concerns me because the Select Committee on random breath tests found that at either $79 or $9 they were totally useless. They are apparently now on sale in this State and, if the random breath test legislation goes through Parliament quickly, we should ensure that people are not ripped off in buying these things and imagining that they are of some value to them. Will the Minister have his department make an assessment of them, and will he make a statement to the public as to their value or otherwise?

The Hon. J. C. BURDETT: I will refer the matter to my department and bring back a reply to the honourable member. I will consider in the light of the reply whether a statement will be made to the public.

MINISTERIAL OFFICERS

The Hon. C. J. SUMNER (on notice) asked the Attorney-General: What is the position, title, classification, salary range, actual salary and other conditions of employment of all Ministerial officers employed by the Government and, in particular, the following:

1. The Hon. C. R. Story;
2. Mr G. Loughlin;
3. Mr D. K. Pearce;
4. Ms D. V. Laidlaw?

The Hon. K. T. GRIFFIN: As the answer is an extensive one I seek leave to have it inserted in *Hansard* without my reading it.

Leave granted.

Premier:

Executive Assistant, Ministerial Officer, Grade I, $26 400 plus 25 per cent allowance.

Ministerial Assistant—Policy, Ministerial Officer, Grade I, $26 400 plus 20 per cent allowance.

Position Title: Personal Secretary, Classification: Ministerial Officer, Grade II, Actual Salary: $23 392 plus 10 per cent allowance.

Inquiry Officer, Ministerial Officer, Grade II, $23 392 plus $2 935 allowance.

Press Secretary, Ministerial Officer, Grade II (2 positions), $23 392 plus 25 per cent allowance.

Ministerial Assistant—Research, Ministerial Officer, Grade II, $23 392 plus 25 per cent allowance.

Steno-Secretary, Grade I, Ministerial Officer, Grade II, Salary Range: $12 672-$13 114, ($13 114)

Clerk/Receptionist, Clerical Officer, Grade I, Salary Range: $6 454-$12 354, ($11 659 plus $333 allowance).

Deputy Premier:

Executive Assistant, Ministerial Officer, Grade II, $23 392 plus 20 per cent loading in lieu of overtime.

Press Secretary, Ministerial Officer, Grade II, $23 392 plus 20 per cent loading in lieu of overtime.

Minister of Industrial Affairs:

Principal Ministerial Officer, Ministerial Officer, Grade II, $23 392 plus 15 per cent allowance.

Press Secretary, Ministerial Officer, Grade II, $23 392 plus 10 per cent allowance.

Personal/Appointment Secretary, Ministerial Officer, Grade IV, Salary range: $16 659-$18 491, $17 116 plus 10 per cent allowance.

Minister of Education:

Ministerial Assistant, Ministerial Officer, Grade II, $23 392 plus 10 per cent overtime loading.

Press Secretary, Ministerial Officer, Grade II, $23 392 plus 10 per cent overtime loading.

Attorney-General:

Press Secretary, Ministerial Officer, Grade II, $23 392 plus 10 per cent allowance.

Ministerial Assistant, Ministerial Officer, Grade II, $23 392 plus 10 per cent allowance.

Chief Secretary:

Press Secretary, Ministerial Officer, Grade II, $23 392 plus 10 per cent allowance.

Ministerial Assistant, Ministerial Officer, Grade II, $23 392 plus 10 per cent allowance for overtime.

Minister of Agriculture:

Ministerial Assistant, Ministerial Officer, Grade IV, Salary Range: $16 659-$18 491, Actual Salary: $16 659.

Minister of Environment:

Ministerial Assistant, Ministerial Officer, Grade II, $23 392 plus 10 per cent allowance for overtime.

Minister of Local Government:

Ministerial Assistant, Ministerial Officer, Grade III, $19 914.

Press Secretary, Ministerial Officer, Grade II, $23 392 plus 10 per cent allowance for overtime.

Minister of Transport

Executive Assistant, Ministerial Officer, Grade II, $23 392 plus 10 per cent allowance for overtime.

Press Secretary, Ministerial Officer, Grade II,

$23 392 plus 10 per cent allowance for overtime.
Minister of Health:
Press Secretary, Ministerial Officer, Grade II, $23 392 plus 10 per cent overtime allowance.
Ministerial Assistant, Ministerial Officer, Grade II, $23 392.
Minister of Community Welfare:
Press Secretary, Ministerial Officer, Grade II, $23 392 plus 10 per cent overtime allowance.
Ministerial Assistant, Ministerial Officer, Grade II, $23 392 plus 10 per cent overtime allowance.
Minister of Water Resources:
Press Secretary, Ministerial Officer, Grade II, $23 392 plus 10 per cent overtime allowance.
Ministerial Assistant, Ministerial Officer, Grade II, $23 392 plus 10 per cent overtime allowance.
*Note: The Ministerial Officer classifications of Grades I, II, and III, comprise only one salary level.
1. The Hon. C. R. Story:
Position/Title: Executive Assistant to the Premier, Classification: Ministerial Officer, Grade I, Actual Salary: $26 400 plus 25 per cent allowance.
2. Mr G. Loughlin
Position/Title: Ministerial Assistant—Research, Classification: Ministerial Officer, Grade II, Actual Salary: $23 392 plus 25 per cent allowance.
3. Mr D. K. Pearce
Position/Title: Principal Ministerial Officer, Classification: Ministerial Officer, Grade II, Actual Salary: $23 392 plus 15 per cent allowance.
4. Ms D. V. Laidlaw
Position/Title: Ministerial Assistant, Classification: Ministerial Officer, Grade III, Actual Salary: $19 914 plus 10 per cent allowance.

EMPLOYMENT

The Hon. BARBARA WIESE (on notice) asked the Attorney-General:

1. How many new job-seekers are expected to enter the job market in South Australia during the next five years?

2. How many new jobs are expected to be created in South Australia in the private sector by major development projects (over $5 million)?

3. How many jobs will be created in other private sector areas?

4. How many public sector jobs will be created or become available through retirement, etc., during this period?

The Hon. K. T. GRIFFIN: Precise figures cannot be placed upon the numbers of job seekers expected to enter the labour force or the number of jobs likely to be created in the next five years. Estimates of this nature must take account of interstate and international migration, educational participation rates, availability of skills, economic growth and a variety of other factors, all of which affect the labour force participation rate and all of which are subject to change.

At best, forecasting techniques based on major development projects which are presently in the preliminary stage can provide an idea of orders of magnitude but not precise figures. Accordingly, job creation forecasts are tentative and subject to substantial change depending upon the assumptions used. However, the honourable member may care to extrapolate from recent data provided by the Australian Bureau of Statistics, Commonwealth Employment Service and A.N.Z. Bank.

The major features of that data are:

Between August 1977 and August 1979 the numbers of employed persons in South Australia declined from 568 000 to 547 400—a fall of 20 600.

Between August 1979 and March 1981 (the date of latest figures) employment in South Australia rose from 547 400 to 568 300—a rise of 20 900.

For the first time in several years the average unemployment rate in South Australia, in the three months to April 1981 was lower than the corresponding period a year earlier.

As measured by the A.B.S., job vacancies in South Australia increased by 31.3 per cent in the year to February 1981, compared with a national rise of 11.8 per cent.

As measured by the C.E.S., South Australian job vacancies in the March quarter this year were 47 per cent higher than the corresponding quarter last year.

As measured by the A.N.Z. Bank Series, job vacancies in South Australia during the first five months of 1981 increased over the corresponding periods in both 1980 and 1979.

ROAD TRAFFIC ACT AMENDMENT BILL (No. 3)

Read a third time and passed.

MOTOR VEHICLES ACT AMENDMENT BILL (No. 2)

Read a third time and passed.

APPROPRIATION BILL (No. 1), 1981

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

The Hon. K. T. GRIFFIN (Attorney-General): I move:

That this Bill be now read a second time.

This Bill provides for expenditure totalling $30.5 million. I propose to make a few brief comments about the State's general financial position. In presenting the Revenue and Loan Budgets in August last, the Premier and Treasurer said that the Government planned for a small deficit of $1.5 million on the combined operations of the two accounts for 1980-1981. It was planned to finance that small deficit from the accumulated surplus held on Loan Account as at 30 June 1980, and to have the combined accounts in balance as at 30 June 1981. However, there are a number of factors, including some which have been entirely beyond the control of the State Government, that will prevent our achieving that objective.

First, wage increases, particularly work value wage increases, have far exceeded the substantial allowance incorporated in the original Budget. These record-breaking increases have required some $17 million over and above that allowance. I will have more to say about this in just a moment.

Secondly, and also beyond the State Government's control, interest on the public debt has exceeded Budget expectations, largely because of changes by the Commonwealth Government in the timing of issue and the interest dates of stocks which it has allocated to finance borrowings by the States. Present indications are that interest payment increases due to these reasons are likely to exceed the Budget estimate by about $11 million.

Thirdly, and again outside the State Government's

control, South Australia's general revenue grants from the Commonwealth will be below the Budget estimate. As honourable members would know, for this year only, an interim formula based on individual State C.P.I. movements between March 1980 and March 1981 has been used for the calculation of each State's general revenue grant. Honourable members would know also that South Australia's inflation rate is now lower than the figure forecast in the last Federal Budget and, as a result, the State's grant is some $5 million below the estimate determined by the Commonwealth Government.

Fourthly, the Government introduced a voluntary early retirement scheme in September 1980, in the Public Buildings and Engineering and Water Supply Departments, in order to bring about a more appropriate relationship between the resources of the public sector and the private sector. While this action will have significant financial benefit to the Government in subsequent years, it has had a heavy impact of $4.3 million in the current financial year.

