LEGISLATIVE COUNCIL

Wednesday 19 February 1986

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

PAPER TABLED

The following paper was laid on the table:

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

Pursuant to Statute—

Department of Fisheries Report, 1984-85.

QUESTIONS

OMBUDSMAN

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

Leave granted.

The Hon. K.T. GRIFFIN: Prior to the election, Mr Grant Edwards, the Deputy Ombudsman, was reported to have been facing charges under the Public Service Act. Members will remember that he was Acting Ombudsman for some 10 hours immediately after the resignation of the former Ombudsman, Ms Mary Beasley. Just prior to the election, a matter of a week or two, I understand that the Director-General of the Department of the Premier and Cabinet, Mr Guerin, requested (perhaps even directed) officers of the Crown Solicitor's Office to raid the Ombudsman's office, take possession of files and obtain information from those files which may have provided evidence against Mr Edwards.

I am told that officers of the Crown Solicitor's Office did go to the Ombudsman's office and take certain files. Honourable members will know that the Ombudsman is independent of the Government, cannot be given directions by the Government, and has certain protections from Government interference under the Ombudsman Act. Investigations of complaints by the Ombudsman are confidential. However, the Acting Ombudsman, Mr Biganovsky, could not resist the entry to his office by officers acting on behalf of Mr Guerin because the Acting Ombudsman does not have the protections of the Ombudsman Act against the Public Service.

Obviously, whatever files were taken by the Crown Solicitor's Office, the matter causes grave concern. Persons make complaints to the Ombudsman against Government officials and departments on a confidential basis and their confidence in the Ombudsman would be shaken if they knew the potential for their complaints to be at risk of exposure by this sort of intrusion. My questions to the Attorney-General are as follows:

1. Did the Director-General of the Department of the Premier and Cabinet give instructions for officers of the Crown Solicitor to raid the office of the Ombudsman and confiscate files?

2. Did officers of the Crown Solicitor raid the office of the Ombudsman and, in fact, confiscate files?

3. What files were taken from the Ombudsman's office?

The Hon. C.J. SUMNER: The honourable member must be operating in tandem with his Leader in another place, because I understand that the Premier was asked a similar question. It seems a somewhat strange approach to take for the honourable member to arrange with his colleague (Mr Olsen) to ask a question in the House of Assembly seeking the same information from the Premier as he is seeking from me. One would have thought that one source of information on this topic would have been sufficient for the honourable member, but if he wishes to use his question time in that way, that is something for him, of course.

As I recall the situation, the charges against Mr Edwards were investigated on the advice and subject to the advice of the Crown Solicitor. I do not know whether the Director-General of the Department of the Premier and Cabinet gave any instructions and I am not sure, indeed, whether officers of the Crown Solicitor 'raided' the Ombudsman's office.

The honourable member obviously has received some kind of information: whether or not it is credible I suppose we will have to determine. The other thing the honourable member has overlooked, apparently, is that the employees in the Ombudsman's office are public servants and are subject to the Public Service Act. The honourable member must have overlooked that point. Those employees are, therefore, subject to the Public Service Act and the provisions of the Public Service Act and, being subject to that Act, are subject to its procedures in relation to any charges that are alleged or investigated.

As I understand it, when the allegations were made against Mr Edwards, he voluntarily decided to step aside last October and Mr Biganovsky was appointed as Acting Ombudsman. Mr Edwards was a public servant at the time and, therefore, the normal procedures to investigate the allegations were set in train. I understand that, as the public servants in the Ombudsman's Office are technically employed by the Department of the Premier and Cabinet, the Director-General of that department would be the head of department responsible for laying any charges, if charges were to be laid. He was the responsible officer in the Public Service as far as laying charges against a public servant in his department are concerned, if it was felt that there was any case for such charges to be laid.

The situation, as far as I am aware, is that following Mr Edwards's resignation the matter was investigated and the Crown Solicitor or one of her officers was involved in providing advice on that investigation to the head of the Department of the Premier and Cabinet. Anything that was done I believe was done in accordance with that advice. If that is not the situation, then I will certainly advise the honourable member.

The Hon. K.T. GRIFFIN: I have two supplementary questions as follows:

1. Will the Attorney-General in fact investigate the allegations and bring back a reply?

2. Does he agree that if files were taken from the Ombudsman's office, as suggested by me, that is a serious infringement of the independence of the office of Ombudsman?

The Hon. C.J. SUMNER: I suppose that that depends on what the honourable member is talking about. It would be interesting to know whether the honourable member would, if there were files in the Ombudsman's office that could provide evidence of a major criminal offence, still sit there and laugh about investigations into criminal offences. Would he suggest, therefore, that there should be no inquiries made of files in the Ombudsman's office? That would be absolutely irresponsible, as he well knows.

The Hon. L.H. Davis: Is that what you are suggesting?

The Hon. C.J. SUMNER: I am not suggesting that: all I am suggesting to the honourable member is that he has sought to put an absolutist position. That example indicates to him and the Council how absurd his proposition is. What I am saying is that I understand that the inquiries made into the allegations against Mr Edwards were made on the advice of the Crown Solicitor. I will certainly ascertain from her, or from the responsible officer, whether any problems occurred during the investigation.

I do not take the absolutist view that the honourable member does. If there is evidence that may be obtained as to an offence, then I do not believe that the Ombudsman's office is sacrosanct in that respect. I am astonished that the honourable member would put forward such a proposition in this Council. I do not know the details of the proposition that the honourable member is putting to the Council. I certainly have no personal knowledge of it. As far as I was concerned the investigation was handed to the responsible authorities: the Crown Solicitor was involved in advising about the matter and Mr Edwards subsequently resigned.

I have not obtained any further information about the matter. There was no suggestion made to me that regular procedures had not been followed. However, I am happy to make inquiries and, if there is anything that needs to be added to what I have said today, I am quite happy to do that. With respect to the honourable member's second supplementary question, I do not think that one can take the absolutist position on files in the Ombudsman's office that he has taken. I certainly would not take that attitude.

If there is evidence of an offence that may have occurred, then surely he is not suggesting that the Ombudsman should be able to cover up an offence under the criminal law, or an offence under the Public Service Act, if that is indicated. I am not suggesting that it was, but to say that the Ombudsman's office has some kind of complete immunity, if there are investigations of criminal charges or breaches of the law, or the Public Service Act or regulations, is something to which I cannot accede.

GRAND PRIX NAMING RIGHTS

The Hon. I. GILFILLAN: I seek leave to make a brief explanation before asking the Attorney-General a question about Grand Prix naming rights.

Leave granted.

The Hon. I. GILFILLAN: Today's *Financial Review* contains an article at page 27 with the large headline 'Fosters takes the grand prix'. It is also interesting that in the *Advertiser* this morning on a page fairly well into the paper there is a small article with the headline, 'Prix deal believed to be $6 m' in which a couple of comments are made and in which it is said that an announcement is expected next week. In explanation the question I want to ask, I refer to this article in the *Financial Review* in which it is stated:

Carlton & United Breweries is to cap off a multimillion sports sponsorship binge over the past year by taking the naming rights to the Australian Grand Prix in a deal believed to be worth close to $6 million over three years.

The inaugural Australian Grand Prix, staged in Adelaide on 3 November last year, is part of the International Grand Prix Formula One circuit which has a worldwide following estimated at 600 million.

Provided there are no final impediments to the deal going through, the Foster's Australian Grand Prix will join the Foster's VFL Grand Final, and the Foster's Melbourne Cup in a smorgasbord of international sporting spectaculars.

It was sponsored in its first year by Adelaide-based Mitsubishi Motors Australia and the Mitsubishi Motor Corporation of Japan at a cost in excess of $1.5 million.

Mitsubishi has first right of refusal on the three year contract but with no price ceiling on the tender, the final price could be a little above its reach. In that case the company would play a continuing but minor sponsorship role.

Carlton & United Breweries rival, Bond Brewing, and other Australian companies with international products are also believed to be looking at entering the bidding war for the plum property.

The final decision on the sponsorship arrangements will be made next month by the Adelaide Australian Grand Prix organising committee and the Formula One Constructors Association.

The committee, chaired by State Bank of South Australia chief, Mr Tim Marcus-Clark, said yesterday that discussions regarding the sponsorship arrangements were still under way.

'As the discussions have not yet been concluded with any party, we feel it inappropriate to make any comment until all arrangements are finalised,' the statement said.

The South Australian Government of Mr John Bannon has a strong interest in the outcome of the sponsorship battle. Many political observers believe that the timing and success of last year's Grand Prix helped re-elect the State Labor Government.

Carlton & United Breweries would not comment on its interest in the Australian Grand Prix last night but the company has spent about $3.5 million on various sports sponsorships throughout the country.

They are listed, but of some interest is that they had the VFL premiership competition and final series (but not the goal posts) for $600 000.

I want to explain the question briefly. I believe that there should be very serious concern about mixing the promotion of an alcoholic beverage with a much vaunted speed car event. The escalating road toll seems to be of little interest to the Leader of the Government who is more engaged in chattering across the Chamber than listening to my explanation, which is very unfortunate.

It is a fact that the road toll rose last year after the Grand Prix. It has not been established that there is not a causal effect already established between the Grand Prix and the road toll. Add to that the blend of promoting an alcoholic beverage and what sort of lethal mixture will we have? It is that explanation which prompts me to ask the following questions of the Attorney-General, as Leader of the Government in this place:

First, is the Government satisfied that there is no connection between the Grand Prix event itself and the unfortunate increase in the road toll that resulted in December last year? Is the Government investigating the grounds of any causal effect from that?

Secondly, does the Government believe that the combination of an alcoholic beverage in the naming rights of the Australian Grand Prix is appropriate or desirable?

Thirdly, does the Government believe that it is important that South Australian enterprises, rather than an interstate or national enterprise, should be granted the naming rights?

Fourthly, will the Government intervene in the deliberations of the organising committee to ensure that a South Australian enterprise, which is not blatantly promoting alcohol, is granted the naming rights?

The Hon. C.J. SUMNER: I will ignore the gratuitously insulting remarks of the Leader of the Australian Democrats about the attention I was paying to his very important question. I can assure him that I was listening with rapt attention to every word that he said, as I always do. The honourable member is obviously seeking some kind of notoriety on this matter by making assertions that even he, I am sure, in his more considered moments, would believe to be unsubstantiated. To suggest that any increase in the road toll in the month or so after the Grand Prix was necessarily related to the Grand Prix is surely something that has not been scientifically or statistically verified.

Presumably, one could go back through the history of the road toll over many years and find periods when the road toll has gone up for a month and then come down, or another period when it has gone down for a month and then come up. Those details would probably not indicate any particular reason for the movements. In fact, the overall trend over recent years has been for the road toll to come down. Last year was an unsatisfactory year, and that is acknowledged by the Government and the community. The Government has consistently taken strong action with respect to the road toll and, in particular, as the honourable member would know, with respect to alcohol and driving.

The honourable member is drawing a long bow in asserting that the increase in the road toll during the month or two months after the Grand Prix was related to the Grand Prix, when I am sure that had the honourable member

examined the statistics over a period of time he would have seen many such ups and downs in the monthly figures of people tragically killed on our roads. I know of no scientific or statistical basis for the assertion that the Grand Prix has contributed in any way to the road toll. There may be other opinions on that topic: if the honourable member is able to advance any credible views, apart from his assertions (and the honourable member is notorious for making assertions in the Council), the Government will obviously take those matters seriously.

However, the honourable member has not done that. In his usual way he has simply made an assertion without backing it up with any credible basis or evidence from a credible authority. As honourable members would know, the Grand Prix Board was established to entrepreneur, in effect, the Australian Formula One Grand Prix in Adelaide. It is essentially a commercial organisation, and the Government believes that it ought to operate as such. I have no information as to who has obtained the naming rights for this year's Grand Prix. The Minister of Tourism, who is closer to these matters than I am, has said that it has not yet been resolved. It will be discussed in the near future.

All I am saying to the honourable member is that apparently no decision has been made by the Grand Prix Board. I have read newspaper reports of Fosters being involved in a bid for the naming rights. As I have said, the Grand Prix Board is a commercial organisation and no doubt it would entertain such a bid. However, whether it would ultimately be successful, I do not know. I guess that a South Australian sponsor would be desirable if possible, but the difficulty there is whether any South Australian companies are prepared to bid for the naming rights, and at this stage I think the major problem for a South Australian company is that those rights would probably be more attractive to a company with international connections, attempting to get its message across internationally. The problem that South Australian companies generally have, apart from the multinationals that are here, concerns the question of whether South Australian based companies can compete.

Whether they would see it as being to their benefit to get the naming rights for the Grand Prix when they have no major product sales overseas, I am not sure. I believe that the honourable member, having a fleeting attachment and concern with business, being a small business person and entrepreneur in his own right on Kangaroo Island, if he had the money would not see any major benefit in his taking out the naming rights for the Grand Prix. Indeed, I suspect that a similar situation applies for other South Australian business people and companies. They have to weigh up the cost benefit of getting those naming rights.

One of the benefits they would wish is publicity, not just within South Australia but within Australia and internationally. If they do not have products that they are selling internationally, the incentive in bidding for the naming rights is reduced. I am not sure whether the honourable member was including Mitsubishi as a South Australian company. Certainly, it has an operation in South Australia but it is very much a Japanese company with an international profile, and obviously one would have thought that it was an appropriate company to bid for the rights. Whether or not it does is a decision for Mitsubishi, based on commercial considerations and its experience with last year's Grand Prix and what it felt it obtained out of it.

The Hon. I. GILFILLAN: I desire to ask a supplementary question. Is the Attorney aware of the supposition that there could be a cause between the Grand Prix and road accidents that was considered seriously by the Road Safety Council and the accident investigation unit at Adelaide University? Secondly, will the Attorney deal specifically with whether he sees it appropriate or desirable that the naming rights of the Australian Grand Prix involve an alcoholic beverage, that a company promoting and identified clearly with an alcoholic beverage obtains those rights?

The Hon. C.J. SUMNER: As to the first supplementary question, it seems that now we are able to ask five major questions and three supplementary questions. The honourable member's first supplementary question was not a supplementary question but an assertion that the road toll in November/December had been considered by the accident research group at the university and the Road Safety Council—apparently without any effect.

The Hon. I. Gilfillan interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: That is what you said: they had been considered by these groups, but the Hon. Mr Gilfillan has not come forward with any credible information—

The Hon. I. Gilfillan: I did not assert it. Read *Hansard.*

The Hon. C.J. SUMNER: The honourable member asserted it in his supplementary question No. 1. He asked whether I was aware that the Road Safety Council had considered this matter and whether it had been considered by the road traffic research unit at the University of Adelaide—

The Hon. I. Gilfillan: The answer is, 'No, you have not.'

The PRESIDENT: Order!

Members interjecting:

The Hon. C.J. SUMNER: That is the first supplementary question, the implication being that the figures had been considered by those bodies. If they have been considered, then obviously the honourable member has more information about that matter than I have. If they have been considered by those bodies I still believe that the honourable member's assertions are nothing more than assertions and are not at this stage—I always have an open mind about these matters—backed by any credible evidence.

As to supplementary question No. 2 (it sounds like X lotto), I am not aware of the Government's having expressed a view on the desirability or otherwise of Fosters being granted the naming rights. As I said, and I thought I answered this question by indicating that the Grand Prix Board was a commercial organisation established to entrepreneur the race in Adelaide, it did it very successfully last year.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: I am not sure whether the honourable member was present at the Grand Prix last year, but I can assure him that his former Leader was there. His former Leader, the Hon. Lance Milne, enjoyed the Grand Prix thoroughly and was there all day and every day for the entire four days.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order! I call the Hon. Mr Davis to order.

The Hon. C.J. SUMNER: If it is any consolation to the Hon. Mr Gilfillan, I believe that the Hon. Mr Milne's presence at the Grand Prix contributed in no small measure to the success of the event. As I understand it, the Government has taken no position on this topic. However, as the honourable member has seen fit to raise it in the Council, if there is any different position than that to which I have outlined, I will bring down a reply for the honourable member.

ELECTORAL SYSTEMS

The Hon. J.C. IRWIN: I seek leave to make a brief statement before asking the Attorney-General as Leader of the Government in this Council a question about the Fed-

eral Government's intention to legislate against unfair State electoral systems.

Leave granted.

The Hon. J.C. IRWIN: As honourable members would know, a position has arisen in federal debate on the Bill of Rights, where the Prime Minister has pledged on behalf of his Government a compromise, to not toughen the Bill of Rights applying to State laws—as demanded by the federal Labor Caucus Legal Committee and the Democrats—in exchange for foreshadowed separate legislation by the federal Attorney-General to deal with unfair State electoral systems. I remind the Council that the Western Australian Premier, Brian Burke, has been twice elected on what he calls a gerrymander—and the worst in Australia according to Malcolm Mackerras. Prior to his first election win Mr Burke said:

> The other factor, of course, is the electoral system which is hopelessly unfair and will be the single biggest factor we have to overcome.

Mr Burke says that he is determined to bring about electoral reform in Western Australia. Although he has said that he will vigorously oppose Federal Government legislation, Mr Burke may seek Federal Government support if moves for reform are opposed by the Western Australian Legislative Council. I put it to the Attorney that an unfair electoral system can be seen as one that does elect a Government which in practise does not receive 50 per cent of the total State vote, even though it is operating on a so-called one vote one value system.

Therefore, although South Australia is seen to be nearly fair, a Federal Government could nevertheless try to impose a Hare-Clark or proportional representation system on the States. It is common knowledge that the Prime Minister believes in centralist Government. We have seen the Prime Minister use the Air Force during the Tasmanian dam dispute—

The PRESIDENT: Order! I do not see that what happened in Tasmania is in any way relevant to unfair State electoral systems. The honourable member's question deals with unfair State electoral systems—that is what the honourable member said. It is not a Biggles operation in any way. I am sorry to interrupt the honourable member, but I think it is important to establish that anything said in explanation must be relevant to the question.

The Hon. J.C. IRWIN: We have also seen the Prime Minister use an external affairs power internally to diminish State rights. The present proposal to deal with State electoral systems is yet another example. Does the Attorney agree with Mr Bowen's foreshadowed legislation dealing with unfair voting systems in the States? If not, will he defend the South Australian Electoral Act which he guided through this Parliament?