Finally, the Government has had to make additional funds available to meet demands in a number of areas, particularly for education, for apprenticeship training undertaken by the Department of Further Education and to overcome urgent problems which arose in the Riverland region. Those factors have added significantly to the Government's expenditures in 1980-1981. Although they have been offset, in part, by an increase in receipts on Revenue Account and savings on Loan Account, present indications are that the results on the combined accounts for 1980-1981 could be a deficit of some $10 million.

As to the Revenue Account component, the original plan was for a deficit of $16 million to be financed by a transfer from Loan Account, thus giving a balance for the year (that is to say, neither surplus nor deficit). For receipts, recent reviews suggest that land tax is likely to be up by about $1.5 million, stamp duties by about $2 million, succession duties by about $1.5 million as a result of the finalisation of a number of outstanding transactions, and interest on investments by about $2.6 million.

Fuel licensing and motor registration fees, receipts from water and sewerage charges and the recoup from the primary producers assistance funds are expected to exceed the Budget expectation by some $4.5 million, $1.8 million and $8 million respectively. After allowing for a number of other variations both above and below Budget (including general revenue grants which I have mentioned already), it now seems likely that, overall, receipts could exceed the Budget estimate by some $20 million.

As to payments, special Acts are expected to exceed estimate by about $14 million, mainly as a result of a larger transfer to the Highways Fund flowing from increased fuel licensing and motor registration fees, and increased interest payments on the public debt, even though some specific details to make those interest payments have yet to be received from the Commonwealth. Expenditures on departmental and miscellaneous lines are expected to exceed Budget by about $19 million, mainly as a result of the major factors that I mentioned a moment ago. The expectation for increases in salaries and wages is not $17 million higher than the large allowances provided in the original Budget.

Honourable members will recall that a very large round sum allowance of $79 million was set aside in this year's Budget for increases in wage and salary rates. This budgeted amount represented an increase of 41 per cent over the allocated figure of $56 million in the previous year. However, present indications suggest that the amount required for wage and salary increases will be closer to $96 million for the year, an increase of $40 million, or 71 per cent, over last year's allocation, and an increase of $17 million over the allowance provided in the 1980-81 Budget. That record increase has resulted from indexation increases of at least 7.9 per cent, and even more if the determination of the State Industrial Commission regarding flow-on of the most recent national wage adjustment impacts on this year's accounts, and work value decisions for most State Government employees. So far this year, school teachers have been awarded an interim increase of 4 per cent, other occupational groups including engineers, correctional service officers, police and legal officers have received work value increases ranging from 7 per cent to 11 per cent, and most other Government employees have received at least a flat 5 per cent.

In all, a large majority of the Government work force has received a work value increase this year, which, together with indexation adjustments, has resulted in pay increases ranging from almost 13 per cent up to 19 per cent. In other words, wage and salary increases in the current financial year have exceeded inflation significantly, in some cases by as much as 9 per cent. And that is not the end of it.

Teachers currently are proceeding with a claim for substantial increases in salaries before the Teachers' Salaries Board and if, granted in full, that claim could cost the Government up to $28 million in a full year. It is worth bearing in mind that at present 90 per cent of the education Budget goes in salaries, and consequently that this increase would add further to budgetary pressures without in any way improving the quality of education for our children in this State.

Pay increases of this magnitude limit the Government's ability to outlay funds on new or expanded services, they impact considerably on the availability of funds for other purposes, and they lead to an inevitable reduction in employment opportunities. Well over half of the additional expenditure has been due solely to factors beyond the Government's control, for example, $17 m. for salary and wage increases, $11 m. for higher interest payments and $1.3 m. for additional pumping costs.

A number of further items of expenditure have been made necessary as the long-term effects of initiatives and projects of previous Governments have become apparent. In summary then, a planned deficit of $16 million, increased payments of some $50 million and an improvement in receipts of perhaps as much as $20 million, could see an overall deficit of some $46 million on the Revenue Account component for the year.

Regarding the Loan Account component, the original plan was for a surplus of $14.5 million before providing for a transfer to Revenue Account of $16 million. The plan was to fund the small deficit of $1.5 million from the accumulated surplus held on Loan Account as at 30 June 1980 and to leave the Loan Account in balance as at 30 June 1981 (that is to say, neither in surplus nor in deficit). For several reasons, including a steady reduction in the labour force, competitive tendering for many contracts and work not proceeding as quickly as originally anticipated, it now seems likely that savings of some $20 million may emerge on payments from the Loan Account.

The main elements of the expected savings are about $5.5 million for waterworks and sewers, $8 million for State Transport Authority, $2.3 million for other Government buildings, $2.2 million for harbor works and $1.5 million for Woods and Forests. There will be some other minor variations, both above and below Budget.

As to repayments and recoveries from departmental sources, no major departure from the budget estimate is expected. As a result of that saving of about $20 million, it

now seems likely that a surplus of as much as $35 million could be achieved on the 1980-1981 operations of the Loan Account (before providing for any transfer to Revenue Account). While relatively small percentage variations could change the results on both the Revenue and the Loan Account components of the Budget by several million dollars, it seems likely that the Government could face a deficit of some $10 million on the 1980-1981 operations of its combined accounts. While a one-time deficit of that magnitude is not in itself unmanageable, there are some aspects of the present and prospective Budget situation which are disturbing and which have underlying long-term consequences.

First, wage increases granted in 1980-1981 have been considerable and they will have major adverse carry-over effects into 1981-1982 and the years beyond. Secondly, the hard line taken by the Commonwealth Government at the recent Premiers' Conference will place considerable pressures on the Budgets of all States. May I remind honourable members that our estimated receipts from personal income-tax sharing for 1981-1982 are now down by some $30 million as compared with the position under the legislation before amendment.

While some relief might be gained from increased hospital receipts, honourable members will be aware that the whole question of Commonwealth-State hospital funding arrangements is far from resolved. Those two factors combined set a very difficult background for Budget planning for 1981-1982. In addition, the Loan Council's attitude to general purpose capital funds and to financing under the infrastructure programme for major development projects (including the northern power station) will not be known until later this month. While the Premier and Treasurer expects the Loan Council to adopt a more realistic approach to funds in these areas than in recent years, and trusts that the importance to the building and construction industry and to employment of at least maintaining the 1980-1981 level of funds in real terms will be recognised, it has been clearly indicated that, overall, and in real terms, the level of funds likely to be available in 1981-1982 will be well below the level of funds available in 1980-1981.

As a consequence, a number of difficult and, in some cases, unpopular decisions will need to be taken if we are to manage our limited resources in the most effective and responsible way. We will have no option but to continue to prune expenditures, and the Government's Budget Review Committee is currently making a thorough examination of all operations of the Government. Our aim is to eliminate wasteful and unnecessary expenditures, to reorder priorities and to ensure that an effective and efficient service is maintained for those who need it. Regrettably, we will need to look at the income side of the Budget, and we have taken steps already to increase some charges to bring them more into line with current costs. The Premier and Treasurer has introduced a Bill to seek an increase in the licence fee payable by wholesalers under the Business Franchise (Tobacco) Act. The Government believes those actions to be necessary and, in the case of expenditure review, long overdue. We cannot afford to continue to finance our recurrent operations from capital funds indefinitely.

To continue to do so for a long period would be detrimental to the economy, particularly to the building and construction industry and to employment. It would jeopardise major development projects envisaged for the Northern part of our State—projects which will have significant benefits for South Australia and the nation as a whole. However, when the availability of revenue funds is severely limited, as at present, it is necessary to adopt this approach to enable the State to maintain normal services to its people. We will not resile from our responsibility to take all practicable steps to assist and encourage the development of this State for the benefit of all the people of South Australia. It is particularly pleasing to note, in this respect, that employment has risen by more than 13 000 in the last 18 months, and that job vacancies are currently treble the number of one year ago. I seek leave to have the remainder of the explanation inserted in *Hansard* without my reading it.

Leave granted.

Remainder of Explanation of Bill

Appropriation:

Honourable members will be aware that, early in each financial year, Parliament grants the Government of the day appropriation by means of the principal Appropriation Act. If these allocations prove insufficient, there are three other sources of authority which provide for supplementary expenditure, namely, a special section of the same Appropriation Act, the Governor's Appropriation Fund and a further Appropriation Bill.

Appropriation Act—Special Section 3 (2) and (3):

The main Appropriation Act contains a provision which gives additional authority to meet increased costs resulting from wage awards. This special authority is being called on this year to cover most of the cost to the revenue budget of a number of salary and wage determinations, with a small amount being met from within the original appropriations. However, it is available only to cover increases in salary and wage rates which are formally handed down by a recognised wage-fixing authority and which are payable in the current financial year.

The main Appropriation Act also contains a provision which gives additional authority to meet increased electricity charges for pumping water. The consumption of water this financial year has exceeded the quantity collected naturally in catchment areas by a greater amount than was expected, and it has been necessary to supplement natural collections by increasing the quantity pumped from the Murray River. The expected call on special appropriation is $1.3 million.

Governor's Appropriation Fund:

Another source of appropriation authority is the Governor's Appropriation Fund which, in terms of the Public Finance Act, may be used to cover additional expenditure. The operation of this fund has been explained to honourable members on a number of occasions. The appropriation available in the Governor's Appropriation Fund is being used this year to cover a number of individual excesses above departmental allocations, and this is the reason why many of the smaller departments do not appear in this Bill, even though their expenditure levels may be affected by the same factors as those departments which do appear.