The Hon. C.J. SUMNER: I have not seen the Federal Government proposal on State electoral systems. Indeed, at the present time there is a Senate Standing Committee on Legal and Constitutional Affairs investigating a Bill introduced into the Australian Senate by my good friends the Australian Democrats; that Bill introduces electoral systems based on one vote one value throughout Australia. So, the proposition that is being put—namely, that there should be federal legislation to ensure that throughout Australia all electoral systems are fair—is one that is already under consideration by the Senate Standing Committee on Legal and Constitutional Affairs. It is not a proposition that has just been floated by the Attorney-General, Mr Bowen, nor indeed by the Prime Minister: it is a proposition that is already before the Parliament, and being investigated by the Senate following the introduction of a Bill by Senator Mason of the Australian Democrats.

Until I have seen the final proposition, I am not in a position to express a view on the matter. However, I support any moves in Australia to improve the voting systems in those States where the voting systems are grossly unfair. The fact of the matter is that I believe that the South Australian system is as fair as any in Australia, and it is as fair and democratic as any in any democratic country. Therefore, South Australia, as a result of the labours of the Australian Labor Party over many years, would have nothing to fear from legislation calling for one vote one value and a fair electoral system. We already have a fair electoral system in South Australia, and it is probably worthwhile reminding ourselves that that is no thanks to honourable members opposite, or at least their predecessors who did everything they could over many years to thwart electoral reform in this State.

Of course, electoral reform was achieved in the Legislative Council by the passage of Bills only in 1973 and in the House of Assembly by the passage of Bills in 1975, after some 20 years of struggle by the Labor Party to produce electoral reform and a just electoral system in this State. They were proposals that were opposed consistently by honourable members of the political colour of those who sit opposite. As a result of those endeavours, I do not believe that South Australia has anything to fear from a federal proposition that would ensure that all States adopt fair electoral systems.

We have the iniquities of the electoral system in Queensland which I do not believe that any fair-minded Democrat or fair-minded citizen of Australia can support. I am surprised that, apparently, the Liberal Party does support that system, or a least one member in this Chamber supports it. I am surprised that that is the case. Indeed, I do not think that even the Queensland Liberal Party supports the gerrymander in that State; it is supported only by the National Party. The only problem with the Liberal Party in Queensland is that it does not have the gumption to take a stand on the electoral gerrymander in order to achieve a fair system in Queensland, but I suppose that that is a matter for the Liberal Party in Queensland. The fact is that the system in Queensland is grossly unfair and needs correcting. The situation in Western Australia is not fair, particularly the situation in the Western Australian Upper House which is a blot on—

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: —the democratic landscape of Australia. I am surprised that a Liberal member of this Chamber can apparently come in here and defend the rights of States to gerrymander their electorates to ensure that a majority of the people do not elect the Government.

The Hon. L.H. Davis interjecting:

The Hon. C.J. SUMNER: That was the effect of the proposition. The effect of the honourable member's proposition was simply that the Hon. Mr Hawke is a centralist and that he wants to deprive States of their rights and their legislative powers. The proposition is that he wants to do that with respect to electoral laws, and the honourable member was opposed to it.

It is a very small logical step to impute the honourable member's supporting the electoral systems of Queensland and Western Australia because he clearly does not want the Federal Government to take any action to correct that situation. He has nodded his head, so he has given an affirmative answer to the question of whether he wants the Federal Parliament to act to ensure fair electoral systems throughout Australia: he has nodded that he does not want the Federal Parliament to do that.

That is something about which I am quite happy to be on record—that I do not support the honourable member's

proposition. I believe that we ought to have fair electoral systems in Australia. They are grossly unfair in Queensland and in Western Australia, and the situation ought to be corrected if it possibly can.

ETHNIC AFFAIRS

The Hon. M.S. FELEPPA: I seek leave to make a brief explanation prior to asking the Minister of Ethnic Affairs a question about an article in the *Bulletin* of 18 February 1986.

Leave granted.

The Hon. M.S. FELEPPA: I draw your attention, Madam President, and that of honourable members in this place—and, indeed, of the media—to the article on page 58 of the *Bulletin* of 18 February, and also to the defamatory heading on the front page 'Dividing Australia: How Government money for ethnics is changing our nation'.

Let me point out that it is not a joy for me to rise in this Chamber as often as I do and to rebut or reject unfortunate remarks made often enough by people like David Barnett (well known as a former press secretary to the former Prime Minister, Malcolm Fraser) and Professor Blainey. The heading of the article on page 58 of the *Bulletin* is a further insult, and reads, 'How the bloated ethnic industry is dividing Australia'. I realise that in the past I have annoyed members, and I propose not to do so again today, but I draw their attention to the article, and I would be interested to hear their comments in the future.

Is the Minister aware of the article by David Barnett, secretary to former Prime Minister Malcolm Fraser? Is the Minister aware of the slur and the phoney logic of this article, the slur cast on the ethnic communities and the smear on the Australian character by the gratuitous chosen generalisation that migrants are a source of division in our society, and that Government funding in this area is damaging to the cohesion of Australian society?

Is the Minister also aware of the rebuttal to this article by many politicians already, including the Hon. Mr Hurford, the Minister for Immigration and Ethnic Affairs; the Minister for Ethnic Affairs in Victoria, Mr Spyker: and also the Chairman of the Ethnic Affairs Commission of New South Wales, Dr Paolo Totaro?

Will the Minister, in the light of Government policy on multiculturalism and his own strong commitments to equality in our society irrespective of ethnic origin, make a comment on the article and condemn its contents? Further, I invite—through you, Madam President—members opposite to do likewise.

The Hon. C.J. SUMNER: I thank the honourable member for his question. Certainly, I have read the article by Mr David Barnett in the 18 February issue of the *Bulletin* and I read that article with some dismay. I cannot agree in any way with the conclusions of the article. I think it is based on a complete misconception of what Australian society is all about at the present time.

The heading of the article was, 'Dividing Australia: How Government money for ethnics is changing our nation'. That is completely misleading and I would reject the sentiments in that absolutely. The Australian nation has been changed in the past 40 years as a result of a number of factors, all of which I certainly do not wish to enumerate here today.

One of the reasons the society has changed is because of the immigration policies begun by the post-war Labor Government and followed in a more or less bipartisan fashion by successive Federal Governments, which have seen people come to this country not just from English speaking countries but from many countries around the world.

That was a deliberate act of Government policy, to bring people to Australia from many parts of the world and not just from Anglo-Saxon countries or English speaking countries. One of the factors that has changed Australia over the past 40 years has been that very policy of immigration, not the Government money for ethnics. The fact is that the 23 per cent or 24 per cent of Australia's population who are either migrants from non-English speaking backgrounds or the first generation children of migrants from non-English speaking backgrounds have changed the composition of the Australian population—

An honourable member interjecting:

The Hon. C.J. SUMNER: No, it is 40 per cent including the British migrants. I was referring to those migrants of a non-Anglo-Saxon background. That policy of migration changed Australia. It is one of the factors that has led to the sort of society that we have at the moment. My own view is that we have a much better society as a result of that immigration. I think that Australia is a more diverse, interesting and exciting place now than it was in the 1940s, and that is to a considerable extent attributable to the people who have come to Australia from many countries of the world and have made Australia their home.

I completely reject the philosophical basis for the article: I join the Hon. Mr Feleppa in calling on members opposite to reject the philosophical basis of this article. We have adopted a policy of multiculturalism in this country which has—with some exceptions—generally been accorded, at the political level, bipartisan support over the past 10 years.

That policy says that, no matter from where people have come from they are all Australians, but they do have a right to their own individuality and that means their own identity, their own ethnic or linguistic identity within the context of the Australian nation.

To adopt any other policy is to deny rights to people and to treat people unequally and, I believe, ultimately of course that would make Australia a less vibrant and exciting place than it is today. Without wishing to go through a refutation of all the matters in the article, I am pleased to be able to respond to the honourable member by reaffirming the Government's policy and rejecting the sentiments of Mr Barnett in the *Bulletin* article.

The PRESIDENT: I point out to honourable members that during Question Time a general invitation to someone to reply on behalf of one side of the Council or the other does not count as a question. Questions can, of course, be addressed to any member of the Council on any matter in which they might be especially concerned. I would only call upon someone to give a reply if a question were specifically addressed to a named member.

SECOND CASINO

The Hon. DIANA LAIDLAW: I seek leave to make a short explanation prior to asking the Attorney-General a question about a second casino.

Leave granted.

The Hon. DIANA LAIDLAW: When the Casino Bill was passed in this Parliament in May 1983 provision was made for the establishment of only one casino in South Australia. Members will recall that the Government opposed an amendment moved in this Chamber at that time by the Hon. Ren DeGaris, who sought to provide for more than one casino.

Some weeks ago I visited the Victor Harbor Hotel. I was interested to see a model of the $30 million international hotel planned for that site on the esplanade. While discussing this project with a number of local residents I was intrigued to learn that it is an open secret at Victor Harbor

that a vast area of the second floor, which is allocated as a public entertainment area, is to be reserved by the developers for a casino. The Government has been directly associated with facilitating this development, first, through the Victor Harbor Centre Committee and, secondly, through the Premier unveiling the project last August.

Has the Government surreptitiously endorsed the international hotel development at Victor Harbor knowing of the developers' plan to establish a casino on the site and, notwithstanding its opposition in May 1983 to the establishment of more than one casino in South Australia, does the Government now plan to introduce an amending Bill to enable the developers to establish a casino there, and, if so, when?

The Hon. C.J. SUMNER: There has not been any change in Government policy with respect to casinos in South Australia, as far as I am aware. So, the current policy is to support the one casino in South Australia. I think that that was the position accepted by the Parliament. If the honourable member is enthusiastic about having another casino in South Australia, and believes that Victor Harbor should have that casino, it is always open to her to introduce a private member's Bill into the Parliament: she has that right as a member.

Indeed, the present casino came about as the result of such an initiative by a former member of this Council, the Hon. Frank Blevins, who introduced a private member's Bill to establish a casino. It was that Bill which was ultimately passed and which led to the establishment of the casino in the railway station building. At that stage there was only a proposal for one casino. The Government has not changed its policy on support for one casino but, it being a matter that honourable members can vote on as a conscience issue in the Council, and in view of the honourable member's keen interest in this area, I am sure that she would be able to get her colleagues' support for a Bill to perhaps approve a second casino.

The Hon. Diana Laidlaw: You don't believe that the Government has encouraged the developers to proceed with the project?

The PRESIDENT: Order!

The Hon. C.J. SUMNER: I am not aware of the details of the Government's involvement in any development in Victor Harbor. I have not been to Victor Harbor for some considerable time. The Hon. Miss Wiese might be able to provide the honourable member with more information as she, as Minister of Tourism, takes a greater interest in these matters than I do. All I can tell the honourable member is that the Government's policy on the casino is that at this stage it does not support the development of more than one casino—the one that we already have.

It may be that the developers of the Victor Harbor project are optimists and like to look to the future. It may be that they have made some allowance for a casino in their project, but I am not aware that they have. I am not even sure that the Hon. Miss Laidlaw is aware that they have, either, because she used that strange contradiction in terms 'an open secret'. Whether that means that she can assert that there are plans for a casino at Victor Harbor I am not sure.

We seem to have had a lot of questions today where honourable members have made these assertions about 'open secrets' and the like without any real substance to back them up. If the honourable member has any further information on this matter then I am happy to obtain a response, but as things stand at present the Government's policy of supporting just the one casino in South Australia has not been changed.

FALIE

The Hon. PETER DUNN: I seek leave to make a brief explanation before asking the Attorney-General, representing the Premier, as the Minister dealing with the Jubilee 150 celebrations, a question about the sailing ketch *Falie.*

Leave granted.

The Hon. PETER DUNN: The *Falie* has been a resounding success. I am sure that if members went to the Eyre Peninsula or to either gulf they would find a great deal of agreement with that statement (I certainly agree with it). I think that the idea was an excellent one and one which has brought a great deal of enjoyment to those people who have seen the ketch, been on board or who have sailed on her. In fact, there have been many visitors to the west coast of Eyre Peninsula where the ketch has already visited. In fact, it was probably the biggest single function there for the Jubilee 150 celebrations. Many people spent much money buying clothes before going to see the ketch.

The ketch has visited a number of ports that I will not enumerate, but at a number of those ports complaints have been made that the ketch's sails have not been erected, even for a short period. The project has been sold as one involving a sailing ketch so people go to see the vessel as such. They have seen photographs and television programs showing the *Falie* sailing up St Vincent Gulf. However, when she arrived at those places (in particular at Palumbie Beach and Tumby Bay) her sails were not used to come in or go out.

The ketch's sails were used at Tumby Bay, but she sailed straight out from the jetty and when she turned sideways to the shore the sails were dropped, so people did not have a chance to see them. I spoke to Captain Workman at Port Neill and I know that there are great difficulties, but maybe they can be overcome by having more crew on board. There have been a lot of complaints about the fact (as when I saw her) that the main sail and the front sail (I think it is the jib) were raised and that was all, so the ship did not look as it does when advertised. People went to see the ketch with a great deal of enthusiasm and had much fun looking at and visiting it. The ketch was programmed to go to Elliston, but because it was rough the Captain made a decision, which was his to make, to leave the bay. The ketch was supposed to be there between 9 a.m. and 2 p.m., but it was rough so by 10.00 a.m. she was gone and many people who went to see her were unable to do so because she had sailed (although they could have seen her by walking out to the point). My questions are:

1. Would the Jubilee 150 committee ask Captain Workman to use sail whenever possible when the *Falie* is arriving or departing from coastal ports that it is visiting (and it still has a number to visit)?

2. When the *Falie* is erecting her sails would she raise as many as possible to create a maximum effect of a sailing ketch?

The PRESIDENT: I call the Attorney-General and draw his attention to the time.

The Hon. C.J. SUMNER: I will be very brief, as always. I trust that the *Falie* has a lot more ports of call still in its itinerary. I am not sure whether the honourable member wants it to retrace its steps, but on the assumption that it does have other calls to make I will certainly refer the honourable member's question to the appropriate Minister and attempt to bring back a reply as quickly as possible.

SECOND-HAND MOTOR VEHICLES ACT AMENDMENT BILL

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Second-hand Motor Vehicles Act 1983. Read a first time.

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

That this Bill be now read a second time.

This short Bill proposes amendments to the Second-hand Motor Vehicles Act 1983. The amendment to section 30 is designed to widen the scope of the compensation fund established under the Act.

The failure by a dealer by reason of death, disappearance or insolvency to pass on to a consumer moneys received by the dealer through a consignment sale is considered by the Government to warrant compensation to the consumer. However, because of the clear words of section 30 (2) it will be necessary to amend the Act to achieve the required result.

Under the amendment, if a person has left a second-hand vehicle in a dealer's possession to be offered for sale by the dealer on behalf of the person, and (by reason of the death, disappearance or insolvency of the dealer) the valid unsatisfied claim of the person cannot be satisfied, the person may apply to the Commercial Tribunal for compensation. The Bill also includes a transitional provision relating to licensing.

Under the Second-hand Motor Vehicles Act 1971 the Second-hand Vehicle Dealers Licensing Board was the body which granted licences. The final meeting of the board occurred on 12 December 1985.

Unfortunately, the board deferred a large number of applications for licence renewals. Those dealers whose licence applications were deferred, therefore, could not take advantage of the transitional provision under section 3 (2) of the Act which states:

> Notwithstanding subsection (1), a licence in force under the repealed Act immediately before the commencement of this Act shall be deemed to be a licence granted and in force under this Act and shall, subject to this Act, continue in force.

The affected dealers had a not unreasonable expectation that they would continue to be licensed upon the introduction of the 1983 Act. It would be unfair to compel those dealers to reapply to the Commercial Tribunal for licences, which would require them to suspend trading for a period of approximately eight weeks until their applications could be dealt with, and to pay the new application and licensing fees.

It is intended that the amending Bill shall be deemed to have come into operation on 1 January 1986. I seek leave to have the detailed explanation of clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal.

Clause 2 provides that the measure is deemed to have come into operation on 1 January 1986.

Clause 3 makes a consequential amendment.

Clause 4 amends section 30 of the principal Act which sets out the circumstances in which an aggrieved consumer may claim against the compensation fund. The effect of the amendment is to widen these circumstances to include the care of a person who leaves a second-hand vehicle in a dealer's possession to be offered for sale by the dealer, and who suffers loss in consequence of the transaction.

Clause 5 provides for the insertion at the end of the principal Act of a schedule of transitional provisions. The schedule contains the same transitional provisions as formerly appeared in section 3 (2) of the principal Act (now struck out by clause 3 of this measure). Another transitional provision has been added as follows:

> A licence in force under the Second-hand Motor Vehicles Act 1971 at any time during the six months preceding the commencement of the principal Act the holder of which had applied for renewal of the licence shall be deemed to have been granted and be in force under the principal Act.

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

COOBER PEDY (LOCAL GOVERNMENT EXTENSION) ACT AMENDMENT BILL

The Hon. BARBARA WIESE (Minister of Local Government) obtained leave and introduced a Bill for an Act to amend the Coober Pedy (Local Government Extension) Act 1981. Read a first time.

The Hon. BARBARA WIESE: I move:

That this Bill be now read a second time.

It amends the Coober Pedy (Local Government Extension) Act to authorise the Coober Pedy Progress and Miners' Association to operate a potable water reticulation system, extends the life of the Act until 31 December 1987, and corrects cross-references to the Local Government Act.

In 1985 the Coober Pedy Progress and Miners' Association commissioned a potable water supply reticulation system to service the township of Coober Pedy. Prior to the installation of the potable water supply the township was served only by a salt water supply to the business area for firefighting purposes, that system having been installed after several disastrous fires in the late 1970s. The new water supply system was funded under the CEP program and from loan funds raised by the association.

To enable the association to regulate and control the operation of the system and recover the capital and operating costs from consumers, it is necessary that the Act empowers the making of regulations prescribing these matters. The Bill extends the life of the Act to 31 December 1987. The Act at present expires on 31 December 1986.

The extension of the Act for a further period of 12 months is to allow time for the Parliament to consult the Coober Pedy community on whether it wishes to move to full local government, or to retain the existing association to provide local government services. It is my intention to move for the appointment of a select committee to inquire into and report on this matter in the near future. Other amendments correct cross references to the Local Government Act 1934, which are necessary following the rewriting of parts I to IX of that Act.

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

Leave granted.

Explanation of Clauses

Clause 1 is formal.

Clause 2 provides for the commencement of the measure.

Clause 3 provides for the amendment of section 4 of the principal Act. The power of the Coober Pedy Progress and Miners' Association Incorporated to supply non-potable water is to be changed simply to a power to supply water. Furthermore, subsection (3) is to be revised so that the provisions of any Act or regulation may, by regulation made under this Act, be extended to apply in relation to the area and the association not only as if the association were a council but also, if the regulation so provides, as if the council were some other prescribed authority. This amend-

ment will allow, for example, the extension of various provisions of the Waterworks Act 1932 to facilitate the supply of potable water in the area. An outmoded cross-reference is also to be corrected.

Clause 4 contains a series of amendments to section 5 of the principal Act. The effect of the amendments is to empower the association to levy a charge on an allotment for any service provided in the area. The charge must be calculated so as only to recover the capital cost of the service and maintenance and operating costs and may only be levied on an allotment to which the service is made available.

Clause 5 repeals an outmoded section relating to former part IXAA of the Local Government Act 1934.

Clause 6 amends section 11 of the principal Act so that regulations made under the Act may prescribe a penalty not exceeding $1 000 for a breach of the regulations.

Clause 7 extends the operation of the Act by 12 months to 31 December 1987.

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

SELECT COMMITTEE ON ARTIFICIAL INSEMINATION BY DONOR, *IN VITRO* FERTILISATION AND EMBRYO TRANSFER PROCEDURES IN SOUTH AUSTRALIA

The Hon. J.R. CORNWALL (Minister of Health): I move:

1. That a Select Committee of the Legislative Council be established to consider and report on Artificial Insemination by Donor, *In Vitro* Fertilisation and Embryo Transfer procedures in South Australia and related moral, social, ethical and legal matters, including—

(a) The possible freezing of early human embryos and any limits of time or circumstance which should be placed on their subsequent maintenance;

(b) The possible implantation of human embryos into a person other than the donor of the ovum, and the conditions which should apply if such implantation is to take place;

(c) The possible use for scientific or medical experimentation of the pre-implantation human embryo and any conditions which should apply;

(d) The possible laboratory maintenance of human embryos beyond the stage at which implantation naturally occurs, and their use for scientific or medical experimentation;

(e) Eligibility and conditions for admission of individuals to artificial reproduction programs (with particular reference to social issues, such as marital status, the patient's ability to pay and the provision of adequate counselling services);

(f) The desirability or otherwise of anonymity for donors of human gametes and the circumstances and mechanisms for possible disclosure of identity of such donors;

(g) The desirability or otherwise, in the case of children resulting from artificial reproductive techniques, of—

(i) Anonymity/privacy.

(ii) Knowledge as to the identity of the donor (having regard to the existing rules for adopted children).

(iii) Access to information (e.g. genetic information);

(h) The desirability or otherwise of surrogate motherhood using artificial reproductive techniques or otherwise, and the methods to achieve any control recommended;

(i) The appropriate range and extent of services offered in I.V.F. programs in South Australia;

(j) The appropriate agencies to provide the services to which reference is made in IX above;

(k) Funding issues associated with artificial reproduction programs in South Australia;

(l) Mechanisms for developing and monitoring a policy on the use of artificial reproductive technology which takes into account the well-being of the child and its family, any long-term effects on personal relationships in particular, and on society in general;

(m) Development of mechanisms for monitoring and reviewing the use of artificial reproductive technology and in particular, the role of self-regulation, ethics committees and general consultative committees;

(n) The present technical and scientific position regarding ova preservation and freezing and likely future developments;

(o) Legislative implications which may arise out of consideration of points I-XIV above and the desirability of any such legislation being uniform throughout the Commonwealth of Australia; and

(p) Any other matters of significance related to points I-XV above.

2. That the Committee consist of six members and that the quorum of members necessary to be present at all meetings of the Committee be fixed at four members and that Standing Order No. 389 be so far suspended as to enable the Chairman of the Committee to have a deliberative vote only.

3. That this Council permit the Select Committee to authorise the disclosure or publication, as it thinks fit of any evidence presented to the Committee prior to such evidence being reported to the Council.

4. That the evidence taken by the Select Committee on Artificial Insemination by Donor, *In Vitro* Fertilisation and Embryo Transfer Procedures in South Australia appointed on 17 October 1984, be referred to the Committee.

I will not take up much time of the Council. This is arguably the most important select committee that will sit in this place during this decade. It is of course about *in vitro* fertilisation, embryo transfer, and the laws relating thereto. It is a matter of very considerable moment. Originally a motion in relation to this matter was moved in this place many months ago by the Hon. Trevor Griffin, as I am sure honourable members will recall. We amended the motion to expand the terms of reference somewhat and to clarify them where appropriate. The select committee has now sat for many months, as you would be aware Ms President, being a member of the select committee. The committee lapsed of course with the prorogation of the Parliament and the end of that term of Government.

We are now doing what we all agreed we would do when the select committee was set up. We were aware that it was most unlikely that the deliberations of the select committee and the proceedings would be finished before the end of the term of the previous Government. It was agreed by all Parties that as soon as Parliament reassembled after the election, and subject of course to there not being too many changes among the principal players on the select committee, it would be re-established, and that is what I am asking the Council to support me in doing this afternoon.

The Hon. K.T. GRIFFIN: I have not taken counsel on this matter from my colleagues, but it is a matter on which we all agreed prior to the election. A number of us were members of the select committee, and we recognised that it would go on this year, whoever was successful at the State election. Notwithstanding that I have not taken counsel from my colleagues, I believe I am on very safe ground in saying that we support a reconstitution of the select committee. This is an important issue and we have already done an extensive amount of work on it. A considerable amount of work remains to be done in an area that is both complex and potentially controversial. I believe that it is in the interests of resolving this issue that the select committee be reconstituted, in the hope that we can reach some conclusions later this year. So, I certainly support the motion.

Motion carried.

The Council appointed a select committee consisting of the Hons J.R. Cornwall, I. Gilfillan, K.T. Griffin, Anne Levy, Carolyn Pickles, and R.J. Ritson; the committee to have power to send for persons, papers and records, and to adjourn from place to place; the committee to report on 5 August.

ADDRESS IN REPLY

Adjourned debate on motion for adoption.
(Continued from 18 February. Page 208.)

The Hon. K.T. GRIFFIN: I reaffirm my loyalty to Her Majesty the Queen. I congratulate you, Madam President, on your elevation to the high office of President, and I indicate that, whilst from time to time there may be disagreements in respect of Standing Orders, I respect the office of President and the authority it commands not just in respect of the proceedings of this Council but also in the wider community. It is interesting to note that in the order of precedence under State protocol the office of President is recognised before the office of Speaker. That reflects the respect with which the office is regarded in the community.

I also want to recognise those members of the Legislative Council who retired at the last election. An amount has been said about each of them, and so without wanting to be seen to be overlooking their service to the Parliament, to the Legislative Council and the wider community I will satisfy myself by saying that each of them did in his own way serve the community well and played an important part in the work of this Council. The Hon. Ren DeGaris served as Leader of the Opposition in this Council, at one time was a Minister, and latterly he served as a backbench member. He was well respected—people did not always agree with him, but he was respected. I believe his work on electoral matters was of great importance to this State, and no doubt he will wish to continue with that work in his time away from the Parliament. The former President, Hon. Arthur Whyte, was a member of the Council for a number of years and he was well respected in his area and made his own contribution to the business of the Council.

The Hon. Lance Milne, while here for only six years, made his own unique mark on the proceedings of the Council. Among other things he was fairly well recognised for his Benny Hill impersonations, but also of course for some other more significant contributions to the Council. The Hon. Cecil Creedon in his own quiet way worked diligently and contributed to the proceedings of the Council. Finally, there is the Hon. Frank Blevins, who chose what I am sure he thought were greener pastures of the House of Assembly, although I am sure that as a result of his experiences so far may not be so satisfied that they were as green as the pastures in this place. I wish all of them in their respective endeavours upon retirement from this Council the best for the things that they are now undertaking.

I welcome the new members of the Legislative Council, the Hon. Jamie Irwin, the Hon. Terry Roberts, the Hon. Carolyn Pickles and the Hon. George Weatherill. They have all now made their maiden speeches and I am sure they will now participate in the rough and tumble of debate as ably as any of us, both giving and taking. I think we all learn fairly quickly after making our maiden speeches that one must be prepared to take as much as one gives in the cut and thrust of debate on the various issues that arise in this Chamber. There is a relationship between members in this place, notwithstanding the Party differences, which is somewhat different from the relationship between members in the House of Assembly.

Although the debate here may be acrimonious from time to time, nevertheless, we are able finally to achieve some results in the consideration of the Bills introduced here and also Bills received from the House of Assembly.

I want to address a few remarks to two matters in this contribution. The first is essentially a legal matter relating to suppression orders and the second is more of a reflection upon the resources available to members within the Council in the undertaking of their own responsibilities as members of Parliament.

With regard to suppression orders, South Australia appears to have the most far reaching laws allowing suppression of names in court proceedings of any State or Territory in Australia. The laws relating to suppression in South Australia have been developed over a long period and, in their implementation from time to time, have been found to have some defects. Essentially, the law as it is now allows the courts to make the decision as to what should or should not be suppressed. I have no quarrel with that.

There are rights of appeal by both prosecution and defence, and there are also opportunities for the media to make representations in any application for a suppression order and in relation to the variation of any suppression order that may have been made. Some concern has been expressed periodically about the apparent ready availability of suppression orders in this State and, as a result of that concern, amendments were enacted in 1984 and came into effect in December 1984 requiring a much more comprehensive report to be given by the relevant courts to the Attorney-General on the suppression orders made in those courts.

The first report under that new provision, a report to 30 June 1985, was tabled by the Attorney in October 1985. It is interesting to note the statistical information presented in that report, bearing in mind that the court is required to 'forward in any report the terms of any suppression order, the name of any person whose name has been suppressed from publication, a transcript or other records of any evidence suppressed from publication and a summary stating with reasonable particularity the reasons for which the order was made'.

In the period from 1 July 1984 to 30 June 1985, 241 suppression orders were made: 177 in courts of summary jurisdiction throughout South Australia; 17 in the district court; 46 in the Supreme Court; and one in the Licensing Court. Of the reasons that were given in the reports that the courts were required to forward to the Attorney, there are various areas that have been covered in the report. That report indicates that some caution should be exercised in the interpretation of the statistical information, because courts were not required to report with reasonable particularity before 20 December 1984, so there is almost half a year during which courts were able to give general reasons for making suppression orders.

The summary of reasons given for suppression orders, keeping in mind the qualification to which I have referred, is as follows:

Summary of Reasons	Percentage of total reasons
1. In the interests of the administration of justice	46.6
2. In the interests of the administration of justice and in order to prevent undue prejudice or undue hardship to any person	11.7
3. Prevent undue prejudice or hardship to the defendant	11.7
4. Prevent identity of victims and witnesses becoming known or prevent hardship and embarrassment to victims and witnesses	10.5
5. Prevent undue damage to defendant's family	3.8
6. Prevent undue hardship to defendant's business or the defendant's family business or to the defendant's business partner	3.3
7. Due to effect on health of defendant or health of defendant's relatives	3.3
8. Prevent possible prejudice to defendant in relation to another information	1.3
9. Others	7.8

It will be interesting to see what variation has occurred in the reporting of reasons by courts making suppression orders in the period since 30 June 1985 when in all of this current year they will be required to give particular reasons for the granting of suppression orders.

If one looks at some of the more recent examples of suppression orders there are still some areas of concern. For example, in the Croad case, which was reported on 10 February 1986, a magistrate suppressed the allegations made by a prosecutor in the murder hearing. That is not uncommon. It has occurred previously when magistrates have suppressed not only allegations but also the grounds upon which a suppression order has been sought.

It has always seemed to me to be somewhat unreasonable to suppress the reasons why a suppression order has been made, or the grounds upon which a suppression order has been made or, as in the Croad case, the allegations by a prosecutor in a murder hearing.

If we go back further in time with respect to the zoo case, which was reported in April 1985, the reasons for applying for a suppression order were given (there was a suppression of the names of the two persons charged with the killing of various animals at the Adelaide zoo), but they seemed to be somewhat curious.

One of the accused said his mother had suffered from a bout of anxiety in 1982—some three years previously. He asserted that it would be irresponsible to allow the name to be published because it could expose other members of the family to risk of death threats or other threats from the public, and also from members of the establishment at Adelaide Gaol.

Channel 10 on that occasion did appear before the court and made some observations upon the suppression application. It indicated that the gaol inmates and the sick mother already knew that that person had been charged with the killing of those zoo animals. Counsel for Channel 10 asserted that the amount of publicity was therefore not relevant.

There was another instance in February 1984 when a magistrate fined a person $40 for having thrown some paint at the Prime Minister.

I certainly do not support that sort of behaviour—the attacking of any public figure or any other person in the community. This person was charged and fined a mere $40. The magistrate ordered a suppression not of the name of the person but of the reasons given in court for the attack on the Prime Minister. Again, I thought that that was a somewhat curious suppression order.

In the most recent Duncan case we see that a suppression order was made in respect of two persons charged in South Australia, but a suppression order was refused in Western Australia on the basis that the magistrate believed that his was an open court and he could see no justification at all for the making of a suppression order in that State, regardless of the provisions of the law of South Australia.

The Duncan case (by way of slight digression) will present an interesting legal and practical problem when the Western Australian accused person comes to South Australia and appears in a South Australian court without a suppression order having been made as to his name, because he will be standing beside two other persons who have been charged in South Australia and in respect of whom a suppression order has been made. There is a curious position in that one of the three accused persons is known to the public while the other two have had their names suppressed. That is a complication which I think needs to be looked at and examined to see whether any amendment to the law is required to overcome that difficulty.

I note also another curious problem, where a Melbourne based newspaper that is published in Melbourne broke a South Australian suppression order by naming a former prominent South Australian league footballer who had been charged with rape. The Melbourne *Truth* was to be investigated by the Attorney-General to see whether any action should be taken against that newspaper. That case demonstrates that there is a real problem where newspapers are published in one State and are not subject to the law of South Australia, or even bound by similar laws relating, in this instance, to the suppression of names and information, but are available for sale across State borders in the State in which the suppression order has been made. That is another area which I think needs to be examined with a view to clarifying the legal position in relation to the media.

I suppose it is somewhat akin to the problem under defamation laws where something defamatory might be said under parliamentary privilege in, say, the Victorian Parliament and published in the Melbourne *Age* under privilege and then the *Age* is sold in South Australia; there is then the question whether privilege applies to the newspaper in the publication of that information in South Australia. It is a difficult problem, but it is something which again I think needs to be looked at. It is akin to the problem raised by the suppression of names in this State but the law not having application in other States. Perhaps the answer is that there should be some uniform law on name suppression.

In July 1984 the Australian Press Council called on Commonwealth and State Attorneys-General to investigate a uniform law on the suppression of names by courts. That call arose out of a case by General Motors-Holden against several newspaper publishers. Difficulties arose because the information was transmitted across State borders. At the Australian Press Council level there is a call for some uniformity on the law relating to the suppression of names. I think that that is something that should be investigated at Commonwealth and State Attorneys-General level, because if uniformity can be achieved it will make life easier for the media particularly but also for litigants and it will not give rise to the sorts of problems to which I have referred where matters in one way or another cross State borders.

In September 1985 the Victims of Crime Association and the South Australian Police Association called on the Government to re-examine the imposition of suppression orders in South Australian courts and, at the same time, the Victims of Crime Service asked the Attorney-General to develop clear guidelines with respect to the making of suppression orders. There is some value in a review of the application of the law relating to suppression orders, even though it was reviewed only some two years ago.

The Hon. C.J. Sumner: We have already done that.

The Hon. K.T. GRIFFIN: That is what I said—even though it was reviewed some two years ago resulting in further amendments to suppression orders being made at that time. The Attorney-General will have the information in the reports which come from the courts to determine whether or not there appears to be some lack of willingness by the courts to make suppression orders. I think it would also be helpful if, rather than the reports of this information being available on an annual basis in October/November of each year for the preceding financial year, some consideration could be given to the publication of those reports from the courts on a quarterly basis—not only in relation to numbers but also identifying the reasons which have been given.

It would also be helpful in the report which the Attorney-General tables if the reasons in each case could be identified with respect to each defendant or other legal proceedings. I suppose that one can obtain this information by scrutinising the newspapers on a daily basis or checking the clipping service in the library. The statistical information is useful, but I think it would be of greater assistance in determining whether or not there has been a too free use of the suppres-

sion law if the report contained information which identified reasons as well as the specific cases to which the reasons referred.

It is interesting to note that Professor Chesterman of the Australian Law Reform Commission in September last year made some observations about suppression. They were, in fact, tentative. Professor Chesterman was in Adelaide for an Australasian Universities Law Schools Association Conference. He said that the public had a right to know who had appeared before the courts and was convicted or acquitted. He said that his tentative view was that suppression laws on names might have gone too far in South Australia. He said that suppression orders granted in South Australia where stigma might be harmful to the health of an elderly relative were unique in Australia. He went on to say:

I think every intrusion on open justice has to be carefully justified, and I think there is a danger of fairly widely drawn powers to suppress publicity being used too frequently because the importance of open justice may be forgotten. It—

that is, the names of accused persons—

is something the public wants and something the media feel they should be able to disclose or they will not write the story at all. Once you say to the media, 'You can only report anonymous stories,' they will not write the stories at all, so there is not a proper coverage of the courts.

Professor Chesterman's tentative view, therefore, was that there needed to be further examination of the way in which the courts applied the suppression law in this State to ascertain whether or not it had gone too far. My checking with the Australian Law Reform Commission indicates that a report will be available in the next few weeks dealing with some aspects of suppression of names in so far as it relates to contempt of court. It will be interesting to have that report to assess the tentative conclusions to which the Australian Law Reform Commission has come in the limited area in which it is looking at suppression.

I now want to make a few observations on matters somewhat closer to home, that is, the resources available to members of the Legislative Council. There are 22 members of the Legislative Council all working from Parliament House, representing the whole of the State. They do not have electorate offices, as do the Commonwealth senators, who can establish their offices in different locations throughout the State in order to have closer contact with electors, and to represent particular areas of the State.

Putting aside Party affiliation of members of the Legislative Council, the President and each Minister have their own office within the building—and that is as it should be. The Leader of the Opposition has his own office, and there are 11 other members who have an office each. Some of those are very small offices, but at least they have their own office, and it is private. Some eight members share offices.

In this respect, I suppose that the picture is not so bad as it is on the Assembly side, although the Assembly members each have an electorate office. I recognise that there are constraints on office space within this building because of its design and the fact that it was never constructed to house so many members of Parliament.