Supplementary Bill:

Where payments additional to the Budget estimates cannot be met from the special section of the Appropriation Act, or excesses are too large to be met from the Governor's Appropriation Fund, a further Appropriation Bill must be presented. Further, although two block figures were included in the Budget as general allowances for increases in salary and wage rates and in prices, they were not included in the schedule to the main

Appropriation Act. To cover the cost of higher prices or of wage increases not falling within the scope of section 3 (2) of the Appropriation Act, honourable members are being asked how to appropriate moneys specifically for some part of these general allowances. As usual, release of funds provided will be subject to the Treasurer's specific approval in this Bill.

DETAILS OF THE BILL

Treasury:

An additional $1 million is sought by the Treasury Department. Of that amount, some $250 000 is required for salaries, costs of staff seconded from other areas of the service on the development of programme performance budgeting, delays in the redevelopment of some surplus staff from the State Taxation Office and increased requirements in regard to exemption of land tax on the principal place of residence. Related contingency costs have increased by $100 000. An amount of $210 000 is required to meet payments in relation to the development of programme performance budgeting.

An additional $440 000 is required to provide for refunds and remissions of tax. Late last year, the Government decided to meet payments of pay-roll tax outstanding ($396 000) in respect of Horwood Bagshaw's Mannum operations for the period July 1976 to December 1979 to honour an undertaking given by a previous Administration. The remaining $44 000 is represented by refunds of a general nature, including an amount of $40 000 in respect of the licence fee payable by the S.A. Gas Co. in relation to sales at Whyalla and Mount Gambier. The arrangement is that a refund will be made where SAGASCO can show that its operations at those centres have incurred losses.

Treasurer, Miscellaneous:

The Government is seeking to increase the provision for Treasurer, Miscellaneous in three areas. First, due chiefly to increases in oil prices, an additional contribution of $140 000 is required for electricity subsidies in country areas. Secondly, it is likely that the State's borrowing programme this year will be financed from proceeds of Commonwealth Government bonds which have been issued at a discount. The cost of writing up to face value the proceeds of bonds allocated to South Australia is ultimately charged to Revenue Account. Thirdly, the Victoria Square (International Hotel) Act, 1980, provided for a payment to the Corporation of the City of Adelaide of $500 000.

Minister of Industrial Affairs, Miscellaneous:

Additional appropriation of $1.6 million is sought to provide assistance to unsecured creditors of the Riverland Fruit Products Co-operative Limited and growers associated with the co-operative and $350 000 has been included to provide for new apprenticeship training initiatives adopted by the Government this financial year.

Public Buildings:

Additional appropriation of $3.5 million is sought for this department to cover the cost of employees redeployed from capital works to special projects, increased cost of providing power and telephones to Government agencies and the effect of price increases in renegotiating leases.

Minister of Public Works, Miscellaneous:

Appropriation of $1.4 million is required for the cost of bonus payments to employees in the Public Buildings Department under the Government's voluntary early retirement scheme.

Education:

The Bill provides for an additional sum of $7.7 million for this department. During the year, the Government approved such initiatives as:

Extension of the policy of replacement of classroom teachers on long service leave.

Appointment of additional staff for migrant education programmes.

Replacement of ancillary staff to cover absences on long service or other extended leave.

An increase in primary text book allowances.

In addition, specific appropriation is now being provided for the cost of flow-ons from national wage increases which do not qualify for automatic increases in appropriation and for increases in charges incurred by schools, particularly in respect to fuel and power. This additional sum, when coupled with funds made available to the Education Department from the round-sum allowances to cover national wage and other wage increases handed down by the Industrial Commission in 1980-1981, will bring the total allocation of funds to the department in 1980-1981 to $403.7 million. After making allowance for an additional pay period falling due in 1980-1981, this allocation represents a 12.3 per cent increase over the actual expenditure of the department in 1979-1980, and accordingly makes a nonsense of the current campaign of denigration of the Government for its alleged 'cuts' in education.

Further Education:

Additional appropriation of $1.2 million is sought for further education. During the year, the Government has substantially increased the provision of trade training to accommodate industry demand for skilled tradesmen, particularly in the metal trades and building industries. The additional amount also covers extension of the adult migrant education programme which will have no net impact on the Budget because the cost is subject to reimbursement by the Commonwealth. However, appropriation authority is required for the expenditure.

Police:

An additional $1.25 million is required for this department. Of this amount, $800 000 is required for increased salary costs and $450 000 to cover additional contingency charges. Terminal leave payments are likely to be $435 000 above the original budget. This, together with other factors, including the continuing need to fund incremental wage increases, account for the additional salary requirements. The effect of price increases, particularly fuel costs, will result in additional contingency payments.

Minister of Agriculture and Minister of Forests, Miscellaneous:

To enable the full effect of the financial restructuring of the South Australian Meat Corporation to be reflected for the current financial year, appropriation of $2.3 million is sought to provide for an adjustment payment to the corporation.

Highways:

An additional provision of $1.75 million is sought for the Highways Department. Of that amount, $800 000 is required to cover the cost of preliminary investigations and work associated with the construction of the Stuart Highway. The remaining $950 000 is attributable to

increased terminal leave payments, significant wage increases which have resulted in additional overhead costs and the effect of price increases. The additional provision has no budget impact as it will be offset by a corresponding reduction in the amount transferred to the Highways Fund under Special Acts.

Engineering and Water Supply:

I have mentioned that it will be necessary to exercise the special authority granted under the Appropriation Act to meet increased electricity charges for pumping water. In addition, the Engineering and Water Supply Department requires a further $2.7 million this year. The provision covers increased terminal leave payments, additional chlorination costs associated with increased water usage, significant wage increases which have resulted in additional overhead costs, and the effect of price increases.

Minister of Water Resources and Minister of Irrigation, Miscellaneous:

Appropriation of $2.9 million is required for the cost of bonus payments to employees in the Engineering and Water Supply Department under the Government's voluntary early retirement scheme. In addition, appropriation of $900 000 is sought to write off the additional cost of preliminary surveys and investigations on schemes which will not proceed.

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

SUPPLY BILL (No. 1), 1981

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

The Hon. K. T. GRIFFIN (Attorney-General): I move:

That this Bill be now read a second time.

It provides for the appropriation of $260 million to enable the Public Service of the State to be carried on during the early part of next financial year. In the absence of special arrangements in the form of the Supply Acts, there would be no Parliamentary authority for appropriations required between the commencement of the new financial year and the date, usually in October, on which assent is given to the main Appropriation Bill. It is customary for the Government to present two Supply Bills each year, the first covering estimated expenditure during July and August and the second covering the remainder of the period prior to the Appropriation Bill becoming law.

Honourable members will notice that this Bill provides for an amount greater than that provided by the first Supply Act last year. The increase of $40 million is needed, partly to provide for the higher levels of costs faced by the Government, and partly to cater for the consolidation of Revenue and Loan Accounts into a single account, which I explained fully to honourable members when introducing a Bill to amend the Public Finance Act in February last. The Government believes that this Bill should suffice until the latter part of August, when it will be necessary to introduce a second Bill.

Clauses 1 and 2 are formal. Clause 3 provides for the issue and application of up to $260 million. Clause 4 imposes limitations on the issue and application of this amount. Clauses 5 and 6 provide borrowing powers.

The Hon. ANNE LEVY secured the adjournment of the debate.

HANDICAPPED PERSONS EQUAL OPPORTUNITY BILL

In Committee.

(Continued from 2 June. Page 3667.)

Clause 2—'Commencement.'

The Hon. ANNE LEVY: Subclause (2) of this clause allows for different provisions of the Bill to be proclaimed at different times. Is it intended that only certain provisions of the Bill will come into operation in the near future? Are any provisions of the Bill intended to be delayed?

The Hon. K. T. GRIFFIN: Some consideration has been given to proclaiming those sections which relate to conciliation earlier than those which relate to arbitration. Representation has been made to me that, if the Government is genuine in its desire to use this Bill as an educational tool in the early stages, it may be appropriate to consider proclaiming those parts which set out the general principles and conciliation procedures and then, after a period of, say, six months, when many people become aware of the Bill through operation of the conciliation provisions, the arbitration sanctions proposed could then be brought into force. No final decision has been made on that. I think it has some merit, because it is consistent with the way in which I have always considered that this Bill will be implemented. It will be an instrument for education and conciliation. The arbitration sanctions are last resort measures and in the International Year of the Disabled Person it seems appropriate to emphasise the education and conciliation aspects rather than confrontation.

As with sex discrimination and racial discrimination, I am sensitive to the counterproductive effect which might come from imposing a sanction provision at too early a stage without at least an appropriate period for educating and allowing the conciliation process to be experienced so that everyone who is affected favourably or unfavourably will become familiar with the way it will operate and with the principles of the Bill. At this stage no final decision has been made on that, but that is the context in which this particular clause may be considered.

The Hon. ANNE LEVY: I am somewhat concerned by what the Attorney has said. I appreciate the desirability of having education about the Bill and its measures, but conciliation could be quite ineffective in some cases unless there is the possibility of sanctions occurring and, if cases come to the notice of the Commissioner and conciliation is attempted, it may get absolutely nowhere unless there is the possibility of sanctions through the tribunal. If, as the Attorney suggested, only the conciliation provisions were to be first proclaimed, would any complaints which were brought at that time following the proclamation and which conciliation was not able to resolve be referred to the tribunal for possible sanctions once the appropriate provisions of the Bill are proclaimed?