In terms of the secretarial and research resources available to members, the person occupying the office of President has his or her own staff—and that is as it should be. The three Ministers have their own staff, both personal (that is, ministerial) and departmental—and that is as it should be. Two Democrat members of the Legislative Council have one secretary between them and the six Australian Labor Party members have two secretaries between them. The Leader of the Opposition in the Legislative Council has one research officer, and the 10 Liberal members of the Legislative Council share two secretaries.

The Hon. C.J. Sumner: You are better off than when we were in Opposition.

The Hon. K.T. GRIFFIN: You had the same, actually.

The Hon. C.J. Sumner: No, we did not.

The Hon. K.T. GRIFFIN: Yes, you did. The photocopying facilities are—

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: The Minister cannot blame me for that. I certainly was striving for photocopiers well before the 1982 election.

The Hon. C.J. Sumner: They turned up three days before.

The Hon. K.T. GRIFFIN: I have no control over the Department of Services and Supply, or the Public Buildings Department as it was then known. There is one photocopier per floor, and last year collators were installed to facilitate the collating of documents of more than one page.

It is certainly not adequate, particularly where a number of pages in the one document have to be copied. There is no automatic feed of a number of pages, which would allow automatic photocopying of a bundle and the automatic collation of the copies made. Most legal offices, accounting offices and other professional offices now have highly sophisticated photocopying facilities which allow not only automatic feeding of a bundle of documents and pages and automatic collating but also reduction, double sided photocopying and a variety of other functions.

There are no word processors except in the office of the President. In most if not all modern offices there is at least one and probably more word processors which are invaluable as an aid not only to reducing both the boredom and the monotonous tasks of typists and secretaries but also to increasing the efficiency of work output.

Word processors enable speeches to be typed once and corrected without having to be retyped. Letters can be typed and corrected without the necessity for retyping and rechecking the whole of such letters. Press releases, where they are made, are available and have to be typed only once. Statements made by members of Parliament can be involved. There is a whole range of services which can be undertaken with the use of word processors to make life easier for the secretarial staff as well as for the member, yet those word processors are not available to members of the Legislative Council to assist them in performing their functions.

The research facilities available to members of the Legislative Council are only those available through the research service in the Parliamentary Library, and they are shared with the 47 members of the House of Assembly. Although I have received good service from those researchers, I point out that it is not as efficient or effective as having one's own research facilities. Might I also say that in specialist areas such as the law it is also important to have available a person with some legal training to be able to pursue questions of a legal or quasi legal nature to their limit.

With respect to one other matter, the availability of newspapers, each member has an *Advertiser* each day in his or her office.

If one wants to look at the *Financial Review*, the *Australian* or other newspapers or periodicals that means attendance in the library, but that is not always convenient because members may want to read them in their rooms, or even in the Chamber, I suggest. I think that the limit on the availability of newspapers to individual members is very much outmoded. Soon after going into Opposition I made a request of the then President for members to have the *Australian* and the *Financial Review* in their rooms, but the reply was, 'No, there are inadequate resources available to enable that service to be provided.'

Honourable members will recognise the obligations that are placed upon them as members of the Legislative Coun-

cil. Those obligations differ according to one's responsibilities and interests.

In summary, they include attendance when the Council is sitting; the consideration of Bills from both Houses of the Parliament; the asking of questions; the making of speeches on resolutions; and the consideration of matters that should be raised within the Parliament. Servicing of the inquiries of constituents is an important part of the work of a member of the Legislative Council. Perhaps they are not as numerous as the inquiries made by constituents of members of the House of Assembly, but they are nevertheless numerous and important.

Attending meetings of various organisations within the community and attending meetings of select committees is required. There is a fee of $12.50 a meeting for attending select committees, which is hardly adequate to cover the cost of transport to a meeting, if one were to make that comparison. All of the issues considered by select committees are important, complex and involve a deal of consideration of issues and submissions outside the formal meetings of select committees.

The Minister of Health and Minister of Community Welfare has today moved to re-establish the select committee on *in vitro* fertilisation and related matters. That committee involves for all members a considerable amount of work in coming to grips with the complex issues raised by witnesses at its meetings.

There are various other committees of the Parliament and of the Legislative Council that require time, some of which is remunerated, such as membership of the Joint Committee on Subordinate Legislation and the Public Works Standing Committee. There are also Party meetings, both parliamentary and organisational ones, which might in some respects not be regarded as part of the duties of a member of Parliament but which in this day and age cannot be dissociated from their parliamentary responsibilities.

Ministers in both Houses have a range of officers, both personal and departmental. That, as I have said already, should be the position, because Ministers are, in effect, the directors of a multimillion dollar business operation, that is, the running of the State. Whichever Party occupies the Treasury benches, those Ministers all have considerable public responsibilities for the affairs of the State. Although there are obvious political considerations in respect of the policies that they implement, nevertheless that is part of the responsibility of being a Minister of the Crown.

Shadow Ministers also have additional responsibilities. I have shouldered those responsibilities and make no complaint about them. However, just for the record, I say that so far as my responsibilities as shadow Minister are concerned, in the current session of Parliament of the Bills introduced in this Council, including those introduced today, I have responsibility for 11 out of 13 and an involvement also with the Workers Rehabilitation and Compensation Bill, which is currently before the House of Assembly.

In the previous session there were 29 Bills introduced in this Council out of 56 introduced in both Houses of the Parliament—more than half. Of those 56, 18 were the responsibility of the shadow Attorney-General. In the 1984-85 session, 77 Bills were introduced in the Legislative Council out of a total of 140. Of 126, passed 42 were the responsibility in this Council of the shadow Attorney-General, together with involvement with a number of others.

Although other shadow Ministers may not have so many Bills to be concerned about in this Chamber there are other responsibilities associated with their positions, including contact with specialist organisations that are covered by their respected shadow portfolios. The work of dealing with Bills from the Opposition side involves consultation with those who may be affected by the Bills, research on Bills, speaking on Bills, dealing with amendments to those Bills and developing policy issues. Also, of course, there is the questioning of Ministers on issues within their relevant portfolios.

Outside the Parliament there are meetings with associations, the attending of functions, dinners, openings and events which take a lot of time and concentration by members of Parliament on both sides. Shadow Ministers and Ministers have a considerable responsibility in that context.

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: The Attorney-General asks, 'What about going to the Parliamentary Salaries Tribunal?' There are some things that are the responsibility of the tribunal and I think that points of view have been presented ably by members from both sides of the Parliament on those matters that properly fall within the responsibility of the tribunal.

However, there are other things that occur within this Council and within the Parliament that are more the responsibility of the Presiding Officer and ultimately the Government in terms of funding. It is important for the sort of money that is paid to members of Parliament that they have adequate resources available to them to enable them to adequately perform their functions. I do not think that anyone would disagree with the conclusion that they are hardworking, but, in fact, those who are not Ministers or the President might be described as a parliamentary dogsbody/clerk/researcher/social worker/legal adviser with Jack or Jill of all trades thrown in for good measure. The solutions to that are numerous, but before I deal with them I will first refer to what happens in several other States. In Western Australia, where there are provinces in the Upper House and not an electorate comprising the whole State, there are 17 provinces. There are electorate offices for each member and each member of the Upper House has a secretary.

In Victoria each member of the Legislative Council has an office and is allowed some 38 hours of staff work to be applied either in secretarial assistance or research assistance.

The Commonwealth is provided with by far the best resources. A back bench senator has two electorate assistants and one research officer. Shadow Ministers in some areas have one extra staff person. They are more than adequately serviced by additional resources for the work that they perform at the Commonwealth level. I suggest that, although they represent the whole of Australia, the sort of workload in terms of legislation and electorate matters for senators would not be significantly different from that of members of the Legislative Council.

The solutions to the difficulties are the improvement of office efficiencies with, for example, availability of word processors and some extra secretarial and research staff with greater availability of newspapers and periodicals, rather than one copy of each being available in the parliamentary Library. The business of this Council has now reached the stage where more than one half of the Bills are being introduced in this place. That is quite a marked comparison with earlier years where, say, 10 years ago only a small number of Bills were introduced in the Legislative Council.

The Hon. C.J. Sumner: It depends on the personalities.

The Hon. K.T. GRIFFIN: It depends on the Ministers, to some extent. Yes; I agree. I do not disagree with the Minister at all, but we are seeing a higher level of activity from individual Ministers in the Legislative Council, particularly the Attorney-General and his staff, in pumping out Bills to be considered in the Legislative Council. I suppose that while the Attorney-General is in the Upper House that is likely to remain the position.

Members interjecting:

The Hon. K.T. GRIFFIN: He pumps them out. I do not think that the Attorney-General would be insulted by that. He will recognise that a lot of the legislation is technical: some of it is certainly controversial; some of it is innovative. I have no difficulties with recognising that at all and I say so when the occasion arises. I must say also that he is served by some good staff. That is important, too: that is what I am on about. On the Opposition side it would facilitate the consideration of legislation and the work of the Council if some additional resources were available to assess legislation and undertake the work in this place. I am perfectly happy to continue the sort of level of activity that I have in dealing with legislation before this place.

I suppose it is only because I have had some legal training and been in private practice that I have some understanding of some of the technical things which are raised. However, I know that even that is inadequate on occasions to come to grips adequately with some of the problems which are highlighted in the legislation introduced in this place.

So, those are two matters to which I have referred: suppression orders, which I think need some further attention, and the question of resources for members which would facilitate the work of the Council and the performance of the functions of members in representing constituents and in keeping the Government on its toes. I hope that the Government will be able to do something about those two issues in the not too distant future. I support the motion.

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

CHILDREN'S PROTECTION AND YOUNG OFFENDERS ACT AMENDMENT BILL

In Committee.

(Continued from 18 February. Page 195.)

Clause 2—'Commencement.'

The Hon. C.J. SUMNER: The Hon. Mr Griffin raised a number of matters that I will now address. The first was the amendment to section 51 of the principal Act. That amendment allows the court where it considers an offence to be trifling to order that no reference be made to the charge in future proceedings in a court other than in a children's court.

The first question asked by the honourable member was whether that order is a final order which can never be reviewed. The answer to that is, 'Yes, it is.' But that is the same result as is achieved by section 40 *(a)* which provides that an appearance of a child before a children's aid panel may not be referred to in a court other than in a children's court.

So, the amendment we propose to section 51 with respect to trifling offences will place a court order with respect to those being determined as trifling offences in the same position as a determination by a children's aid panel: however the matters are dealt with, the consequences are that neither of those matters may be referred to in a court, other than a children's court, in future. So, it is not a new principle: it is just an adaptation of the principle that applies to the appearance of a child before a children's aid panel.

The second query raised by the honourable member was whether the Training Centre Review Board should be able to issue a warrant for the apprehension of a child. I point out that that board is constituted of three persons, one of whom must be a judge. The system of issuing warrants has operated effectively and there does not appear to be any reason to change it at this stage.

The explanation for the appointment of deputies for the Training Centre Review Board and the Children's Court Advisory Committee has come about and has been apparent for some time. The Children's Court Advisory Committee first suggested that the appointment of deputies should be provided for back in 1984. The Training Centre Review Board, in practice, convenes as two separate review boards to review the progress of children to detention centres each calendar month. The board is also required to meet at short notice to consider cases of alleged breaches of conditional release or special circumstances which may arise. The responsibilities of board members are spread over 52 weeks a year, especially so far as consideration of breaches of conditional release is concerned.

Because of those requirements, practical problems and serious difficulties have occurred arising from the absence or unavailability of appointed members through illness, work commitments or holidays, resulting in some meetings of the board being deferred. That is undesirable for all concerned, in particular for those who may wish to pursue the breaches of conditional release—the authorities—and of course it is undesirable as far as the detainees are concerned. They may find themselves in a position of uncertainty for an unnecessarily long period.

In any event, the Training Centre Review Board operates two separate review boards. This will add more people to the process and will certainly lead to a considerable improvement in administrative efficiency. With respect to the Childrens Court Advisory Committee and the position of having deputies on that, this has revolved around members who were absent for extended periods because of illness or other reasons. As the committee consists of three persons only the absence of one member results in severe difficulties and distorts the balance of membership which the Act lays down.

In relation to major suggestions and propositions from the Childrens Court Advisory Committee, I am sure that the actual members would consider those matters and be involved in making recommendations to Government or Parliament on any amendments to legislation. But again, this is a matter of administrative efficiency and to ensure that the committee meets properly as often as is required.

The honourable member also raised a point about section 93 which restricts publication of material which will identify a child who has been charged with an offence. He indicated that he would like to see a review of the operation of section 93. I understand that the honourable member has made certain comments to the media today on this topic which were somewhat more extravagant than was his language in this place yesterday.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: I have not seen that last edition of the *News*, but from what was put to me it appeared that the language was somewhat more extravagant than the honourable member is accustomed to using. However, we will have to await the publication of that journal before seeing whether the honourable member will have to claim to have been misrepresented. He has raised questions about the extent to which the existing provisions relating to publicity of the proceedings of the Childrens Court should be reviewed. I should say that I am not sure that the honourable member's interpretation of the amendment is correct. Section 93 currently provides:

> A person shall not publish, whether by radio, television, newspaper or otherwise, a report of any proceedings before the Childrens Court or before an adult court pursuant to this Act.

The difficulty that I believe the legislation is attempting to pick up is that that provision does not refer to the situation between arrest and appearance in court. The amendment would ensure that the prohibition on publication of name

applies from the time of arrest to the time of appearance in the Childrens Court. That is the principal reason for revamping section 93 by this amendment. In my view it certainly does not constitute a much greater restriction on publication of the names or proceedings in the Childrens Court beyond that which is applicable at present. In other words, I think that all the amendment does is to tidy up the situation: the situation pertaining from the time of arrest to the time of appearance in the Childrens Court will also be subject to the restrictions relating to publication of details. I do not think that the other drafting amendments impose any substantially greater restrictions on publication than exist at present.

However, the honourable member raised the point, one which can always be the subject of differences of opinion in the community and in Parliament. I shall be happy to refer his comments in this debate to the Childrens Court Advisory Committee for its view on the matters raised, to see whether the members of that committee believe there is any need for a change in the procedures. I point out to the honourable member that one of the functions of the advisory committee is to monitor and evaluate the administration and operation of the Childrens Protection and Young Offenders Act. That power is provided in section 84 (1) *(a)* of the Act. If the honourable member wishes to pursue this, I will be happy to refer the matter to the advisory committee for its comment.

The Hon. K.T. GRIFFIN: I thank the Attorney-General for his answers to the questions that I have raised during the second reading debate. There is a further matter that I wish to raise, but I will do that when we are dealing with clause 12 which deals specifically with the issue of information which might be published about proceedings in childrens courts.

Clause passed.

Clauses 3 to 10 passed.

Clause 11—'Establishment of the Childrens Court Advisory Committee.'

The Hon. K.T. GRIFFIN: I acknowledge the wisdom of having deputies for the members of the Training Centre Review Board. However, is it necessary to have deputies for members of the advisory committee? It is possible that there might be a dissipation of views if all members of the advisory committee do not attend each meeting. I would have thought that the advisory committee meetings would not be particularly numerous and that the meeting times would be more flexible. There is no obligation to deal with release of young offenders or other areas relating to them. For that reason, is it necessary for members of an advisory committee such as this to have deputies?

The Hon. C.J. SUMNER: I understand the point the honourable member is making. The Childrens Court Advisory Committee itself has made that recommendation. The Chairman (Judge Newman) did so in a minute to me as far back as 23 February 1984. The argument in favour of this was that the limitation on appointment of deputies has resulted in severe practical difficulties for the advisory committee when an appointed member has been absent for an extended period because of illness.

A similar difficulty could arise if an appointed member was unavailable for lengthy periods for other reasons. Therefore, the committee recommended that section 81 be amended to enable one additional member to be appointed by the Governor in each of the three categories as a proxy, or that additional members be appointed as proxies when the need arises, perhaps through the auspices of a power delegated to an appropriate person.

All they are saying is that they really do need some system of proxies in order for the committee to function effectively. Clearly, the deputies would be used in circumstances where the member was just unable to attend for a period. I do not know that it is envisaged that every time a member cannot attend a meeting the proxy would attend, although that is also possible, but I envisage the major use would be in circumstances where there are absences for a period of time and where the work of the committee becomes unbalanced, if not being completely disrupted, by the absence of that member.

Clause passed.

Clause 12—'Restriction on reports of proceedings in respect of children.'

The Hon. K.T. GRIFFIN: I appreciate that the Attorney will refer the questions that I have raised about the operation of section 93 to the Childrens Court Advisory Committee. Can the Attorney indicate when a report may be available after referral? Will it be six months, 12 months or only several months? Will the Attorney request a reply within a reasonable period, rather than waiting, say, for an annual report?

The Hon. C.J. SUMNER: I understand that the Chairman of the advisory committee is on sick leave at present, but I do not think that that is a longlasting situation. I would be happy when I send the referral to request a report within a certain time, or at least ask the committee whether it can report by a certain date.

The Hon. K.T. GRIFFIN: I appreciate that that will happen. As I identified in the second reading debate, my concern is that virtually no information is published about specific offences in the Childrens Court area, and that lack of publicity may lull members of the community into a false sense of security about the level of criminal activity by young offenders. In fact, it might lessen the deterrent to other potential young offenders if they do not know what sort of penalties are attached for the commission of particular crimes.

On the other hand, one has to balance the desire for other young people to copy what some young offenders have done, but there needs to be a review of the balance because, for the past seven years, we have had very little information about offences dealt with in the Childrens Court in comparison with the publicity given to offences tried in adult courts. It might be desirable to relax the provisions of the clause. I make it clear that I do not want anything done to identify the young offender, but it is probably appropriate to have some review of the way in which it is operated and whether there have been some detrimental consequences resulting from a lack of publicity concerning what happens in the Childrens Court.

The Hon. C.J. SUMNER: I will also refer those remarks to the Childrens Court Advisory Committee and I invite the honourable member, if he has any additional suggestions to put on this topic, to write to me so that I can convey them to the advisory committee or, if he would like to, I am sure the committee would be willing to entertain a submission direct from him.

Clause passed.

Remaining clauses (13 and 14) and title passed.

Bill read a third time and passed.

ADDRESS IN REPLY

Adjourned debate on motion for adoption (resumed on motion).

(Continued from page 283.)

The Hon. DIANA LAIDLAW: In supporting the motion I first congratulate you, Ms President, on your election. I have considerable respect for your capacity and the well researched contributions that you have made in this Cham-

ber over the period that I have been present, and also for your persistent fight over many years to raise the status of women in our community. To be quite frank, I believe that these qualities—amongst others—more than merit your inclusion as a Minister in the present Government, and I do hope for your sake that you do have that opportunity at some future date. In the meantime, I wish you the best in facing your new and challenging responsibilities.

I also congratulate and welcome the new members to this Chamber since the last election, namely, the Hon. Jamie Irwin, the Hon. Terry Roberts, the Hon. George Weatherill, the Hon. Mike Elliott, and the Hon. Carolyn Pickles. At this stage, it is only the Hon. Jamie Irwin that I know well, and I know him to be a most diligent worker with many personal strengths. I believe that he will make a strong and positive contribution to this Chamber, particularly with his knowledge of farming and local government and in relation to the needs of men, women and children outside the metropolitan area. I hope that he and the other new members find their period here as rewarding as I have found the past three years. While I am not an old hand at this business—

The Hon. C.J. Sumner interjecting:

The Hon. DIANA LAIDLAW: Perhaps it is because I discovered that this job requires patience, determination and a sense of humour that I have had an unexpected rise. This job probably requires a sense of humour, patience and determination well beyond what is required in most other jobs. Like all work one certainly gets out of it only what one is prepared to put into it. In speaking to the new members at this time, I certainly encourage hard work because there can be many rewards and many benefits.

In reflecting for a moment on the past three years, I suppose that one of my principal disappointments remains the inability and possibly even the refusal on occasions of supposedly intelligent and well motivated people to listen to what others have to say. There is a wealth of talent in this Parliament and I believe that too often too many members appear to be far too self-satisfied with their own fixed points of view to believe that there is merit or substance in anyone else's argument. Too many are firmly entrenched in their views to believe that someone else has something to contribute. Possibly the ALP's stranglehold on the exercise of independent judgment in this Chamber has really forced this problem.

The Hon. Mike Elliott made some reference to this in his maiden speech, and I believe that the question of independent judgment being exercised is very important if this Parliament and this Chamber in particular is to remain credible and retain its purpose for being which, of course, is as a House of review. To the Hon. Mike Elliott, I would say that many on this side would concur with his assessment, and to some degree some more than others have certainly tried to exercise and demonstrate that independent judgment in the past. I hope that they will continue to do so.

The Hon. C.J. Sumner: How many times have you done it?

The Hon. DIANA LAIDLAW: More than I would wish to tell State Council. Nevertheless, I have still exercised that judgment.

The Hon. C.J. Sumner interjecting:

The Hon. DIANA LAIDLAW: They made their own decisions. Just over two weeks ago I was entrusted with responsibility for the shadow portfolios of welfare and the status of women. I appreciate in respect to the allocation of both of those portfolios that it was not necessarily an easy decision for my parliamentary Leader, Mr John Olsen, to nominate five shadow Ministers in the Legislative Council. Indeed, I believe the move is unprecedented for this Chamber and certainly his decision to include two women in his shadow Cabinet is the first in the history of this Parliament.

In concentrating on the areas of welfare and the status of women, I am alert to the danger that has trapped many members, Parliaments and governments in the past, that is, of addressing women's problems in terms of welfare questions rather than in terms of encouraging achievement. These past practices have in part been responsible for the fact that there is much overlap today between the portfolios of welfare and the status of women. The majority of welfare recipients today are women; the largest number of consumers of community based services are women; and we also face the fact that a growing proportion—and the largest proportion—of our aged population today are women.

The challenge in the areas that I have just named and in others is that we must respect the individuality of those who fall under the umbrella terms of welfare and women. However, we must also look at initiatives that will help to unlock women from an overdependence on the welfare system. Indeed, I believe that the term 'challenge' is probably the most appropriate to describe the range of questions that must be addressed within my two new areas of responsibility. Both the areas of welfare and the status of women are massively people orientated with many glaring needs to be addressed at community and government levels; yet in neither area are the individuals concerned well organised to compete from a position of strength with, for instance, big unions and big business when lobbying governments for the realisation of their aspirations, interests and needs.

While I do not seek to underplay the role of organisations such as SACOSS, the National Council of Women, the Womens Electoral Lobby or the UN Status of Women Committee and their national associations, I am conscious that none of these organisations has the capacity to, for instance, withdraw its labour as an effective negotiating device when lobbying governments. As a consequence, when successive governments have set their priorities and determined their budgets, the needs of women and the less financially well off in our community have become easy options for indecision and compromise. The relatively powerless position of individuals encompassed by the areas of welfare and status of women places the onus on society to find the means whereby both interests are more effectively represented in decision making forums at government and community level.

A further challenge is presented by the call to provide resources which are sufficient to ensure that women and welfare beneficiaries have access to programs that will help them develop self esteem and their personal skills. This latter challenge will be no less difficult than the others that I have mentioned briefly, especially in the face of the widespread cry across Australia at present to cut the level of personal and company taxation collections and to keep government deficits in check. In fact, I was interested to read this week that Prime Minister Hawke and Treasurer Keating are facing a revolt from seven senior Ministers, including Mr Howe (Minister for Social Security) and Senator Grimes (Minister for Community Services), over their plans for a tough budget for the forthcoming financial year. Apparently, the Ministers have advised that it is impossible for them to meet priorities on welfare spending within the guidelines issued. The outcome of this battle, as the Attorney will appreciate, has very important implications nationally and also for South Australia in relation to our capacity to deliver services as required.

The outcome has important implications, notwithstanding the burgeoning welfare budgets. About 2.5 million Australians—including 800 000 children—who are reported to be below the poverty line at present, and private and public

welfare agencies are facing extreme pressure in their efforts to meet record demands for their services.

The unrelenting nature of the demand for more and more welfare is evident when one reflects the recent growth in welfare expenditure as a proportion of all Government expenditure. For the purpose of this comparison I refer only to unemployment benefits. In 1970 13 000 people were receiving such benefits at a cost of $8 million, while last financial year the Federal budget provided for 636 000 persons at a cost of $2.3 billion.

Since 1970, Australia has witnessed a whole section of our households moved into a new situation where their total income is derived from social security benefits. Today, many of these same households are facing excruciating difficulties trying to make ends meet on the benefits. Last year, 80 per cent of the people who received emergency financial assistance through the Department of Community Welfare were, in fact, social security recipients.

Meanwhile, the demands on the department's other services—deriving, for instance, from child abuse and domestic violence—are rising at an alarming pace. This perplexing scenario is really a catch 22 situation, especially in the face of demands—as I instanced earlier—of taxpayers seeking tax cuts. The situation for taxpayers and beneficiaries was summed up as frightening by the former Minister of Community Welfare in August of last year, when he noted that by the year 2000—only 14 years away—half of Australia's population would be dependants. As I stated earlier, I think that the portfolio of welfare presents many challenges (perhaps the Minister, who is as new to the job as I am, would also see his job as presenting many challenges, although he may believe that 'challenging' is an understatement when one looks at the pressures that South Australia may face in terms of the welfare allocations that we may receive in this forthcoming federal budget).

A number of members, in their contributions to the Address in Reply debate, have referred to this year as being designated by the United Nations as the International Year of Peace. In all instances, these members have chosen to focus on peace simply in terms of war and nuclear disarmament. While I concur that both issues require urgent and united attention, I find it totally objectionable that they and others who are placing such emphasis on this year have opted to define peace in such narrow, selective terms.

In fact, I wish to argue that to address the objectives of the year solely in terms of war and nuclear disarmament is a distortion of the term 'peace', and that to continue to do so is a gross waste of a very special opportunity presented to us as legislators to focus on the promotion of peace in our community—essentially in our own backyard.

I question how many of those who constantly refer to the International Year of Peace have ever bothered to read either a definition of the word or, indeed, the text of the resolution that was adopted by the General Assembly. For their benefit and for the information of other honourable members, I refer first to the definition in Websters Third New International Dictionary, as follows:

Peace: 1. Freedom from civil clamour and confusion; a state of public quiet; a state of security or order within a community provided for by law, custom or public opinion. 2. A mental or spiritual condition marked by freedom from disquieting or oppressive thoughts or emotions. 3. A tranquil state of freedom from outside disturbance and harassment. 4. Harmony in human or personal relations; mutual concord and esteem. 5. A state of mutual concord between governments; absence of hostilities or war.

Likewise, I refer to the Shorter Oxford English Dictionary and the term of 'peace'. It reads:

Freedom from disturbance, freedom from quarrels or dissension between individuals; concord, amity; freedom from mental or spiritual disturbance or conflict arising from passion; freedom from or cessation of war or hostilities; a ratification of a treaty of peace between two powers previously at war.

It is clear from those references that the term 'peace' is just as important and relevant in the context of a family or neighbourhood as it is in the context of international relations. Certainly, it is clear from the proclamation of the International Year of Peace that the General Assembly did not seek to define the promotion of peace simply in terms of a single issue—international conflict.

I take this opportunity to read into the record the 'Proclamation of the International Year of Peace', which states:

PROCLAMATION OF THE INTERNATIONAL YEAR OF PEACE

Wheras the General Assembly has decided unanimously to proclaim solemnly the International Year of Peace on 24 October 1985, the fortieth anniversary of the United Nations.

Whereas the fortieth anniversary of the United Nations provides a unique opportunity to reaffirm the support for and commitment to the purposes and principles of the Charter of the United Nations.

Whereas peace constitutes a universal ideal and the promotion of peace is the primary purpose of the United Nations.

Whereas the promotion of international peace and security requires continuing and positive action by States and people aimed at the prevention of war, removal of various threats of peace—including the nuclear threat—respect for the principle of non-use of force, the resolution of conflicts and the peaceful settlement of disputes, confidence-building measures, disarmament, maintenance of outer space for peaceful uses, development, the promotion and exercise of human rights and fundamental freedoms, decolonisation in accordance with the principle of self-determination, elimination of racial discrimination and apartheid, the enhancement of the quality of life, satisfication of human needs and protection of the environment.

Whereas peoples must live together in peace and practise tolerance, and it has been recongised that education, information, science and culture can contribute to that end.

Whereas the International Year of Peace provides a timely impetus for initiating renewed thought and action for the promotion of peace.

Whereas the International Year of Peace offers an opportunity to governments, intergovernmental, non-governmental organisations and others to express in practical terms the common aspiration of all peoples for peace.

Whereas the International Year of Peace is not only a celebration or commemoration, but an opportunity to reflect and act creatively and systematically in fulfilling the purposes of the United Nations.

Now, therefore,

The General Assembly

Solemnly proclaims 1986 to be the International Year of Peace and calls upon all peoples to joint with the United Nations in resolute efforts to safeguard peace and the future of humanity.

I understand that the Federal Government has sought to promote the International Year of Peace by the allocation of $3 million and the establishment of a national consultative committee on peace and disarmament, headed by Mr Al Grassby. To date, the committee has approved the allocation of $600 000 to projects that include: research by the CSIRO into the effects of nuclear winter in the South Pacific region, a film on disarmament, a symposium on the seismic verification of a nuclear test ban treaty; and a Human Rights Commission seminar on the right to peaceful protest. A further $900 000—almost one third of the budget for the International Year of Peace—has been earmarked for advertising, including the issue of a special stamp, a dollar coin and yet another jingle.

While all the above projects may have a degree of merit, I wish that Federal Government had had the foresight to capitalise on this opportunity presented by the International Year of Peace, to tackle with equal commitment and vigour issues such as domestic violence and child abuse. Certainly, I do not doubt that all State Governments would welcome a mere hint of the $900 000 that is to be spent on coins, stamps and a jingle to supplement the very scarce resources at their disposal a the present time to address issues of personal and neighbourhood safety. At a time when instances of domestic violence are on the increase, when reports of

child abuse and child sexual assault are at alarming levels; when housebreakings have reached record proportions and as to many members would know from recent doornockings, when most people find the need to hide themselves behind locked security doors, I suggest that to respond to the challenge of peace solely in terms of international conflict between nations, is a totally inadequate response.

One of the most disturbing features of modern society is unquestionably the matter of violence against women and children, some 70 per cent of which is committed by a close male relative or friend. Incidents of assault, sexual assault, rape and incest, as well as the various forms of psychological and emotional trauma visited on women and children, are not new phenomena. What makes this violence so disturbing today is the fact that we allegedly live in a civilised society where men and women are supposedly equal and enjoy equal status and where the vulnerability of children should be recognised. Yet we face a situation today where:

- the majority of victims of domestic murder are women;
- an estimated 30 000 to 60 000 cases of incest occur in Australia each year;
- reportings of child abuse in South Australia alone last year reached 1 500, an increase of 34 per cent over the previous year, while the number of children referred as victims of child sexual assault increased from 72 in 1978 to 350 last financial year;
- fatal child abuse is now the third major cause of violent death in Australia for pre-school children and the fifth major cause of violent death for all children up to 15 years;
- 10 per cent of Adelaide families are affected by domestic violence, according to a recent report;
- the police are called to over 20 000 domestic conflicts a year in South Australia.

While the extent of domestic violence against women and children is very hard to assess accurately, in Australia, as in most developed countries today, there is a growing awareness among professionals, politicians and others of the problem and some of its causes. Indeed, there was a national conference earlier this year on child abuse that I was unable to attend, but I look forward to attending an international conference on child abuse to be held in Sydney this August.

Politicians have been notoriously loath to focus on the problems of domestic violence against women and children. In this place, for instance, we discuss many subjects. Often enough they relate to the financial interests of large and small groups, or to the finer points of the law. But seldom do we devote time to the urgent problems of people such as those suffering a variety of bad treatment and deprivation and often repeated and protracted injury and abuse. Our reservations about addressing the needs of people in such circumstances appear to stem from the concept, in itself respectable enough, that the home should be a place where privacy and the rights of householders are respected.

Even today one hears the accusation that those who seek to involve the law in domestic situations are encouraging the break-up of families; that simply to provide a refuge for women under threat, or their families as well, is somehow destroying the family. While this attitude remains alive and well in some quarters, the facts confirm that strong law enforcement is required to demonstrate that society opposes the use of emotional, physical and sexual violence as a means to resolve disputes or to reaffirm authority within a domestic environment.

A number of recent studies confirm that a variety of causes provoke violence in a family. While alcohol would appear to be involved in most instances, certainly there are other factors such as jealousy, the advent of children, unemployment, and increasingly the factor of an inability to find secure and affordable housing.

Possibly the most alarming outcome of such recent studies is the impact of domestic violence on children. I highlight one example, that of a phone-in conducted in the ACT last year which discovered that in one-third of domestic violence cases reported a male child had seen his mother beaten by the father. Experience proves that in the next generation most of these boys will view such behaviour as their right: therefore, the problem becomes self-perpetuating. Meanwhile, other research projects have confirmed that the majority of children who suffer physical abuse and sexual assault encounter such abuse and assault when they are very young. Consequently, by the time they reach school many of them are emotionally damaged.

As they grow older, if they have not been identified and assisted early, they may well try to resolve the situation for themselves by either running away from home or escaping through the use of drugs; others, it is reported, suffer guilt, humiliation and emotional problems well into their lives. The extent of violence within families, and the self-perpetuating nature of the problem over generation after generation, requires an urgent commitment by Federal and State Governments, in liaison with the voluntary sector, to pursue a major multi-disciplinary change to the way in which we deal with and treat victims and offenders. At the present time our community, legal, police and Government responses to the problem leave much to be desired. While this situation is tolerated, too many women and children will have no option but to continue to put up with domestic violence and abuse.

In conclusion, I cite a reference from a record of interview I read recently in the *Canberra Times* where David Wehner, a clinical psychologist who founded the South Australian Domestic Violence Response team, was quoted as saying the following:

> If the Government investigated the causes and solutions of wife and child battering as eagerly as it did for AIDS and cancer research, answers could be quickly found.

I agree with Mr Wehner that it is simply a matter of priorities. In the International Year of Peace the pursuit of the causes and solutions of domestic violence against women and children would seem to me a fitting priority for united Government action, while any steps that seek to resolve or at least stem these conflicts will represent an outstanding and lasting contribution to peace in our community.

The Hon. C.M. HILL: I support the motion that the Address in Reply as read be adopted and I thank His Excellency for the manner in which he opened this Parliament on 11 February. I reaffirm my loyalty to the Crown and acknowledge that the motion has been moved and seconded in a very able and sincere manner by new members in this place. Of course, it has now been supported by almost every member on the floor of the Council.

I hasten to commend former members of this Chamber who retired at the end of the last session. It was a shame that they were not given an opportunity to give valedictories. However, I was pleased to hear the Leader of the Council express appreciation of their services at the first opportunity during this particular session.

The Hon. Mr DeGaris was already a member of this Council when I was elected in 1965. We sat together as Opposition backbenchers at that time and subsequently served together as Ministers, and in other capacities. He can look back upon his long parliamentary career with pride because he maintained consistency in his opinions and actions; he applied his analytical mind most effectively in the parliamentary process of review; and he retained some independence, a sprinkling of humour and a basic loyalty to this Council throughout his long parliamentary career.

The Hon. Arthur Whyte entered the Chamber a little time after my election. He came here with a proud war record and directly from a life on the land where in his instance that life was difficult and indeed harsh in a dry and marginal region of the North-West of the State. He maintained contact with those from the northern pastoral areas and the people from Eyre Peninsula throughout his parliamentary career.

His consistent representations on their behalf to Governments resulted in many citizens from those far-flung areas getting a fair go. Within this Chamber the Hon. Mr Whyte accepted the heavy responsibility of the office of President for many years with dignity and a strong determination to uphold the traditions of that office. In social activities associated with the office he was ably assisted by Mrs Whyte.

The Hon. Mr Creedon came into the Council with a businessman's background. He always gave me the impression that he was a very conservative person. One saw him at his best in important committee work. He was extremely conscientious within the Public Works Standing Committee on which he and I served together. Also he, together with his gracious wife, actively represented his Party at many public functions, particularly in the Gawler region. The only time I ever doubted his sincerity was late last year when, after a comfortable parliamentary career in this place and the early prospect of a superannuated retirement, he advocated abolition of this Chamber.

The Hon. Mr Milne added colour and variety to the Chamber. He did not worship the gods of precedence and consistency but he did try very hard to succeed as a legislator at State level. His task was by no means easy and his valedictory speech, had he been able to deliver it, could well have ended with the words of Louis Pasteur's famous epitaph 'I have done what I could.' It was rather sad that, after his entrance into this Parliament as the first member of the Australian Democrats and having served here for six years in that capacity, at the end of the term he became embroiled with Party squabbling and resigned from his Party.