The Hon. K. T. GRIFFIN: I doubt whether an act of discrimination which occurred before sanction provisions came into force subsequently could be made the subject of sanctions. It is really a matter of degree. There are a number of ways in which the implementation of this Bill can be effected. I have openly indicated to the honourable member one of the ways in which it might be most effectively implemented. No final decision has been made. If the honourable member has relevant factors that should be taken into account in making that decision, I am prepared to consider them.

Clause passed.

Clauses 3 to 5 passed.

Part II—'The Commissioner and the Board.'

The Hon. K. T. GRIFFIN: I move:

Heading, page 3, line 2—Leave out 'board' and insert 'tribunal'.

This is a matter of drafting throughout the Bill. The tribunal is called a tribunal and not a board, and the amendment merely changes the heading.

Amendment carried.

Clause 6—'The Commissioner.'

The Hon. ANNE LEVY: The Commissioner for Equal Opportunity whose position is defined in the Sex Discrimination Act will be responsible to the Attorney-General for the carrying out of her functions—

The Hon. K. T. Griffin: She'll be responsible to the Minister.

The Hon. ANNE LEVY: The Minister is the Attorney-General or such other Minister of the Crown at the time administering the Act and, as the Bill stands, she will be responsible to the Attorney. In regard to administering the Sex Discrimination Act, the Commissioner is responsible to the Minister of Consumer Affairs.

The Hon. J. C. Burdett: That's not quite technically correct.

The Hon. ANNE LEVY: It seems to be slightly confusing to have the Commissioner responsible to two different Ministers when administering two separate but two similar Acts. This could be awkward. Is this an indication that, in view of the review of the Sex Discrimination Act which the Attorney has been promising since last October, it is intended that the administration of the Sex Discrimination Act should be transferred to the Attorney-General?

The Hon. J. C. BURDETT: What the honourable member said in regard to the Sex Discrimination Act is not technically correct, because that Act comes within the administration of the Premier, who has delegated his powers to me so far as they relate to the Commissioner for Equal Opportunity, and to the Attorney-General in so far as they relate to the Sex Discrimination Board. I am sure that some such pattern, when and if the Bill passes, will be looked at.

The Hon. ANNE LEVY: Are you suggesting that the Attorney might transfer powers with regard to that Act to the Minister of Consumer affairs in like manner?

The Hon. J. C. BURDETT: I do not think the Government has decided that. It does not decide how to administer an Act until it has been passed but, if the Bill becomes an Act, it is committed to the Attorney-General or other Minister as may be decided. Any Minister may delegate power to another Minister. There is a triparte administration regarding the Sex Discrimination Act. I am not saying that the Government has not addressed itself to how the Act will be administered: I am just saying how the Sex Discrimination Act is administered.

The Hon. ANNE LEVY: Subclause (2) provides that the Governor may appoint such officers as he considers necessary or expedient to assist the Commissioner for Equal Opportunity in the administration of the Act. It will obviously be necessary to appoint staff to assist the Commissioner. The staff in her office currently deal with the Sex Discrimination Act and are grossly overworked, so much so that they cannot carry out all their functions under that Act adequately, let alone those under this Act. Can an indication be given of how many people are expected to be appointed to assist in the administration of this Act and of what sum has been allocated for that administration?

The Hon. J. C. BURDETT: The staff of the Commissioner for Equal Opportunity regarding administration of the Sex Discrimination Act is the same as it was under the Labor Government, with a roughly equal work load. Because of further facilities that have been made available to the Commissioner, the work load can now be said to be more widely spread. More facilities have been given to her. Regarding administration of this Act, as far as I am aware no decisions have been made as to numbers and amounts of money, and I would not expect that to happen until this Bill is passed.

Clause passed.

Clause 7—'Special duties of the Commissioner in relation to persons with severe disabilities.'

The Hon. K. T. GRIFFIN: Two clauses will replace clause 7, and it would be appropriate procedurally if I speak only to the first. What was intended with this was that there should be a more positive statement so that the Commissioner's role under this Act would have some special identity and function in conjunction with the proposed new clause 7a, which seemed to me and to the people with whom I have consulted a more important and effective positive proposition than there is in the present clause.

Clause negatived.

New clause 7—'Educative role of the Commissioner.'

The Hon. K. T. GRIFFIN: I move to insert the following new clause:

7. The Commissioner shall foster and encourage amongst members of the public a positive, informed and unprejudiced attitude towards persons with physical impairments.

New clause inserted.

New clause 7a—'Advice, assistance and research to be furnished or carried out by the Commissioner.'

The Hon. K. T. GRIFFIN: I move to insert the following new clause:

7a. (1) The Commissioner may furnish advice upon any matter within the purview of this Act and, if a written request for any such advice is made to the Commissioner, then, subject to subsection (2), the Commissioner shall either furnish the advice in writing to the person by whom it was requested, or notify that person in writing that he declines to furnish the advice.

(2) The Commissioner shall:

(a) if requested to do so by a handicapped person:

(i) inform and advise him of the benefits, assistance or support that may be available to him in respect of his physical impairment;

(ii) assist him to gain access to any such benefits, assistance or support; or

(iii) assist him, to the extent the Commissioner thinks desirable, to resolve any problem faced by him as a result of his physical impairment in relation to his participation, or attempts to participate, in the economic or social life of the community;

(b) publish advisory documents as to the benefits, assistance and support available to handicapped persons;

(c) institute, promote or assist in research and the collection of data relating to handicapped persons, the problems faced by such persons as a result of their impairments, and the ways in which those problems may be resolved,

and may do anything else necessary or expedient to assist handicapped persons to participate in the economic and social life of the community.

(3) For the purposes of subsection (2), a handicapped person is a person who has a physical impairment which in itself, or in conjunction with other factors such as the nature of his physical environment, the attitude of others towards him or his own psychological reaction to his impairment,

substantially reduces his participation, or his capacity to participate, in the economic or social life of the community.

As I have indicated, the new clause adds to the new clause 7, because it provides for the Commissioner to furnish advice on any matter within the purview of the Act and also for written advice to be given by the Commissioner. New clause 7a also opens the way for the formal advice provisions later in the Bill to which I have referred. The provision in the Sex Discrimination Act allows any person to seek an advisory opinion and be able to rely on that until it is either withdrawn by the Commissioner or set aside by the tribunal. I think that is an important development because it brings into the operation of the Act and into the operation of the relationship between two people where one has a disability a certain related type of action. I suppose it is fairly novel in that it does not appear in much other legislation but I think it is important when we are legislating to deal with human relations.

New clause inserted.

Clause 8 passed.

Clause 9—'Commissioner to report annually.'

The Hon. ANNE LEVY: I feel that a very important part of the Bill should be drawn to the attention of the Parliament. I wish to comment on subclause (1) *(b)*. The Commissioner will be able to make recommendations to the Minister and, through him, to the Parliament on any measures that should be taken to remove discrimination against physically handicapped in the community. There is no equivalent provision in the Sex Discrimination Act, and I would like to see it in that Act. It seems very important that it should be there.

The Commissioner to whom the complaint will be taken will soon become aware of many forms of discrimination and difficulty that the physically handicapped face. As such it will be possible to give valuable recommendations as to what should be done. I am not querying this provision: I am commending this part of the Bill. I feel that it is important and I would like to see it in the Sex Discrimination Act.

The Hon. K. T. GRIFFIN: I appreciate the honourable member's commendation on the inclusion of this provision. The Government took the view that, in the context of this legislation, it was important that the Commissioner should have a statutory responsibility to consider whether or not any recommendations should be made in respect of discrimination and dealing with discrimination under the Act. It is a matter that we will take into consideration when a final review of the Sex Discrimination Act is made.

Clause passed.

Clauses 10 to 14 passed.

Clause 15—'Validity of the acts of the tribunal and immunity of members.'

The Hon. ANNE LEVY: I refer to subclause (3). It is obviously a legal matter. There is no such clause in the Sex Discrimination Act. What difference does it make in civil cases whether or not that provision is there?

The Hon. K. T. GRIFFIN: I do not think that it makes too much difference whether it is there or not. It is really a matter of clarification to ensure that what is reflected in subclauses (1) and (2) is in fact carried out in terms of the liability of a member of the board being picked up by the Crown. In a sense it is akin to an employer/employee relationship where a person acting in the course of his employment in a bona fide manner and within this authority is indemnified by the employer for any act from which the liability arises. I think probably the answer is that drafting attitudes and experience have modified over a period and it reflects the current thinking as to the sort of provisions which ought to be included to ensure that a clause such as clause 15 is a complete provision on the face of it.

The Hon. Anne Levy: Without it in the Sex Discrimination Act can no action be taken against the Crown?

The Hon. K T. GRIFFIN: I doubt that it makes any difference whether it is there or not.

Clause passed.

Clause 16 passed.

Clause 17—'Decisions of the tribunal.'

The Hon. K. T. GRIFFIN: I move:

Page 6, lines 22 to 24—Leave out subclause (5).

I seek to delete subclause (5) because this is a matter which should be dealt with under the Legal Practitioners Act. What we are seeking is to allow any party appearing before the tribunal to be represented by persons other than legal practitioners if the tribunal grants leave. We are not seeking to prevent the charge being made if that is appropriate, provided it is allowed by the Legal Practitioners Act. I take the view that the remainder of the clause will then not prevent someone making an appropriate charge provided it is made in the context of clause 17 and consistent with the Legal Practitioners Act.