I congratulate the new members of the Council. I wish each of them success as members of this Chamber. Their maiden speeches have been well prepared and sincere contributions to this debate. One of the most pleasing features of their entry is the variety of political, social and economic thought which they bring into this forum. The debates, the Council and Parliament should benefit from this mix.

On my side of politics the Hon. Mr Irwin is a rural man with considerable local government experience. He has already involved himself with much community work, and this is not surprising because he inherits, I am sure, the deep commitment to public and community service displayed by his father.

I do not know very much at all about the new members from the Australian Labor Party, but the Hon. Carolyn Pickles will no doubt assist the debates by contributing the views of women, including career women, many of whom encounter difficulties in the workplace and in social and economic areas. Those difficulties, although already raised by women on both sides of this Chamber in the past, need to be stressed and supported with even greater intensity.

We on this side almost met the Hon. Terry Roberts formally three years ago when he was beaten for a seat by only a whisker by the Hon. Mr Gilfillan of the Australian Democrats. I understand that his supporters in the Labor Party were so sure of his election in the dying stages of the count that they actually put his name on the door upstairs. However, his perseverance and his Party have now brought him here. His trade union knowledge, amassed as it has been, as I understand it, from a regional area of the State, should assist the deliberations of this Council.

The Hon. George Weatherill has already been surrounded by some publicity concerning preselection for his new office. I will be interested to hear the views of the left wing of the Labor Party on various issues. I am serving my twenty-first year here and have not heard very much from the genuine left wing of the Labor Party.

The Hon. Don Banfield was a fiery radical at times. The Hon. Mr Foster stuck to and represented the workers and their problems through thick and thin. The late Hon. Jim Dunford was a true AWU man, as distinct from the left wing, and the Hon. Mr Blevins did not expound left wing policies very often on the floor of this place.

I also wish the Hon. Mr Elliott well in his parliamentary career. Judging from his maiden speech, I believe that he will apply himself in an earnest and serious way to his responsibilities. In expressing good wishes to new members for their futures, may I express the hope that they will find this Chamber a means of positive contribution to the parliamentary process.

Second Chambers have been rubbished and ridiculed for a long time, but the founders of the Australian Constitution, the United States Constitution and supporters of the Westminster system the world over have, generally speaking, supported the bicameral principle.

The Hon. M.B. Cameron: Except Queensland.

The Hon. C.M. HILL: As I said, generally speaking, and of course originally Queensland did. Importantly, the democratic rights of the people have been protected to greater degrees wherever a second House system has existed. I am convinced absolutely that better laws under which people must live emerge from Parliaments which have the two House system. However, in today's world for this Council to contribute more effectively in the future than in the past and for its members to feel that their contribution is effective and worth while it must be made to work, so to speak. Hopefully, with further development of the Committee system and with perhaps a little more independence from individual members we could achieve this result.

The Hon. T.G. Roberts: Left wing ones.

The Hon. C.M. HILL: I am looking forward, as I said earlier, to some left wing contributions, even from the Hon. Mr Roberts. However, we must wait and see. The point I wish specifically to stress is that if new members want to build upon the good that has come out of this place they will find that it overflows with tradition. They know, of course, that the Legislative Council was in existence for 17 years before the House of Assembly was established with self-government in South Australia.

Our tradition at Westminster is traced back through the House of Lords through the great Council of the Nation, remembering that the House of Commons was added to it only in the thirteenth century and it reached back beyond the Norman conquest, beyond King Arthur into, as one authority put it, the shadowy regions of Teutonic antiquity.

Our history therefore evolves from the oldest of all British institutions. There is a tendency among some people to be critical of British parliamentary custom and convention, but I was agreeably surprised when attending as a representative of this Parliament a Commonwealth Parliamentary Association meeting and seminar of our South-West Pacific Region in 1984 that the newly formed States in the South Pacific, after gaining independence and being faced themselves with the decision as to the system of government which they had to choose, all chose the Westminster system.

The Hon. J.R. Cornwall: They didn't go for an Upper House, though, did they?

The Hon. C.M. HILL: Some of them have Upper Houses, and have some nominations in those Upper Houses. Nevertheless, they turned back to the Westminster system in their choice. That is the point I am making. Indeed, the object

of that seminar, held in both Canberra and Vava'u, Tonga, was to investigate how their individual needs and situations could be fitted into the remarkably flexible Westminster system.

I now congratulate the Ministers of this House upon their reappointments to the front bench and on receiving the portfolios allocated to them by the Premier. I was particularly pleased that the Hon. Ms Wiese was given the portfolio of Minister assisting the Minister for the Arts. I raised this matter of ministerial administration of the arts on several occasions during the term of the last Labor Government, from 1982 to 1985, as I felt that the Premier, holding entirely the portfolio of Minister for the Arts could not appropriate sufficient time to that particular responsibility. Of course, I was not alone in my concerns. I recall that the *Advertiser* of 4 August 1983 contained an editorial dealing with the same question of whether or not at that stage the Premier should shed his arts portfolio and give the work to another Minister. In that leader, which discussed some problems that had occurred at the Adelaide Festival Centre Trust and the Art Gallery of South Australia, the following comments were made:

> That current troubles are mostly the results of personality differences is becoming more and more obvious as people are talking. It is more than a mere pity that these personality clashes have been allowed to reach the proportions they have. It is a shame. Some of them are becoming dangerously close to undermining the credibility of the arts administration in South Australia let alone its deficiency.

The editorial then gets closer to the bone:

> But with the demands of office of Premier has he enough time to hold his arts portfolio? It appears that he had to be dragged into a public statement on the art gallery dispute, after saying that it was an internal matter, only because the press left him no choice.

Finally, the editorial states:

> Adelaide is an arts centre and proud of it and it needs Mr Bannon leading the way. If he cannot, someone must be found who can devote the time and energy to this vital slice of life in South Australia.

It appears that the Premier has admitted that there is a need for further ministerial control in the arts area, and he has found an answer, which I commend, by appointing the Hon. Ms Wiese as Minister Assisting the Minister for the Arts. I now congratulate the shadow Ministers who have been appointed in the Council, namely, the Hon. Mr Davis, the Hon. Mr Lucas and the Hon. Diana Laidlaw. Immediately after the last election I informed Mr John Olsen of my wish not to continue with the tasks of shadow Minister, and he understood my reasons. The new shadow Ministers are youthful, keen and diligent and particularly in touch with younger people. As I have already told them, I will give them any help that they might need from me. I will be particularly happy to support the Hon. Legh Davis in his work as shadow Minister for the Arts and shadow Minister of Ethnic Affairs.

Finally, in my list of commendations I congratulate you, Madam President, on your election to the high office of President. From the remarks that I have already made in my speech you would appreciate that I hope that you will accept the customs and traditions of your high office, because it is the office which is accepted by the incumbent and which is of deep concern to members on the floor of this Council. I am sure that members on this side who supported your election intended that you occupy the Chair and fill the office of President: but we did not vote for changes to the customs and precedents of the office. However, I do hope that you will find your term as President very satisfying and rewarding.

I now raise two points in the body of my speech. The first deals with the responsibilities of a new Government on coming to office in preparing the speech which the Governor delivers at the opening of Parliament. The speech delivered on the most recent occasion was very short, and that is understandable because the Government had planned that the current session would last only four weeks; in other words, Parliament will prorogue after four weeks with another session to open later in the year. That routine is the prerogative of the Government. However, on this occasion, in preparing the speech the Government did not set out its proposals for the four week session. That concerns me, as it indicates either carelessness on the part of the Government or contempt of Parliament.

In all previous speeches prepared by Governments of the day for delivery to the Parliament by His Excellency, near the end of his speech there has been an all-embracing paragraph touching on a whole list of issues in relation to which legislation would be introduced in the forthcoming session. However, on this occasion only eight items were listed in the Governor's speech: the Government indicated that it would introduce eight pieces of legislation. In the first week, collectively in both Houses, 14 Bills were introduced; notice was given of the introduction of five Bills; and there was a further indication that one local government Bill would be introduced in this place.

I have not spent a great deal of time in researching this matter, but just flicking through some of the previous Governors' speeches in the Library I noticed that, for example, in 1980 a 27 paragraph speech was delivered with the 25th paragraph including the all-embracing comments to which I have referred, mentioning 14 Bills by name and, at least in those circumstances, the Parliament, comprising the elected representatives of the people, knew what to expect in the forthcoming session. In 1982, for example, the last paragraph, the 26th paragraph of the speech, included the traditional all-embracing comment, mentioning 17 Bills that were to be introduced.

The Hon. J.R. Cornwall: It was wasted in the event, wasn't it?

The Hon. C.M. HILL: I am not concerned about the mechanics of it from that point on: I am concerned only about the Government in future showing more respect to the Parliament by indicating in the Governor's speech more accurately what the legislative program of the Government will be.

The final matter with which I wish to deal concerns the State election just held. Analysts have claimed that the reason for the Labor Party's victory was that younger people tended to favour Labor. Also, judging from the polls published before the election a large percentage of voters were uncommitted and undecided right up until the week before election day. It appears, therefore, that in the main this group finally decided to vote Labor. These people might have been finally influenced by the personalities of the respective leaders or by the policies of the respective Parties.

As a Liberal I cannot accept that they were influenced by the principles and ideals on which the two major Parties are based. I think it is a great pity that my own Party has not highlighted and publicised its ideals and principles and explained the basic differences in principle between the Liberal and the Labor Parties.

As a younger man I was influenced and indeed enthralled—of course I remain enthralled—by the ideals of the Liberal Party. The founding father of the Party—Robert Gordon Menzies—laid down quite clearly the principles upon which the Party was based.

The Hon. J.R. Cornwall: Is that—the man whom history has not treated kindly?

The Hon. C.M. HILL: That depends upon the historians involved. When they sit at the Labor Party's benches one would not expect him to be well treated. There was the emphasis on freedom as compared with control and restric-

tion; the emphasis on the individual, as compared with the State; the emphasis upon enterprise, self reliance, reward for enterprise, the encouragement of initiative and the provision of an environment in which people could prosper and progress. When Menzies founded the Liberal Party in October 1944, he said:

> We took the name 'Liberal' because we were determined to be a progressive Party, willing to make experiments, in no sense reactionary, but believing in the individual, his rights and his enterprise, and rejecting the socialist panacea.

Five years later in his great successful campaign of 1949, in his policy speech he went to the very heart of liberalism and said, *inter alia*:

> The real freedoms are to worship, to think, to speak, to choose, to be ambitious, to be independent, to be industrious, to acquire skill, to seek reward. These are the real freedoms, for these are of the nature of man.

Fundamentally, liberalism has not changed over the past 40 years. The present national Leader of the Party (Mr Howard) stressed the goals of liberalism in Brisbane on 6 January, only last month, and he referred to and expanded upon those goals, as follows:

1. We should enhance individual freedom.
2. We must provide national security and promote family-security.
3. We should encourage enterprise and self reliance.
4. We should pursue success and excellence.
5. We must show compassion for those in our community who stand in genuine need of help.

The ideals and goals of the ALP as translated into the practices and situation of that Party within this Parliament are in stark contrast with the liberal principles that I have referred to. For example, take the requirement of Labor politicians to sign a pledge. They must commit themselves to a political machine. Where is the freedom in such a requirement? As part of the pledge they will be expelled if they vote against the will of the majority in their Caucus. Such a disciplinary compulsion is anathema to Liberal Party principles.

For example, take the Caucus room itself, which is where the ALP debates take place and issues for consideration in this Parliament are discussed and decided on. It is a room where constituents are not allowed: it is a private, secret room to the outside world. Elected members come out of that room and vote as a bloc in this Chamber, which should be the forum for open public debate.

The Hon. J.R. Cornwall: Is Stan Evans back in your Party room?

The Hon. C.M. HILL: I really do not know what that point has to do with the point I am making. Irrespective of how they vote in Caucus, ALP members vote as one on the floor of this Council. This procedure lacks freedom and reeks of compulsion. As another example, I refer to the power of the trade union movement, a body or group not elected by the people at large, over the ALP. That movement is the master of the ALP—

The Hon. Carolyn Pickles: And the mistress!

The Hon. C.M. HILL: I am sorry. I do not mind being corrected at all by the Hon. Ms Pickles. I will say it again: that movement is both the master and the mistress of the ALP. The ALP came into existence as the political wing of the trade union movement. In other words, to achieve political power that movement had to have its political arm—

The Hon. J.R. Cornwall: The last time they tried to smash trade unionism was in Queensland in 1891, under the tree—

The Hon. C.M. HILL: That comment has no relevance to my point. In this State that movement retains control because of its voting power at the State conventions of the ALP. There is no place for independent individualism or freedom of the individual in this situation. Let me move to the preselection process within the State conventions of the Labor Party, that is, the preselection for ALP political office.

The Hon. Carolyn Pickles: At least our convention is open to the public.

The Hon. T.G. Roberts: And the press.

The Hon. C.M. HILL: That is good, but I do not think that gets you off the hook. The ALP preselection system uses a card vote in which union delegates vote according to the number of their union's members. Sub-branches are allocated 25 per cent of the total vote between them, so that the size of the sub-branch vote does not necessarily bear any relationship to the number of members in the sub-branches: voting takes place in the form of a secret ballot.

The card system is used for preselection purposes—and I think I am right in these figures, but I stand to be corrected if there is any error—there are about 250 delegates and about 160 000 votes are cast. This indicates two significant points. First, the sub-branches are allowed only 25 per cent of the total vote. Any people wishing to take an active interest in politics and deciding which Party to join should think deeply of this undemocratic aspect.

If they join an ALP sub-branch they become one of the 25 per cent—irrespective of how many sub-branches, irrespective of the number of members, and irrespective of the number of members in those sub-branches. It is little wonder that there has been a revolt in the ALP about this matter. Of course, the tide of change is moving slowly, but I did see in the *Advertiser* only yesterday an article headed 'Radical rule reforms set to change the face of SA Labor'. The report goes on to state:

> While the plans apply to all States, they are likely to create particular controversy in South Australia and Western Australia. A move to change the ALP's present imbalanced preselection system in South Australia was planned for the Party's State conference last year, but was deferred. With South Australia's traditional ALP-affiliated unions already complaining of an erosion of their power base in Parliament, the planned national changes are likely to spark fierce opposition from unions covering the spectrum from Left, Centre Left and Right factions. The proposed changes which would have particular impact in South Australia are a swing of voting power at State conferences to see 60 per cent of the vote controlled by unions and 40 per cent by the sub-branches. This would result in a drastic initial shift of power in South Australia, where the unions now control 75 per cent of the vote and the sub-branches have 25 per cent . . .

Further changes are then enumerated in this article, and the final paragraph states:

> Both Left and Centre Left sources said last night the factions had not yet fully considered the proposed changes. The Centre Left, which stands to gain substantial power from many of the changes, is expected to support the reforms against a stand by the Left against any erosion of its power base.

It is not unreasonable to say that the move has little chance of success. The second point means that the union movement controls all preselections. It can make or break an ALP member's political career. They use the ticket system, which means that one representative can go to the convention with thousands and thousands of votes in his pocket. Labor parliamentarians raise the principle of one vote one value with great force whenever it suits them politically, but they do not raise a murmur about the ticket system in their preselection process.

The Hon. J.R. Cornwall interjecting:

The Hon. C.M. HILL: The honourable member is a bit afraid when he goes down there at convention time.

The Hon. R.I. Lucas: He is number five on the ticket.

The Hon. C.M. HILL: Yes, I do not think that he has made it above number five. My last point deals with the power of the left-wing unions within that union bloc vote. When they wish to exercise power the left-wing unions must have sufficient strength to do just that. Clear proof of that fact was demonstrated in the recent preselection of the Hon. George Weatherill. He and his left-wing supporters—

The Hon. G. Weatherill: It is not just the left—it is the progressive left and the centre left.

The Hon. C.M. HILL: There are so many factions down there that it tends to bamboozle both the public and me. I am sure that the Hon. Mr Weatherill picked up a few supporters along the way. However, the main thrust was from the left, including women, too.

The Hon. G. Weatherill: The progressive left.

The Hon. C.M. HILL: Yes, that is fair enough. The Hon. Mr Weatherill and his supporters defeated the combined strength of the Premier of this State and the centre-left faction, to which most labor MPs in this Council belong or which they support.

An honourable member: And Chris Schacht.

The Hon. C.M. HILL: Yes, and Mr Chris Schacht. In fact, I saw him in the precincts of the Council earlier today. He may have been trying to muster some numbers after the recent great defeat to which I have referred. All other moderates exercising their votes in the preselection contest were also defeated. The *Sunday Mail* of 16 February brought out the story with both strength and clarity. Mr Randall Ashbourne, well known to all members in this Council, wrote this article under the name of Onlooker. The article is headed, 'Left shows it is easy to roll Bannon', and it states:

> Overlooked in the pomp and ceremony which accompanied the opening of the forty-sixth SA Parliament on Tuesday was the import of the event which kicked off the week in politics. Two months and two days after taking the Labor Party to a record-breaking election victory, Premier John Bannon and his loyalist centre left troops got rolled.

I will not read it all; I will pick out a few paragraphs in the cause of brevity. The article continues:

> On Tuesday, Mr Weatherill took Frank Blevin's vacancy in the Legislative Council, following a special ALP convention which knocked out the centre left contender, Colleen Hutchison, by a larger-than-expected margin.
>
> Even those organising Mr Weatherill's campaign were surprised by his 6000 vote lead over Mrs Hutchison. Most had expected him to scrape through with a margin of fewer than 2000 votes.

The Hon. R.I. Lucas interjecting:

The Hon. C.M. HILL: I will touch on that in a moment. I would like Ministers opposite to tell us how many calls they made to supposed supporters to try to rally votes for Mrs Hutchinson. There must have been a division. No doubt the Minister of Health got on the bandwaggon on behalf of the Premier. The article continues:

> The result was a slap in the face for Mr Bannon, who had publicly backed Mrs Hutchison and whose name was invoked at every opportunity during the bitter lobbying.
>
> "If George gets up, it will be a blow to the Premier's prestige," was one of the many standard arguments being used. Members of Mr Bannon's staff openly lobbied for Mrs Hutchison.

I suppose this occurred during working hours and while they were in the public pay.