The Hon. ANNE LEVY: I appreciate the reasons given by the Attorney-General for the deletion of this subclause. I can also appreciate that it is in effect a breaking of the monopoly of the legal profession which I and many others would applaud. On the other hand, it would seem that one of the groups who may benefit considerably from this are employer organisations which can then use their industrial advocate to appear for one of their employer members if he is charged under the Handicapped Persons Equal Opportunity Act. This can be of benefit to employer organisations. I cannot see it being of much use to employee organisations, as individual complainants are much more likely to be represented by the Commissioner before the tribunal without bringing in any industrial union advocate to represent them.

I realise that the deletion of this clause would allow trade union industrial advocates to appear. I presume that there is no question that the Commissioner could charge a fee to any person whom she represented before the tribunal. In the vast majority of cases where a complaint is made, conciliation is impossible and hence it is taken to the tribunal. The Commissioner will be representing the complainant, anyway, whether this clause is there or not. I wonder whether the removal of this clause is as a result of this suggestion from employer organisations.

The Hon. K. T. GRIFFIN: It does not really do what the honourable member suggests because an appearance before the tribunal is governed by subclause (4), which provides:

A person appearing in proceedings before the tribunal:

(a) shall be entitled to appear personally or by counsel; or

(b) may, by leave of the tribunal, be represented by a person other than a legal practitioner.

So, whether subclause (5) is there or not, employer organisations and employee organisations in particular will still have to obtain leave to represent either their own organisation members or others before they can in fact appear. It is not common, as I understand it, for those sorts of advocates to make any charges to their members or organisations because they are employed by employee or employer organisations. I do not think it really has the consequence to which the honourable member refers. It merely gives the opportunity to someone who does get leave to appear who may not be a legal practitioner or even an industrial advocate to at least be eligible to make a

charge where appropriate. Certainly the Commissioner for Equal Opportunity will not make a charge.

Amendment carried; clause as amended passed.

Clause 18 passed.

New clause 18a—'Tribunal may conciliate.'

The Hon. K. T. GRIFFIN: I move:

Page 7, after clause 18—Insert new clause as follows:

18a. (1) If before or during the hearing of any proceedings under this Act it appears to the tribunal either from the nature of the case or from the attitude of the parties that there is a reasonable possibility of the matters in dispute between the parties being settled by conciliation, one or more members of the tribunal may:

(a) interview the parties (either with or without any person who may be representing any of them); and

(b) endeavour to bring about a settlement of the proceedings on terms that are fair to all parties.

(2) Nothing said or done in the course of any attempt to settle proceedings under this section shall subsequently be given in evidence in any proceedings, nor shall a member of the tribunal involved in the attempt be thereby disqualified from sitting to continue the hearing of the proceedings.

(3) Where proceedings are settled under this section, the tribunal may embody the terms of the settlement in an order.

This clause really is the key to the conciliation emphasis of the Bill. There is an Act called the Conciliation Act which I think is dated 1929 and which allows courts and tribunals, provided they are given that task specifically, to conciliate as well as adjudicate. It is used, albeit infrequently, in the Supreme Court and the Local and District Criminal Court. It has been used on occasions and to some effect where parties perhaps appear to be irreconcilable on the issue brought before the court. Judges have in the past called parties into chambers and discussed matters off the record in an endeavour to reach settlement. Whatever occurs under that conciliation process in courts is not then later used against or for either party. New clause 18a spells out that procedure so that the tribunal in this case will be able to conciliate or endeavour to reach a settlement between parties if that is at all possible. If all else fails, we can continue with the arbitration process. I believe that it is an important emphasis in the Bill.

The Hon. ANNE LEVY: I agree with what the Attorney has said, and commend the Government for putting such a procedure into the legislation. My only surprise, perhaps, is that it has waited until this stage to do so and that this provision was not included in the original Bill.

The Hon. G. L. BRUCE: I should like to know how subclause (2) will work in practice, when possibly some of the things that are said by the private arbitrator to settle the matter could be vital and should be brought out in the public forum of the commission. Does that stifle the possibility of being able to bring out the matter in the public forum, and will it inhibit the legislation?

The Hon. K. T. GRIFFIN: No, it will not. It seeks to ensure that, in an attempt to conciliate, things that may not be said in open court can be said frankly and openly in the conciliation process without the risk that these statements will be used against a person. It is really in the nature of obtaining a confession or admissions of fact.

Perhaps admissions of fact under the Companies Act are those with which I am more familiar. There is a procedure by which a person is required to answer all questions posed by a special investigator: the answers should not be used in evidence against that person. They will be on the record of the investigation but will not be used directly against the person who made an admission. This assists in getting all the facts and, while one may not be able to use all the facts directly in the way in which they have been presented, it may well open up alternative means by which all the facts can be brought out in court. Certainly, it will not prevent cross-examination during the arbitration process on matters that are raised in the conciliation process.

The tribunal may impose some guidelines within which that sort of questioning can occur, but if, for example, an employer makes an admission in the conciliation process it will not be able to be used as evidence in the full arbitration process but it will at least disclose an area of conflict. There may well be other ways in which that can be brought into the full proceedings. I think that this happens in the Conciliation and Arbitration Commission at both the State and Federal levels. In fact, I have seen it occur when on occasions the tape recorder is switched off and the parties go off the record, after which they go back on the record.

This is a similar sort of situation, although perhaps not administered in exactly the same way. However, it is designed to have the same effect: to allow frankness and openness that will enable a compromise to be achieved in the presence of a tribunal.

The Hon. G. L. BRUCE: The Attorney-General quoted the example of an employer coming out with a valid reason for conciliation. In no way should that come out in the evidence before the commission.

The Hon. K. T. Griffin: I did not say that.

The Hon. G. L. BRUCE: Would it inhibit the cross-examination in the commission along the lines that would have extracted that information, anyway? Can this be used as an appeal? I do not disagree with the principle, although I wonder about the practicality of it.

The Hon. K. T. GRIFFIN: I do not expect that it would prejudice cross-examination in a way that would otherwise have brought out the facts. I guess that it will largely be worked out in practice and, if it needs some sort of change after we have had experience with it, we will certainly consider change. I do not think that it will inhibit settlements. Rather, I think that it will encourage them. If two satisfied parties can agree on a settlement, that is better than having one person happy and another unhappy.

The Hon. J. C. BURDETT: It may assist the Hon. Mr Bruce if I put it this way. What is prohibitive is the words that are used in the conciliation procedure being given in the evidence before the tribunal. In other words, it cannot be said that the employer or the employee said a certain thing in the conciliation procedure. However, if the matter can be extracted by cross-examination, there is no prohibition on that.

New clause inserted.

Clauses 19 to 21 passed.

New clause 21a—'Effect of this Division.'

The Hon. K. T. GRIFFIN: I move:

Page 10, after line 3—Insert new clause as follows:

21a. This Division does not prevent discrimination on the ground of physical impairment if the person suffering from the impairment is not, or would not be, able to:

(a) perform adequately, and without endangering himself or other persons, the work genuinely and reasonably required for the employment or position in question; or

(b) respond adequately to situations of emergency that should reasonably be anticipated in connection with the employment or position in question.

This new clause must be read in conjunction with the next amendment, which relates to clause 26. We are seeking with this new clause to provide more clearly that it is relevant in considering whether or not discrimination has occurred. It relates to the ability of a person to perform a task adequately and without endangering himself or other persons, and to situations where a person with a disability

would not be able to respond adequately to emergency situations.

I suppose I could give examples that might be regarded as being ridiculous, but I suppose that they tend to illustrate the point without, I hope, being taken as being ridiculous. Suppose that a person in a wheelchair sought a job operating the blast furnace at the smelters. It may well be that that person would have to work on the floor near the blast furnace. However, that person may not be able to perform the task adequately and safely, and, if there was an emergency with spurting liquid metal involved, the person in the wheelchair may not be able to react with reasonable speed. It is that sort of situation that we are anxious to define clearly.

A person with a disability should be considered in relation to whether the work can reasonably be undertaken without his injuring himself or other persons, and in relation to whether the disabled person could react adequately in emergency situations. The provision clarifies clause 26.

The Hon. ANNE LEVY: I agree that new clause 21a is an extension of clause 26 and that it probably performs the same functions as a similar clause in the Sex Discrimination Act which allows discrimination where sex is a genuine qualification for a position. However, apart from actors and actresses or a wet nurse it is difficult to think of any other situation where sex is a genuine qualification. I realise that the situation in relation to handicapped people is different from the situation in relation to the Sex Discrimination Act.

New clause inserted.

Clause 22—'Discrimination against applicants and employees.'

The Hon. R. C. DeGARIS: I realise that this approach is taken in the Sex Discrimination Act. However, I am informed that it has caused some difficulty. In legislation such as this I believe that every effort should be made to ensure that conciliation takes place at all stages of negotiations. By and large, as far as handicapped people are concerned, industry and commerce has played its part in the employment of handicapped people. I believe we should give employers every chance for self-regulation before adopting a clause such as this. I query the use of this clause, which states:

> It is unlawful for an employer to discriminate against a person on the ground of his physical impairment.

I believe that every effort should be made to conciliate before we consider an action to be unlawful.

Sir Charles Bright, in his capacity as Chairman of the Committee on the Rights of Persons with Handicaps, stated in his report:

> In this section we concentrate upon law reform issues relating to the employment of persons with disabilities. We also discuss initiatives taken elsewhere in South Australia to assist them in finding satisfactory employment. As mentioned in our discussion paper, we regard completely comprehensive discussion and recommendations in this area as being beyond our terms of reference.

Therefore, the Bright Report did not make any firm recommendations in relation to handicapped persons and employment. As I mentioned earlier, there is a similar provision in the Sex Discrimination Act, but I am informed that it is one part of that Act which is causing some concern. Apart from this Bill and the Sex Discrimination Act there is no other legislation which allows people in private employment to challenge the actions of an employer in the offer of employment, the terms of employment, the access to promotion or other benefits. My basic view remains: that discrimination against any group in the community is wrong.

I realise that I am touching on what is probably a very difficult question. I do not want anyone to interpret what I have said as being opposed to equal opportunity for all people in the community, because that is not so. I believe the use of the word 'unlawful' in this clause and in the Sex Discrimination Act is wrong. Has the Attorney given any thought to this matter? Can it be approached in a different way to ensure that all avenues of conciliation are explored before any action is taken?

The Hon. K. T. GRIFFIN: The employment provisions of this Bill, as with the Sex Discrimination Act, are most difficult to come to grips with, and I suppose that they will create the most amount of work for the Commissioner and the board. The Government has given considerable thought to the employment provisions of this Bill, and believes that, along with some of the amendments which have already been carried, it will to a large extent overcome the concern which has been expressed about this clause.

There is a clear emphasis on conciliation, and there is a clear responsibility for frivolous or vexatious complaints to be dismissed. The principles upon which discrimination is to be established are set out very clearly. I believe that the balance in situations where there is a willing employer who is prepared to employ a disabled person, and a willing applicant for that job who is suffering from a disability is important. I believe the whole community has a lot to learn about disabled people, and it has a lot of learning to do before there is total acceptance of disabled people. Employers, educators and other people in the community have already learnt a lot, but there is still a long way to go.

I believe that this Bill will set a standard and will be a basis for educating people to change their attitudes towards the disabled. As a result of this year of the disabled and this Bill I am sure that employers and many others will come to accept persons with disabilities and allow them to show what they can really do. Many disabled people have shown that they can do things which non-disabled people cannot do. Disabled people have an incredible amount of ability, and I would like to see it reflected much more widely throughout the community, including employment situations.

Because of the way in which the Bill has come together, and with the amendments, that emphasis will not be lost on employers and applicants for employment. It will not be lost on the Commissioner in her conciliation role or on the tribunal where there is both the conciliation role and, finally, the arbitration role.

The Hon. ANNE LEVY: Following what I said in the second reading debate, I point out that the equivalent provision in the Sex Discrimination Act provides that the provision does not apply where there are fewer than five employees, and this is not being included in this Bill. I applaud the fact that it is not included, and I would like to see that same provision removed as quickly as possible from the Sex Discrimination Act particularly as I understand that the Commissioner and her staff believe that questions of sexual harassment may be treatable under the Sex Discrimination Act but, because the Act permits discrimination where there are fewer than five employees, no action can be taken in small firms where sexual harassment occurs. From the surveys that have been undertaken, these are precisely the situations where sexual harassment is most frequent. Therefore, to remove that provision or exemption in regard to fewer than five employees is necessary and I am glad that it occurs in this Bill, so that small firms cannot claim exemption from the changing attitudes that we feel should be evident throughout society.

Clause passed.

Clauses 23 to 25 passed.

Clause 26—'This Division does not apply to discrimination in certain cases.'

The Hon. K. T. GRIFFIN: As I indicated when speaking to clause 21a, and as the result of that amendment, this clause should be opposed.

Clause negatived.

Clauses 27 to 29 passed.

Clause 30—'Discrimination by educational authorities.'

The Hon. ANNE LEVY: I referred to this clause in the second reading debate and the Minister indicated that he would be consulting with the Minister of Education in this regard. It is a complicated situation and the Minister may not yet have had time to undertake that consultation. This clause is also covered by clauses 40 and 41, which provide general exceptions. For example, it could cover a school established for the blind and the case of parents of a deaf child wishing the school to enrol that child. The school would not be discriminating under clause 40 if it refused to enrol that child. There may still be tricky situations which are not covered in cases of normal children whose parents wish to enrol them in a school for the disabled in some category, but section 30, when viewed in the light of the exceptions set out in clauses 40 and 41, probably covers most cases. I hope that if any difficulties arise as a result of no particular exemption being applied in clause 30, as exists in the Sex Discrimination Act, the Government will consider amending the legislation to cover any situation that arise in the future.

The Hon. K. T. GRIFFIN: What the honourable member has said suggests that in most situations there will not be any difficulty. I have not had an opportunity to consult with education authorities about the matters raised by the honourable member a day or so ago. I will do that. If there is any difficulty in the course of the implementation of this legislation, we would certainly be prepared to consider an amendment. When this Bill was first available earlier this year it was forwarded to all departments, including the Education Department, and no unfavourable comment was received in regard to the education provisions.

Clause passed.

Clauses 31 and 32 passed.

Clause 33—'Blind person not to be separated from his guide dog.'

The Hon. K. T. GRIFFIN: Honourable members will see that a significant addition is intended to this clause: that is, if a person is separated from his or her guide dog, then an offence is committed and a penalty not exceeding $1 000 should apply. If we had not provided for that sanction there would be no effective sanction against a person who had unlawfully separated a person who was blind or partly blind from that person's guide dog.

We believe it important to have what is provided in the amendment. I also think it important to note that there may be some legislation that would separate a blind person from that person's guide dog for safety reasons. If there is such legislation, although I am not aware of it, that legislation will be reviewed in conjunction with the implementation of this measure. The important part is that there is to be a sanction for separating a person from his or her guide dog unlawfully.

Clause negatived.

New clause 33—'Blind persons may not be separated from their guide dogs.'

The Hon. K. T. GRIFFIN: I move to insert the following new clause:

33. Subject to this Act:

(a) it shall be unlawful to impose any condition or requirement that would result in a person who is blind, or partially blind, being separated from his guide dog; and

(b) a person who imposes any such condition or requirement shall, in addition to any civil liability that he might incur by so doing, be guilty of an offence and liable to a penalty not exceeding one thousand dollars.

New clause inserted

Clauses 34 to 42 passed.

Clause 43—'Acts done under statutory authority.'

The Hon. K. T. GRIFFIN: This clause has received a great deal of attention because it was not clear that an overlap with legislation such as the Workers Compensation Act was avoided. The Hon. Mr Foster has referred to some conflict in the workers compensation area. The amendment seeks to clarify that this legislation does not override other legislation such as the workers compensation legislation or industrial health, safety and welfare legislation, which is designed to deal with special circumstances or relationships.

I think it would be unfortunate if those pieces of legislation designed to deal with specific situations were overridden by this legislation. I am not aware of any discriminatory aspects of this legislation, although I foresee, I suppose, that in the industrial health, safety and welfare legislation there may be a reason why a person with a certain physical disability should not be on certain premises or in a certain position. If the provisions in the Bill were passed, it would not be clear that the industrial health, safety and welfare legislation was paramount. The new clause makes that clear.

Clause negatived.

New clause 43—'This Act not to derogate from other Acts.'

The Hon. K. T. GRIFFIN: I move to insert the following new clause:

43. Except as provided in section 55—

(a) this Act does not derogate from the provisions of any other Act or of the regulations under any other Act; and

(b) in case of conflict between the provisions of this Act and the provisions of any other Act or of regulations under any other Act, the latter shall prevail.

New clause inserted.

Clause 44—'Temporary exemptions.'

The Hon. ANNE LEVY: I raise the question of general exemption and again make a comparison between this legislation and the Sex Discrimination Act, which also has general exemption. The Sex Discrimination Act makes exemption for religious bodies, which this legislation does not do. I do not suggest that it should but it seems an odd commentary on our society that religious bodies wish to exercise discrimination on the grounds of sex but not on this.

I wish also to raise another point raised in the Sex Discrimination Act that is not in this Bill. The Sex Discrimination Act gives exemption where strength, stamina or physique is relevant. I would have thought this was just as relevant for the physically handicapped as in a case of sex discrimination, if not more so. It seems that in sex discrimination it is perhaps unnecessary but that it would be relevant in the case of physical handicap.

The Hon. K. T. GRIFFIN: I do not think it appropriate to debate that question in the context of the Bill. There will be an occasion in future to consider that point. The Government has taken the view that it is not necessary to include that sort of provision in the Bill. If applications are made to the tribunal, and the tribunal feels that there is a case for granting an exemption, it can grant it. I think that the question of the Sex Discrimination Act opens up a

whole area and I would not like to embark on a discussion of that now.

Clause passed.

Clause 45—'Non-discrimination orders.'

The Hon. ANNE LEVY: I move:

Page 18, line 4—After 'may,' insert 'of its own motion, or'.

I refer again to the Sex Discrimination Act. I am sorry if it is boring to do so, but the two Acts are similar. The Sex Discrimination Act provides that the tribunal may, of its own motion or on the application of the Commissioner, hold an inquiry to determine whether a person has contravened or is contravening any provision of the Act. The Bill deletes 'of its own motion' and the Handicapped Persons Tribunal will be able to undertake inquiries only on the application of the Commissioner as the Bill stands, or of the Minister as an amendment suggests. I have no objection to the amendment proposed by the Attorney-General changing 'Commissioner' to 'Minister'. It seems desirable that the tribunal could undertake an inquiry if it felt necessary and the tribunal will realise the sort of situation where an inquiry is needed.

The Minister will not have the day-to-day experience that would indicate the necessity for inquiries. In consequence I think it very important that the tribunal have the same power in this regard as the Sex Discrimination Board has and that, in the light of its experience, it may hold an inquiry into matters related to discrimination, in this case on the grounds of handicap.