The Hon. G. Weatherill interjecting:

The Hon. C.M. HILL: Yes, he has a high acceptance rate at the moment. The article continues:

> Members of Mr Bannon's staff openly lobbied for Mrs Hutchison including one who used an influential Public Service title as a preface to the pro-Hutchison arguments.

If any member opposite can expand on that and give me a little more information, I would appreciate it because I certainly hope that there was not someone purporting to hold a Public Service title or someone holding a senior office in the Public Service who was on the telephone mustering support for the Premier. The article continues:

> The bitterness of the preselection fight was bizarre . . . It was a test the centre left lost—and by a significant margin. It was a challenge which failed, despite invoking the Premierial name and prestige, unsubtle suggestions to the BLF, and enormous pressure on sub-branches, women delegates and country representatives.
>
> It raises interesting questions about future policy directions of the Labor Party, and, by extention, the Bannon Government.
>
> The centre left, despite lofty ideals espoused at its national formation about three years ago, has operated as nothing more than a power faction. It is number-crunching machinery which delivers the votes on the convention floor.

Mr Ashbourne was not quite correct there, because although they intended to deliver the votes on this occasion they failed. I have stressed that article because I want to highlight that not only is the union movement the master of the ALP but the left wing is the master of that movement. Every member on the Labor side of this Parliament—

The Hon. J.R. Cornwall: What a silly proposition to put.

The Hon. C.M. HILL: What happened in relation to the Hon. Mr Weatherill's preselection? The left wing proved its strength and the Minister of Health knows that.

The Hon. J.R. Cornwall: It is a stupid proposition.

The Hon. C.M. HILL: The Minister can call it a stupid proposition, but it is a fact that at the preselection the left wing ruled the Labor movement. Of course it did, and the Minister cannot deny that. You should not be so silly as to deny that.

The ACTING PRESIDENT (Hon. G.L. Bruce): Order! The Hon. Mr Hill will address his remarks to the Chair.

The Hon. C.M. HILL: Yes, Sir, but I hope that I am not interjected on in such a silly fashion. Clear proof was there at the preselection of the power of the left wing. That and the other points that I have made are some of the facts that I think the public should know more about and should think about deeply.

An honourable member: What about the wets and the drys?

The Hon. C.M. HILL: The subject of the wets and the drys does not really enter into this in the State sphere of the Liberal Party. I would like to know how many Government Ministers entered into the preselection contest, how many backed their Premier and kept telephoning looking for support for Mrs Hutchison. I would wager that every one of them did. I would wager that in the Cabinet room it was mentioned that Mrs Hutchison must be got home, and that the Premier said to his Ministers that they should run along to their officers and get their machines working.

The Hon. R.I. Lucas interjecting:

The Hon. C.M. HILL: I do not know about the Hon. Mr Blevins. He probably did not say anything and went to his room and perhaps did not make too many telephone calls. However, the other Ministers would have backed the Premier. All the Premier's staff were also on the telephones mustering support. All the moderates of the ALP wanted Mrs Hutchison. However, the power of the left shone through and the left wing unions, with the Hon. Mr Weatherill opposite as their shining light, went into the State convention. A few of them pulled out their cards from their pockets with tens of thousands of votes recorded. They forgot about the principle of one vote one value.

An honourable member interjecting:

The Hon. C.M. HILL: No, it was a secret ballot; they did not hold them on high.

An honourable member interjecting:

The Hon. C.M. HILL: I did not know that they held their tickets on high.

Members interjecting:

The Hon. C.M. HILL: No, I understand that the vote was by secret ballot.

The ACTING PRESIDENT: If the Hon. Mr Hill addresses his remarks to the Chair he will get on much better.

The Hon. C.M. HILL: This is what happened, and the people of this State, who have to consider the ideals and the principles of the ALP and of the Liberal Party, must think very deeply about where the real power lies in relation to the Labor Party. More publicity should be given to these factual situations—not rumours—as brought out by the

correspondent to whom I have just referred. These matters of the Labor Party pledge, the Caucus room where faceless men deliberate and make real decisions—

The Hon. Carolyn Pickles: And women.

The Hon. C.M. HILL: Men and women. The power of unions in the running of the ALP in this State, the undemocratic preselection of the ALP members, and the power of the left wing in that system are matters which ALP parliamentarians never mention. However, I trust that in time some people who have voted for the Labor Party in the past will think deeply about the ideals and principles of these Parties before casting their vote in the future.

I return to my original point in this part of my speech. I believe that my Party—particularly at the national level and through our national Leader—should continue to project the fundamental features of liberalism and the differences between the two major Parties. The ideals of liberalism are translated in the way Liberal MPs are elected and work within the parliamentary process.

The differences between the Parties are as clear as night and day, and the people should not forget the basic objective of the Labor Party which, despite being watered down by amendment a few years ago, still maintains: 'The democratic socialisation of industry, production, distribution and exchange.'

The people have the freedom of choice to vote for whom they wish, but I believe that, if the Liberal Party can effectively promote itself in the basic area of ideals and principles, more South Australians will vote for Liberal-endorsed candidates in the future. I reiterate the congratulations which I have extended. I hope that the Labor Government will give more attention to preparing the Governor's speeches for the balance of this Parliament, and I expound with pride the ideals and principles of my political Party. I support the motion.

[*Sitting suspended from 6 to 7.45 p.m.*]

The Hon. L.H. DAVIS: I join with my colleagues in thanking the Governor for his address. I also thank the members who have left the Legislative Council for the contributions that they made. I welcome the new members to the Council.

I will briefly during my introduction pay a particular tribute to my colleagues the Hon. Murray Hill and the Hon. John Burdett. I feel that I should publicly right a wrong done to them in the media, where an impression was given that they had been cast aside from the shadow Cabinet. The fact is that both voluntarily stepped aside. They indicated some time ago to John Olsen that they would do that.

The Hon. Murray Hill is now the father of the Parliament following the retirement of the Hon. Ren DeGaris and Allan Rodda. His contribution spans two Liberal Governments and more than two decades and has been notable in many portfolios, latterly as Minister of Arts, Ethnic Affairs, Housing and Local Government.

Equally, it is appropriate to recognise the contribution made by the Hon. John Burdett as a Minister and a shadow Minister. I do not want to be accused of making premature valedictory addresses because the Hon. John Burdett and the Hon. Murray Hill are both alive and well and already, from the contributions we have heard from them in the short time that this Parliament has been in session, it is obvious that they will be around to harass the Government and to make sure that it is kept on course and up to the promises that it made during the recent election campaign.

I turn to economic matters because the perception is abroad that Australia is at the moment doing relatively well in economic terms. I concede that, relatively, if we look inwards Australia indeed is doing very well. The fact that the Labor Party was returned at the recent election was in no small part due to the economic prosperity abroad in South Australia, in sharp contrast to 1982, when unemployment and other economic indicators turned sour and contributed in no small way to the demise of the then Tonkin Liberal Government.

Certainly, Australia is an island continent, but it is not an island in economic matters. Economies over the past 10 years worldwide have been volatile, as we enter what I think can be properly described as the post industrial era. It has been accompanied by heavy deficit financing at both Government and private sector levels and I suspect follows in many ways the turmoil that accompanied the change from the agrarian revolution to the industrial revolution in the early nineteenth century.

I think that we should put in perspective Australia's place in the world in economic terms. At the beginning of the twentieth century the Australian economy was greater than the Japanese economy. Now the Japanese economy, in gross domestic product terms, is at least eight times the size of the Australian economy. Over the past 50 years our dollar has deteriorated against the American dollar from $2.04 to a current level of 68 to 69 cents.

The Hon. C.J. Sumner interjecting:

The Hon. L.H. DAVIS: That could be so, too. Against the Japanese currency the Australian dollar has deteriorated from 450 yen to a current level of 133 to 134 yen. That has occurred over the past 10 years. We have seen severe Government deficits in recent years. From the late 1970s heavy deficit spending occurred. It has been a bit like a fiscal morphine kick—there has been no growth on its own in real terms for a long time and, even though the Hawke Labor Government has parrotted the merits of its 4 per cent economic growth projected for 1985-86, in fact there will be deficit spending equivalent to 5 per cent of gross domestic product.

We have been helped in recent times by high inflation. I will return to that point later. Therefore, at the State level the Government's coffers have been materially assisted by this relative economic prosperity. As John Keynes once said, inflation is a mighty tax gatherer. Increased prices have brought increased taxes at both federal and State levels. Notably at the State level turnover in houses at much higher prices has sharply increased stamp duties, although in recent months there has been a downturn in them.

It is frightening to think that the net public debt is now in the vicinity of 100 billion dollars, which for each household is $56 per week just to fund the current federal debt. South Australia, of course, also has a relatively high debt. Our debt servicing costs as a proportion of gross domestic product is now equivalent to what it was back in the depression year of 1931: it is a great problem.

At the State level, I believe that we are mirroring very much the situation at the federal level, where personal tax as a proportion of Federal Government revenue has increased from 16 cents in the dollar collected of Government tax revenue to 51 cents in 1986: so in 35 years personal tax as a contributor to one dollar of Federal Government tax revenue has trebled. Another factor which of course can be regarded as disturbing is that interest rates are the highest in recorded history: we are talking about people with relatively small amounts to invest, say, retirement funds of $10 000 or more, who can invest at call at 17 per cent or 18 per cent when inflation is at 8 per cent—a real interest rate after taking into account the rate of price increases (that is, inflation) of 10 per cent. I suggest that there is the rosy inner glow that most South Australians and Australians are experiencing—that we have relative prosperity after some fairly lean years in the early 1980s.

However, it is very brittle: one could describe the Australian economy as a peanut brittle economy. It is very

sweet to taste; the economy is extremely brittle and very fragile. South Australian economic growth in recent years, of course, has been quite good when one looks at indicators and measures them against other States.

We have come from a narrow economic base in the late 1980s and expanded quite well in several areas, noticeably in the natural resource centre, where development of the full potential of the liquids petroleum scheme from the Cooper Basin, together with the well established gas and LPG, has brought considerable revenue and prosperity to the South Australian economy and sharply increasing royalties to the State Government.

There has been significant and bipartisan development of Technology Park. Increasingly also that is an area that has to be pursued with vigour. Our narrow manufacturing base remains under enormous pressure and our rural economy, which has long been the much underrated main source of prosperity in South Australia, continues to be under extraordinary pressure, given that it depends on a combination of factors which generally at the moment are breaking the wrong way. Although the seasons have been reasonably kind in recent years, the international prices for products—notably wheat and barley—have not.

The costs borne by farmers as interest rates soar and taxation burdens increase have also eroded the net worth of the dollars that they have earned from their labours. The other factor which is often ignored in this discussion about the South Australian economy is our relative position with respect to the cost of living of other States. The 'low cost State' tag which South Australia wore so well during the Playford years has been steadily eroded. Since 1980-81 the cost of living in Adelaide has outstripped the cost of living in all other capital cities of Australia. It is also a fact that the cost of housing in Adelaide is higher now than in any other capital cities in Australia with the exception of Sydney and Canberra.

The Hon. J.R. Cornwall interjecting:

The Hon. L.H. DAVIS: Who would have dreamt four or five years ago that the median price of housing in Adelaide would have been marginally higher than the median price of housing in Melbourne and 20 or 30 per cent higher than the cost of housing in Brisbane or Perth? It is all very well for Dr John Cornwall, who is swanning down beside West Lakes in some palatial mansion bought some time ago and from which he has benefited through sharp capital gains.

The ACTING PRESIDENT (Hon. C.M. Hill): Order! I counsel the honourable member not to digress following interjections from the Minister which are completely out of order. We have a busy program to get through tonight.

The Hon. L.H. DAVIS: Thank you, Mr Acting President, for so properly drawing attention to the Hon. Dr Cornwall's transgressions. The recovery in South Australia whilst welcome is, nevertheless, very fragile. Economic indicators suggest to me that the housing industry in South Australia will go into sharp decline this year as a result mainly of high interest rates, squeezing the ability both of financial institutions in terms of their lending capacity and, of course, squeezing the ability of potential home buyers who would find themselves unable to enter into a contract to buy a house, given the high repayments which would necessarily follow.

So, without being alarmist I am quite confident in predicting that this sharp downturn in building activity, spilling over as it does to so many suppliers and affecting employment in this State, will not be healthy for the South Australian economy and that by year's end the unemployment rate, certainly in that sector, will be noticeably higher.

I wish to reflect also on a few matters of general concern which are still of an economic and perhaps also a social nature, the first of which is teenage unemployment. I refer to the *Australian Bulletin of Labour* of December 1985. I am sure that members would know that the *Australian Bulletin of Labour* is a quarterly publication of the National Institute of Labour Studies, which is based at the Flinders University of South Australia. Professor Richard Blandy is the head of that well recognised and significant national economic institute.

The Hon. J.C. BURDETT: I draw your attention, Mr Acting President, to the state of the House.

A quorum having been formed:

The Hon. L.H. DAVIS: I refer to an article in the December edition of the *Australian Bulletin of Labour* entitled 'The Australian Labour Market, December 1985', by Judith Sloan. In a very detailed and well researched article she makes the point that there has been a dramatic deterioration in the teenage labour market in Australia in recent years. She says:

> In 1983 teenage unemployment in Australia was higher than in any other country other than Italy and France. It was even higher than in the US where rates of teenage unemployment have been extremely high over many years. Countries with consistently low rates of teenage unemployment are Japan, West Germany and Sweden.

I seek leave to have inserted in *Hansard* a table of a purely statistical nature relating to teenage unemployment rates.

Leave granted.

Teenage Unemployment Rates [a]

Rank	1984[c]	1983[b]	1982	1981
1	Sweden 5.0	Japan 6.4	Japan 5.6	W. Germany 4.3
2	Japan 6.9	Sweden 10.6	W. Germany 6.9	Japan 5.6
3	U.S.A. 18.9	Canada 22.2	Sweden 10.9	Sweden 9.6
4	Canada 20.0	U.S.A. 22.4	*Australia* 18.5	*Australia* 15.6
5	*Australia* 22.3	U.K. 23.4	U.K. 20.6	Canada 16.2
6	U.K. 22.8	*Australia* 23.6	Canada 21.9	U.S.A. 19.6
7		Italy 26.6	U.S.A. 23.2	Italy 20.9
8		France 30.7	Italy 23.7	U.K. 21.1
9			France 31.3	France 29.1

Notes: *(a)* Data are for 16 to 19 year olds in the U.S., France, U.K. and Sweden; 15 to 19 years olds in Canada, Australia and Germany; and 14 to 19 year olds in Italy.
(b) Figures for West Germany, not available.
(c) Figures for West Germany, France and Italy, not available.

Source: Moy, J. (1985), 'Recent trends in unemployment and the labour force, 10 countries',*Monthly Labour Review*, i.e. 108, (8), August.

The Hon. L.H. DAVIS: I reinforce that point by referring to the very latest statistics released by the Australian Bureau of Statistics on 13 February 1986, relating to the labour force in Australia for January 1986. This highlights the disturbing features of teenage unemployment in South Australia. In January 1985 the number of unemployed people aged between 15 and 19 years looking for full-time work in South Australia was 28.8 per cent. They could not obtain work. That figure has barely moved in the ensuing 12 months, and for January 1986 the figure remained at an alarming 28.7 per cent. That is well over one quarter of all people seeking work in that very critical age range of 15 to 19 years.

What is even more disturbing is that if one looks at the figures in other States, in every case there has been a noticeable decline in the 12 month period from January 1985 to January 1986 in the number of young people aged 15 to 19 years who remained unemployed. For example, in Queensland the figure has fallen from 29.3 per cent in January 1985 of those seeking work in that age range to 24.5 per cent. Similarly, in Western Australia the figure fell from 23.5 per cent to 21.7 per cent; and in Tasmania from 34.4 per cent to 29.1 per cent. I recognise that one cannot just take isolated figures and build a mountain on them, but that trend is alarming, and I hope that it will not persist.

Another point that Judith Sloan makes in her review of Australia's economic performance is that we have shown a sharp improvement in our international competitiveness, and, of course, that is to be expected given that the Australian dollar has declined against the American dollar by some 40 per cent in the past two or three years. It is down to 68c or 69c Australian for an American dollar, whereas in late 1981 for example it was in the order of $A1.15 to $US1. Judith Sloan makes that obvious point:

> The major factor behind the improvement in Australia's competitiveness is the devaluation in the Australian dollar, which has boosted exporting and importing competing industries. If this competitive edge is to be maintained, however, it is important to ensure that devaluation-induced effects of inflation do not feed through to wages and that our rate of inflation comes more into line with those of our trading (and competing) partners.

Of course, that is a factor that is a considerable worry, namely, that our inflation rate continues to be well in advance of that of other major trading countries. It is disturbing to see that our inflation rate is running at 8 per cent: in America we are talking about rates of 3 per cent or 4 per cent, while in Japan, West Germany and Canada we are also talking about rates less than half the rate applying in Australia.

Another factor which is of interest and which, of course, has been a subject of some controversy in recent times, concerns the relative flexibility in the Australian labour market—what is known as wage flexibility. In the *Bulletin* to which I have referred an article by A.G. Henderson, headed 'A comparison of Japanese and Australian labour markets' makes some telling points about the relative position of youth wages in both Australia and Japan. He makes the point that there are two aspects of wage flexibility: first, flexibility in the general level of wages so that if there is a downturn in the economy the unemployed person is not disadvantaged at the expense of the employed. The second aspect of wage flexibility is in the structure of relative wages; to maintain, for example, competitiveness of different categories of labour, including young and unskilled workers. The problem of relativity is a vexed one, of course, and we saw it recently with nurses seeking better recognition of the contribution that they make in hospitals and other institutions. More recently we saw parliamentarians suggesting some improvement in their allowances in recognition of those allowances slipping behind because there has been no adjustment made for two years. So, it is a topical and important subject.

Mr Henderson makes the point in his article that the relative wages of youth in Japan have declined since 1974 in contrast to a rigid structure in Australia. In fact, in Japan an index of teenage/adult wage relativities declined 5 per cent between 1974 and 1982. In Australia, on the other hand, there was very little change in the relative wage of young people. Mr Henderson argues that there is certainly a lack of flexibility in the Australian wage system. It is one of the great problems that we have in Australia, namely, that our institutions are so rigid and highly structured they cannot roll with the punches.