The Hon. K. T. GRIFFIN: I have some difficulty with the amendment. This is really the first time that the Hon. Anne Levy and I are going to cross swords during the course of this debate. I do have some difficulty accepting the concept that the tribunal, which exercises functions essentially of a judicial or *quasi* judicial nature, must also in a sense have administrative or executive responsibilities. The executive or administrative responsibility, if amended, would be to make a decision as to whether or not an inquiry ought to be conducted and then to conduct that inquiry. It would seem that in that context the tribunal is not only an adjudicator but also the prosecutor, which is an inappropriate combination of functions for a body such as the Handicapped Persons Discrimination Tribunal. It is quite appropriate that the Minister should be able to give instruction to the tribunal which would be done in conjunction with the Commissioner undertaking the prosecuting role (if that is an appropriate description), with the tribunal really acting as the final decision-maker on matters which are raised during the course of that inquiry.

I suppose the other aspect, although an aspect which is of less significance but still important, is that there are financial implications in any body acting independently of the Government or the Minister in pursuing a course of action, particular where it has the sort of functions which predominantly the Handicapped Persons Discrimination Tribunal has. I would be concerned if, without any reference at all to the Minister, the tribunal was able to embark on an extensive inquiry which may cost tens or even hundreds of thousands of dollars of taxpayers' money without being accountable for it. The Minister ought to be accountable for that sort of expenditure and ought to be accountable for the decision whether or not to pursue an inquiry of that sort. For those reasons I oppose the amendment.

The Hon. ANNE LEVY: I really cannot follow the logic that the Minister is applying in this case. He is saying that it is not appropriate for a tribunal to carry out an inquiry, yet he is proposing a clause where by the tribunal can carry out an inquiry if the Minister asks it to. If it is inappropriate for the tribunal to carry out an inquiry of its own volition, it would be just as inappropriate for it to carry it out when requested to do so by the Minister. It seems that that argument does not wash. Either the tribunal has a function of carrying out inquiries or it is inappropriate for it to do so. If it has that function it should be able to do so on its own motion as well as when requested by the Minister. That part of his argument just does not hold water.

With regard to the costs involved, that is incredible. If the Minister really wants this legislation to work, it is going cost money. Obviously there is no point in having the legislation if it is merely window-dressing and if no money is going to be expended in making sure it works. Just passing the law is not going to change the situation for handicapped persons. It will have to be administered, there will have to be staff and fees to tribunal members, and all sorts of expenses will be involved if the legislation is to work. To complain that it might cost money seems to me absurd. Either the legislation is meant to work, in which case money will have to be spent, or else it is pure window-dressing and the Government does not intend to devote resources to it to see that it works. I feel that my arguments in favour of this amendment quite outweigh anything that the Minister has said.

The Hon. K. T. GRIFFIN: The honourable member has suggested that if the legislation is going to work money will have to be spent on it. There is no disagreement on that at all. It is a question of the way in which the money will be spent that really is the key to my consideration of this amendment, because the tribunal will operate under a budget which is voted by the Parliament on the recommendation of the Government. Within that budget there will not necessarily be provision for large amounts to be spent on independent inquiries. It is that aspect that concerns me. If it were able to embark on an inquiry of its own volition, it might do so without any accountability for the cost incurred as a result of that inquiry, using money which might otherwise be spent in other ways in administering the legislation. So far as the first point made by the honourable member is concerned, I indicated that if the tribunal conducted these inquiries with the concurrence of the Minister I would expect that to be undertaken in conjunction with arrangements being made concerning the Commissioner for Equal Opportunity or some other person prosecuting or assisting the tribunal in conducting the inquiry. If there is some opportunity for the Minister to relate the inquiry to the functions of the Commissioner and the assistance which is being given to the Commissioner, that will be a much more effective inquiry than if the tribunal embarks on its own inquiry, on its own initiative, without any reference to the Government, incurring what may be considerable cost, which may not have been adequatley provided for in the course of budgetary arrangements.

The Hon. ANNE LEVY: The Minister keeps reiterating quite inadequate reasons. If the tribunal, when asked by the Minister, can carry out an inquiry and have the Commissioner co-operate and help, I fail to see why the same Commissioner cannot co-operate and help if the tribunal, on its own motion, initiates an inquiry. The same situation can apply and should apply. In regard to the expenditure involved, the Minister says that there may not have been a Budget line for it. There may not have been a Budget line when the Minister requests the tribunal to carry out an inquiry. Where would the money come from then?

It seems to me that the Minister's arguments are really against having the tribunal carry out any inquiries. However, he is not suggesting that. He is saying that the tribunal should carry out inquiries only when requested by

the Minister. It seems to me that any argument against the tribunal's carrying out inquiries applies with equal force to its carrying out an inquiry when requested by the Minister. Yet the Attorney-General approves of the tribunal's conducting inquiries when requested by the Minister.

It seems to me that, by the same reasoning, the Minister should approve of any inquiries that are carried out by the tribunal on its own motion. After all, they will be the people who will know the situation far more than will the Minister, and they will be far more aware of where discrimination is or may be occurring. The Minister is not in touch with these things every day and, although it is appropriate certainly that the Minister should be able to request the tribunal to carry out an inquiry, it seems to me that the tribunal should be able to conduct an inquiry on its own motion where it feels that this is necessary and desirable.

The Committee divided on the amendment:

Ayes (8)—The Hons. Frank Blevins, G. L. Bruce, J. R. Cornwall, C. W. Creedon, J. E. Dunford, N. K. Foster, Anne Levy (teller), and C. J. Sumner.

Noes (9)—The Hons. J. C. Burdett, J. A. Carnie, L. H. Davis, M. B. Dawkins, R. C. DeGaris, K. T. Griffin (teller), C. M. Hill, K. L. Milne, and R. J. Ritson.

Pairs—Ayes—The Hons. B. A. Chatterton and Barbara Wiese. Noes—The Hons. M. B. Cameron and D. H. Laidlaw.

Majority of 1 for the Noes.

Amendment thus negatived.

The Hon. K. T. GRIFFIN: I move:

Page 18, line 4—Leave out 'Commissioner' and insert 'Minister'.

I have already explained the reasons for this amendment.

Amendment carried.

The Hon. K. T. GRIFFIN: I move:

Page 18, after line 6—Insert subclause as follows:

(1a) A single inquiry may be held under this section in relation to several allegations or matters of the same or a similar nature.

This is largely a matter of drafting, and it ensures that the tribunal may conduct a single inquiry where there are several allegations of the same or a similar nature.

Amendment carried.

The Hon. K. T. GRIFFIN: I move:

Page 18, lines 22 to 24—Leave out subclause (4).

This is consequential upon the last amendment.

Amendment carried; clause as amended passed.

Clauses 46 and 47 passed.

Clause 48—'Proceedings before tribunal.'

The Hon. ANNE LEVY: I move:

Page 19—

Line 27—Leave out 'amount' and insert 'damages'.

Line 28—After 'loss' insert 'or damage'.

After line 39—Insert subclause as follows:

(3a) The damage for which a complainant may be compensated under subsection (2) includes injury to his feelings.

I will speak to all the amendments, as they are interrelated and consequential upon each other. Their purpose is to ensure that, when the tribunal considers that monetary compensation is required for a complainant whose complaint has been upheld and who has been discriminated against, damages including compensation for injury to hurt feelings can be taken into account.

It seems to me that this is necessary, quite apart from the anology that occurs in the Sex Discrimination Act. As the clause stands at present, the tribunal can order compensation for loss only, and I am told that in the legal sense 'loss' is a fairly narrowly defined term, strictly quantifiable. If someone is refused a job and discrimination has occurred in that refusal, the loss may involve the wages that would otherwise have been received. In such a case, the tribunal could order the respondent to pay those wages; in other words, it could order the respondent to pay what had been lost by the person discriminated against.

However, there are many situations where discrimination can occur and where there may be no monetary loss at all. If a handicapped person was, for example, refused admission to a football game and it was shown later that this was discrimination on the grounds of physical impairment, the person involved would have suffered no financial loss at all. He would not have suffered any loss because he was not admitted. So, financially, there would be no need for compensation.

However, if this amendment was carried, the tribunal would then be able to say to the complainant, 'Although there was no financial loss, it was definitely an injury to your feelings that you were turned away incorrectly and unlawfully, and you should get compensation for that.' My amendment will enable that to occur.

Without this amendment I believe that a complainant who has not suffered financial loss through discrimination has no remedy at all. If the respondent went before the tribunal and the tribunal agreed that discrimination had occurred, it could only tell the respondent not to offend again. That is not necessarily helping the person who has been illegally discriminated against. It is quite legitimate, even where financial loss has not occurred and where it has been shown that a person has been illegally discriminated against, to award compensation for that discrimination.

The Hon. K. T. GRIFFIN: I believe that the construction given to this clause by the honourable member is much too narrow. It is correct that there is no provision for damages to be awarded for injury to feelings. If one looks at the matter objectively one cannot really justify the creation of a new course of action which would allow damages to be paid for injury to one's feelings. I suppose that it is akin to damages for pain and suffering. It should be remembered that we are seeking to make acts of discrimination unlawful and that a penalty will be imposed if an offence has been committed and the person who has committed the offence is found to be guilty. The penal side of this Bill is important.

The Hon. Anne Levy: An offender can only be told not to offend again.

The Hon. K. T. GRIFFIN: Subclause (4) provides for a fine of $2 000.

The Hon. Anne Levy: Only if a person offends again. There is no penalty for a first offence.

The Hon. K. T. GRIFFIN: If the Commissioner imposes a requirement, clause 47 (4) will apply for non-compliance with that requirement and the same penalty will apply. There is provision to compensate a person who is the subject of discrimination. In the case of loss of earnings in an employment situation, I believe it is appropriate for compensation to be paid, but I do not consider that any additional compensation should be paid for injury to feelings due to the loss of an employment opportunity.

In relation to denied access to a football match, compensation could be awarded to allow entry to some other sporting match which might be of equal interest to the complainant. I believe that clause 48 allows for adequate sanctions and that there is adequate provision for compensation for loss. It is compensation for loss and not just a payment for loss; the two must be read together. If this clause creates practical difficulties I am certainly prepared to look at it again. However, I am happy with the provision as it is drafted, and I do not want to open up a

completely unknown quantity by introducing the concept of damages which could be wide-ranging and which could include, but not necessarily be exclusive to, injuries to a person's feelings.

The Hon. ANNE LEVY: It will not open up a can of worms or do something unexpected, because this provision already exists in the Sex Discrimination Act. I am attempting to insert an identical provision in this Bill. The Sex Discrimination Act has power to award compensation for damages, including injury for hurt feelings, but I do not think that anyone could suggest that the Sex Discrimination Board has abused that power. It could not be suggested that because the Sex Discrimination Board has this ability it is detrimental. I merely want to give the Handicapped Persons Discrimination Tribunal the same powers as the Sex Discrimination Board.

The Attorney-General suggested that a person who is denied access to a football match might receive entry somewhere else, but I was referring to a situation where a handicapped person has not been admitted. In that situation they have not suffered any financial loss whatsoever, except perhaps the cost of transport to get to the oval. It is fairly obvious that the Minister has never experienced what he regards as unjust discrimination, but I can assure all honourable members that I have. I am not handicapped, but I have been discriminated against on the grounds of my sex.

I can recall one particular incident and, even though it occurred 13 years ago, I still get extremely angry when I think about it. I believe it is quite appropriate that I should have received some monetary compensation from the people who behaved towards me in such a dastardly manner. I can appreciate that handicapped people will feel exactly the same way if they are unjustly and unfairly discriminated against. At the moment, if the tribunal rules that unfair discrimination has taken place, it cannot award any compensation whatsoever. That is grossly unfair, particularly in relation to the Sex Discrimination Board.

The Committee divided on the amendments:

Ayes (8)—The Hons Frank Blevins, G. L. Bruce, J. R. Cornwall, C. W. Creedon, J. E. Dunford, N. K. Foster, Anne Levy (teller), and C. J. Sumner.

Noes (9)—The Hons J. C. Burdett, J. A. Carnie, L. H. Davis, M. B. Dawkins, R. C. DeGaris, K. T. Griffin (teller), C. M. Hill, K. L. Milne, and R. J. Ritson.

Pairs—Ayes—The Hons M. B. Chatterton and Barbara Wiese. Noes—The Hons M. B. Cameron and D. H. Laidlaw.

Majority of 1 for the Noes.

Amendments thus negatived; clause passed.

Clause 49 passed.

Clause 50—'Appeal.'

The Hon. ANNE LEVY: I referred to subclause (4) in the second reading speech. I said it was unique, and I hope it does not mean that there have been problems in regard to this matter or in regard to clause 53, which is also a new clause. I hope there have not been problems involving people molesting, wilfully insulting, hindering or obstructing the Commissioner and that these clauses are purely provisionary in order to cover actualities and not resulting from unpleasant experiences.

The Hon. K. T. GRIFFIN: I understand that subclause (4) was included to clarify the position and not to deal with any difficulty. The same applies to clause 53.

Clause passed.

Clauses 51 to 54 passed.

New clause 54a—'General defence where Commissioner gives written advice.'

The Hon. K. T. GRIFFIN: I move:

Page 21, after clause 54—Insert new clause as follows:

54a. (1) Subject to this section, it shall be a defence in any proceedings under this Act (whether of a civil or criminal nature) for the defendant to prove:

(a) that the act or omission forming the subject matter of the charge, complaint, claim or inquiry was done, or made, in accordance with written advice furnished to the defendant by the Commissioner; and

(b) that the Commissioner had not, by notice in writing served personally or by post on the defendant, retracted that advice before the date of the act or omission in question.

(2) Where a person proposes to act upon the advice of the Commissioner to the detriment of another, he shall at least seven days before so doing:

(a) notify that other person of the action that he proposes to take against him; and

(b) furnish him with a copy of the advice upon which he proposes to act together with a statement in the prescribed form, of his rights under subsection (3),

and if he fails to do so he shall not be entitled to rely on the defence provided by subsection (1).

(3) A person may, within seven days after receiving a notification under subsection (2), apply to the tribunal for a declaration as to whether the advice of the Commissioner is correct.

(4) The period limited by subsection (3) for the making of an application for a declaration is not capable of extension under the provisions of any other Act.

(5) The Registrar shall cause a copy of an application under subsection (3) to be served personally or by post upon the Commissioner and the person to whom he furnished the advice.

(6) Where a person to whom advice is furnished by the Commissioner acts upon that advice before an application for a declaration under this section in relation to the advice is determined, the defence provided by subsection (1) shall be available to that person in any proceedings under this Act in respect of his action, if the tribunal declares that the advice is correct or if the application is withdrawn or dismissed, but shall not be available in any such proceedings if the tribunal declares that the advice is incorrect.

(7) Where in any proceedings under this section the tribunal declares that advice furnished by the Commissioner is incorrect, the advice shall for the purposes of subsection (1), be deemed to have been retracted on the date of the commencement of those proceedings.

I have referred to this new clause already, but it is part of the provision which I think is a new concept of allowing the Commissioner to give what are in essence advisory opinions, and for a person to whom the opinion is given to be able to rely on that opinion until it is rejected either by the Commissioner or by the tribunal. One of the problems I think in the early stages of the Sex Discrimination Act was the uncertainty of the scope of the operation of that Act. The real difficulty is that persons had to act and then face the consequences whilst being unsure whether they were doing something that was legal or illegal. What we are doing in this Bill is to overcome that and create more certainty.

New clause inserted.

Remaining clauses (55 and 56) passed.

Title.

The Hon. K. T. GRIFFIN: I move to amend the title, as follows:

Leave out 'render unlawful certain kinds of discrimination on the ground of physical impairment and to provide effective remedies against such discrimination' and insert 'prevent certain kinds of discrimination based on physical impairment; to provide for the resolution of problems faced

by persons with physical impairments and to facilitate their participation in the economic and social life of the community'.

I want to amend the long title, to amplify it. I need not expand upon it, but one of the concerns that was expressed during the exposure period of the Bill was that the long title did not really adequately express the objective of the legislation. The redraft, as expressed in the amendment, will achieve that objective.

Amendment carried; title as amended passed.

Bill read a third time and passed.

LEGAL PRACTITIONERS BILL

(Continued from 3 June. Page 3796.)

In Committee.

Title passed.

Bill recommitted.

Clause 51—'Right of audience'—reconsidered.

The Hon. K. T. GRIFFIN: I move:

Page 26, after line 18—Insert new subclause as follows:

(1a) A legal practitioner who is an employee of another legal practitioner who is practising the profession of law as a principal is not entitled to appear on instructions from his principal before a court or tribunal as counsel or solicitor for any other person by whom he is employed or for any client of that other person.

The Leader's amendment is now in clause 51 but, as I indicated last night, I believed there was still some difficulty with the provision. My amendment leaves the Leader's amendment in the Bill but provides an additional subclause that inserts that a person who is a part-time employee with a legal practitioner is not able to represent in court, on the instructions of his or her principal, a person by whom the person is otherwise employed on a part-time basis.

We want to prevent possible abuse of the opportunity to appear in court where the legal practitioner is an employee of another legal practitioner and the employee works on a part-time basis. Any appearance in court by such an employee legal practitioner should be only on the business of the principal, not on the business of someone for whom the employee's legal practitioner otherwise acts or is otherwise employed.

The Hon. C. J. SUMNER: The combined effect of my amendment and the one that the Attorney has moved seems to overcome the problem.

Amendment carried; clause as amended passed.

Clause 90—'Lay Observers'—reconsidered.

The Hon. K. T. GRIFFIN: I move:

Page 45, after line 46—Insert new subclause as follows:

(4) A complainant in proceedings before the Committee or Tribunal who is dissatisfied with the proceedings or the decision of the Committee or Tribunal shall be entitled to make representations directly to the lay observer.

The amendment overcomes my concern that the lay observer is not the first point of contact for anyone who wants to make a complaint. The first point must be the Complaints Committee and the lay observer should be a point of contact if there is dissatisfaction with the decision of the committee or tribunal. If members accept the amendment, I think it is a good compromise.

The Hon. C. J. SUMNER: Compromise seems to be the order of the afternoon and, while I do not think the amendment which I originally moved and which is in the Bill should give the Attorney the concern he has expressed about a complainant seeking access to the lay observer too early in the proceedings when it may be inappropriate, I am prepared to accept the amendment, which allays his fears. What I intended was that when proceedings started in the Complaints Committee or the tribunal, the complainant ought to have access to the lay observer.

Amendment carried; clause as amended passed.

Bill read a third time and passed.

ADJOURNMENT

At 5.50 p.m. the Council adjourned until Tuesday 9 June at 2.15 p.m.