One factor which is of interest is the contribution that the trade union movement makes to the economy in Australia in terms of acting on behalf of workers seeking better conditions and better remuneration for their labours. On 3 February the Australian Bureau of Statistics released a very interesting document entitled 'Trade Union Statistics for Australia as at 30 June 1985'. It highlights the fact that as at 31 December 1984, 86 unions in Australia out of a total of 329 had less than 250 members. In fact, 162 trade unions have less than 1 000 members. In other words, more than 50 per cent of all the trade unions in Australia had less than 1 000 members. About 55 per cent of the total membership of the trade union movement in Australia belong to unions with less than 1 000 members. The fact that corporations, small businesses and middle-sized companies have to deal with a multitude of unions is a very big barrier to a rational and consistent approach to problems in the labour market. I hope that the rationalisation of unions does take place, because, although there has been a lot of talking on both sides of the political fence about this issue, it simply has not taken place.

That very same publication to which I have referred from the Australian Bureau of Statistics indicates that as at 31 December 1980 the number of trade unions in Australia totalled 325. At 30 June 1985 the number was 323. So, after five years of talking nothing has happened: the number of trade unions remains unchanged.

Interestingly enough the number of people belonging to trade unions in Australia continues to increase, from a total of just under 2.96 million at 31 December 1980 to 3.15 million at the end of June 1985. In fact, as a proportion of total employees in Australia the number of people belonging to trade unions has continued to increase in recent years. The last figure available as cited by the bureau's publication shows that 57 per cent of the work force are members of trade unions as at 30 June 1985, a marginal increase from 31 December 1980.

I do not want to comment critically about trade unions: that is not my intention this evening. I just want to note that I can quite understand how trade unions began. It was an exercise in developing some countervailing power to the weight of employers in the 19th century as the industrial revolution began. It was a necessary measure to bring some balance, reasonableness and social justice into the community, to ensure that people received adequate rewards for their labours.

But, having travelled overseas occasionally and having looked at economic matters abroad, it has struck me continually that the countries where trade union influence has been limited, or where trade unions work closely in conjunction with employers, have been those countries that have been economically most successful. An example of the first of course is America, where trade union membership traditionally has comprised a small percentage of the work force, but it has been particularly noticeable that as the more mature industrial locations in America have withered—I am talking about the North-East Seaboard, the so-called snow belt areas of America—as they have fallen away, the economic development in America has centered around

the sun belt regions of Texas and Colorado (Denver) and so on.

In those States and regions trade union power has been noticeably weak. In Texas trade union membership is well below 20 per cent of the work force. I would hope that there is not too much exploitation of workers. I did make inquiries about that, and it was not apparent to me that there was an instant replay of some of the excesses of the 19th century when there was far less balance between capital and labour.

But the flexibility that accompanied the Texas economy—the ability to move quickly; the ability to perceive that there was a common goal; that both profits and pay envelopes alike depended on production—was to the benefit of all concerned was evident. Similarly, in West Germany there has been—

The Hon. J.R. Cornwall interjecting:

The Hon. L.H. DAVIS: They get tips. Rural workers are another matter. Ask the Hon. Peter Dunn about rural workers here. After the Second World War in West Germany there was an opportunity to develop a model system. There are a small number of trade unions in West Germany. However, both employers and employees understand that without profit there cannot be prosperity; without profit there cannot be wages, there cannot be jobs, and there is much more unity of purpose in West Germany than exists, for example, in Australia.

What I am trying to suggest is that we have an excessive number of trade unions in Australia, and that there is too much dogma attached to the trade union movement in Australia and that has, amongst other things, hindered Australia's economic progress. I hope that matter will be addressed in a positive manner in the near future.

I want now to turn to the results of the last election. I do not do so with any great relish because the result is up on the board. I do not intend to shrink from the reality of that result: the Labor Party won the election fair and square although, as I have mentioned, there certainly were economic factors and other factors in the South Australian community that worked in a very positive fashion for it, for example, the Grand Prix and the ASER development. Nevertheless, that was the result and so be it. However, it did highlight some interesting statistical trends in electorates, and I just want to spend a little time examining the fact that population growth in South Australia has reversed its long-term trend: it is no longer true to say that the metropolitan area is outgrowing the population of country areas.

In the period 1977 to 1982 country population increased by 4.4. per cent, 352 680 to 368 090. That increase comfortably outstripped the 2.8 per cent growth in the Adelaide statistical division. Since 1972-73 country population growth has matched that in the Adelaide statistical division and reversed a trend evident for at least the preceding 100 years; namely, the growing urbanisation of the South Australian population.

Much of this resurgence in country population growth can be sourced to people living close to the Adelaide statistical division boundaries, for example, Mt Barker, and in retirement resorts such as Victor Harbor or elsewhere within 100 kilometres of Adelaide. Approximately 40 per cent of non-metropolitan population growth over the last decade was within 100 kilometres of Adelaide. However, there are other factors worth noting: increased mechanisation; the cost of labour; the higher cost of goods in small country centres; a prolonged downturn in the rural economy; and a lack of employment opportunities were all factors that could accelerate or at least maintain the rural drift so evident for most of this State's history.

But more young people are remaining in the country after schooling and are also raising families. It seems that there are non-economic factors at work. Some unemployed persons, or those with some form of social security benefit, often prefer to remain or relocate in a country area with its acceptable lifestyle. They often locate close to a large provincial centre. It is true to say that economic factors may also be relevant, for example, cheaper housing and the ability to grow food in country areas. The economic malaise of the early 1980s which gripped Australian capital cities acted as a break on the rural exodus.

In the 1960s and early 1970s significant restructuring in the rural economy took place as a result of mechanisation. Inevitably this resulted in 'population shedding' in rural areas. However, in recent years, with labour pared back to minimum levels, rural restructuring is no longer a major factor in population drift from country areas.

Farming families selling up or retiring from the land tend to settle in nearby provincial centres, close to friends. There is also an increasing trend for retirees from metropolitan Adelaide to become permanent residents at coastal or river resorts. Increased leisure opportunities, greater mobility and early retirement have contributed to a surge in tourism. This trend will create employment opportunities in popular provincial centres, and old mining towns rich in heritage.

In addition to that factor of population growth in country areas is the consequence that it has on electoral boundaries. First, and most obviously, population growth in South Australia through to the year 2001 will not coincide with the rate of growth in numbers of persons enrolled to vote in that same period. Secondly, leaving aside the projected mortality rate and net inflow of migrants to South Australia (and the age of those migrants), it is possible to be reasonably precise about potential voter enrolments through to the year 2001. The 18 year olds eligible for enrolment through to that year have already been born. Thirdly, there is a discrepancy between the number of potential voters at a State election and the number of voters actually enrolled. Enrolment is voluntary, not compulsory; it also requires Australian citizenship.

If one looks at the projected population of South Australia, it is possible to examine the number of persons aged 18 years and over who will reside in country and metropolitan electorates in the future. I seek leave to have incorporated in *Hansard* without my reading it a table of purely statistical nature relating to projected population growth in South Australia. It comes from the Department of Environment and Planning Forecasting and Land Monitoring Unit and is as at April 1984.

Leave granted.

Projected Population

Age 18 years and over 30 June	Adelaide Statistical Division No. of Persons	Per cent Increase	Country	Per cent Increase	Total	Total Per cent Increase
1981*	688 967	7.5	248 943	6.7	937 910	7.2
1986	740 376	6.5	265 514	9.1	1 005 890	7.2
1991	788 330	4.7	289 731	4.8	1 078 061	4.8
2001	857 155	3.8	318 474	4.9	1 175 629	4.1

*Actual

Projected Increase in Population (1986-2001)

	Adelaide Statistical Division	Country
Age 18 years and over	15.8%	19.9%

The Hon. L.H. DAVIS: This projection indicates that through the years from 1986 to 2001 population growth in the country for persons aged 18 years and over will outstrip population growth in the metropolitan area. It is important to remember that much of the projected increase in metropolitan adult population will occur at the extremities of the Adelaide Statistical Division. This area is encompassed by the country electorates of Goyder, Light, Kavel, Heysen and Alexandra. The implication of this assertion is obvious. In the next 15 years enrolments in country electorates should continue to increase at a faster rate than for metropolitan electorates.

This projected growth in the country reflects the economic and non-economic factors which I have already mentioned. It also reflects the effect of the post second world war baby boom in country areas. The flow-on from higher fertility patterns in country areas at that time will show up in the 18 year and over age group in the period 1986 to 2001. The growth in adult population in country areas will be assisted by the massive Roxby Downs mineral deposit which will come on stream at the end of 1987. It is expected that the housing at Olympic Dam will accommodate 2000 people by the end of 1987.

I have examined the growth in the population in country areas relative to the metropolitan area, and it is perhaps pertinent to note that, if this projected overall growth continues at the rate that the projections have forecast, it is quite feasible over the next 15 years that there could well be an increase in the number of country electorates. Perhaps that may be fanciful to some. At the moment there are only 14 country electorates as against 33 metropolitan electorates. At the 1976 redistribution the number of country electorates was reduced from 19 to 14. At the next redistribution of electoral boundaries, it will be interesting to see whether or not the increased population growth in country areas justifies an additional seat at the expense of a seat in the metropolitan area.

Finally, I will touch on a point which I think is of some significance to this Parliament and to the people of South Australia. The Constitution Act establishes the time at which redistribution of electoral boundaries should be made and then subsequently take effect. As the Constitution Act stands, the Electoral Districts Boundaries Commission is required to commence proceedings for the purpose of making an electoral redistribution either:

> ... as soon as practicable after the enactment of an Act that alters presently or prospectively the number of members of the House of Assembly;
>
> or
>
> within three months after a polling day if five years or more has intervened between a previous polling day on which the last electoral distribution made by the commission was effective and that polling day.

Therefore, unless the State Government increases the size of the House of Assembly the next redistribution will not commence until after the State election following the 1989 (or 1990) State election.

As we will remember, in 1984 Parliament approved legislation which provided that future State Governments could serve a four year term. The Labor Government, elected in December 1985, does not have to face the people until December 1989, and could in fact delay the election until March 1990. However, in early 1990 'five years or more' will not have 'intervened between a previous polling day on which the last electoral distribution made by the commission was effective' (7 December 1985) 'and that polling day' (early 1990).

The redistribution provision will be triggered only after the following election, which could be in early 1994. Only after that election will the commission 'be required to commence proceedings for the purpose of making an electoral redistribution ... within three months after a polling day'. Therefore, one can conclude that it is possible that 15 years may elapse between the last redistribution in 1983 and the first election held after a redistribution of electoral boundaries. This contrasts sharply with the nine year span between the 1976 redistribution and the 1985 election which was conducted with a new set of electoral boundaries.

Secondly, there is strong evidence from both the 1985 State election enrolments and population projections prepared by the Department of Environment and Planning that indicate enrolments in country elections on average could grow at a faster rate than in metropolitan electorates over the next 15 years. Therefore, unless the Parliament recognises the problem, we could have severe malapportionment of electorates if no action is taken before the next scheduled redistribution takes effect, which could be as late as 1998.

It seems quite unreasonable that 15 years could elapse between the 1983 redistribution and the first State election held after a new redistribution. Failure to amend the redistribution provisions will result in some electorates falling well outside the 10 per cent admissible tolerance levels moving out of kilter with metropolitan electorates, given the projected demographic trends.

That is a matter which should be of concern to all of us in the Parliament, given that there is a bipartisan approach to a fair and equitable electoral system. I would submit that in South Australia we have a relatively fair electoral system in the Lower House and certainly a perfectly fair electoral system as far as it relates to the election of Legislative

Councillors. I have much pleasure in supporting the motion for the adoption of the Address in Reply.

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

TRAVEL AGENTS BILL

Adjourned debate on second reading.
(Continued from 18 February. Page 200.)

The Hon. J.C. BURDETT: I support the second reading of this Bill. It has been very necessary for a long time to see that the travelling public are protected, in view of the quite massive failures that there have been—including quite recently—of some travel agents. It has been the policy of the Liberal Party for some considerable time to introduce some controls. As the Hon. Trevor Griffin said when he spoke in the second reading, I believe that it would have been appropriate to deal with this problem by way of negative licensing.

It would have been possible to provide for a trust fund, to provide for the compensation fund, for any qualifications and any other matters which are provided in this Bill.

The Hon. C.J. Sumner: The industry would not have agreed with that.

The ACTING PRESIDENT (Hon. C.M. Hill): Order! The honourable Minister knows that interjections are out of order.

The Hon. J.C. BURDETT: The honourable the Attorney must have known well, when he said what he did last night, that I was coming to cover this very point. The honourable the Attorney said that the industry would not have agreed to it if it had been a negative licensing scheme, but what the Hon. Trevor Griffin said and what I said just now was simply that it would have been appropriate—

The Hon. C.J. Sumner: I agree.

The Hon. J.C. BURDETT: Certainly, some members of the industry would still support a negative licensing scheme, and some considerable time ago—when I spoke to the industry organisation—they would have supported a negative licensing scheme.

The Attorney tells us that now they will not and, as with the Hon. Trevor Griffin, that there is no way that I would want this Bill to be lost. It is necessary—and we are told by the Attorney, which I accept—that it is uniform with what is being done in the other States, and this is a national industry established on a national basis, and it is necessary that the States have fairly uniform legislation.

The next point is in relation to a trust fund. As the Hon. Trevor Griffin has said, I believe that that would strengthen the scheme and I think it ought to be provided in the Bill. We know there are limitations with trust funds; that they can be avoided and got around in various ways but it is a fundamental principle that when you are dealing with somebody else's money—money which has been paid by the travelling public—you ought to have to keep it separate from your own money.

You ought to keep it in a separate account. I, therefore, support the principle that there ought to be a trust fund. I would also refer to the matter raised by the Hon. Trevor Griffin in relation to fees and the contribution to the compensation fund.

I join him in asking the Attorney—when he responds or in the Committee stages—to try to give us some details as to what is intended as to whether there will be a single fee applying to all agents; whether, when the agent has several outlets, it will apply in respect of each outlet.

I have heard the suggestion that the compensation fund will be so much per outlet, and I do, as the Hon. Trevor Griffin did, refer to the position of small businesses. There are quite a lot of people with mixed agency businesses, they are land agents, they do this, that and the other and they have a small travel agency—particularly in the country.

If there were to be a single quite large fee, some of these people would be put out of business. In some country towns there are agents who simply do airline bookings, and I believe that these would be caught by the definition in the Bill. Certainly, if there were not a graduated fee—if there was a single lump sum fee, these people would be put out of business.

I am not only concerned about the agents: I am also concerned about the public, because in a small country town the public has this facility and would be disadvantaged if they did not have it. I also raise the question of sub-agents. In many small country towns there are people with a mixed business—land agents, this, that and the other and a travel agency as a sub-agent for a larger agent in some other town—and I raise the question as to whether these people would come under the umbrella of the principal.

I refer in passing to clause 8 of the Bill which provides for a continuous licensing. The licence does not have to be renewed each year: the fee has to be paid, but the licence remains in force until it is surrendered or the licensee dies or, in the case of a body corporate, is dissolved. Of course, if his licence is taken away pursuant to the procedures in this legislation, he would cease to be licensed.

The Liberal Party has for a long time been advocating the principle of continuous licensing and I am pleased to see that this is used in this Bill. There is one point which I would draw to the notice of the Attorney, and the Council and that is in regard to Part III of the Bill on page 8, where clauses 20 and 21 are printed in erased type.

Obviously, the suggestion is that they are money clauses. I believe that clause 20 is not truly a money clause. Section 60 of the Constitution Act, subsection (4), defines 'money clause' as follows:

> 'Money clause' means a clause of a Bill which clause appropriates a revenue or other public money or deals with taxation or provides for raising or guaranteeing any loan or for the repayment of any loan.

This clause does none of those things. It provides for a compensation fund: it does not appropriate revenue—that is perfectly clear. It does not appropriate other public money. It does not deal with taxation. The compensation fund is in no sense taxation. It is not a fee. It is a fund to be applied as set out in Part III to provide compensation. It is not taxation in any sense at all.

If a draft of the trust deed had been tabled, as the Hon. Trevor Griffin referred to yesterday then, of course, we could see whether in any way any money in the compensation fund could go into general revenue, in which case I suppose it could be said to be taxation. Certainly, in this Bill as disclosed by the clauses, including the two clauses in erased type, there is no way that any moneys in the compensation fund could be said to be taxation because there is no way that they could be part of general revenue.

Clause 21, which is also in erased type, provides for fees. It has been usual, although I am not sure that it is correct, to accept that provision for fees is a money clause, so I am not complaining about clause 21. However, I am complaining about clause 20. I acknowledge that quite commonly in the past provisions of this kind have been printed in erased type, but that does not make it correct. I believe that to treat a clause that is not a money clause as a money clause is eroding the power of this Council in some small respect. Clause 60 of the Constitution Act states:

. . . or provides for raising or guaranteeing any loan or for the repayment of any loans.

It does not do that. The only way in which it could possibly be dragged in as a money clause would be as dealing with taxation. I submit strongly that to provide for a compensation fund which can in no way go into general revenue at all, and in no way assist the Government, cannot possibly be said to be taxation. For this reason, I maintain that clause 20 is not a money clause and should not be in erased type.

For the reasons that I have mentioned, the Bill is very necessary and I commend it in general. Certainly, the Opposition believes that it is necessary. We are rather sorry that it has apparently been expedient to have a full registration system instead of a negative licensing system, which we believe would have been more appropriate. However, I support the second reading.

The Hon. M.J. ELLIOTT: The Australian Democrats support this Bill, one which is long overdue. There are a couple of small matters that I will address at this time. The first is the definition of 'travel agent', which is dealt with in clause 4 and which I think will create some problems. What constitutes a travel agent? Under present regulations, to sell tickets for *Popeye* would immediately make one a travel agent unless the regulations were changed. The regulations will need to address this problem. The Government might be letting itself in for quite a job unless it can find a tighter way of defining 'travel agent' because canoe tours and all sorts of strange things are at this stage giving rights to travel. I am sure that some way will be found to overcome that problem. I think that the suggestion in relation to trust accounts that has come from the Opposition is an idea worthy of consideration. I will listen to the debate and decide upon the merits of that matter at the appropriate time.

The Hon. C.J. SUMNER (Attorney-General): I thank honourable members for their contribution to this important measure and will attempt as succinctly as I can to respond to the queries raised during the second reading debate. The first point is the trust deed, which is mentioned in part III of the Bill. There is no final draft of the trust deed available—it is still being discussed by officers of the four participating States with a view to arriving at a common form of trust deed.

However, it is envisaged that the settlers of the deed will be the Ministers of the Crown in the relevant States who is responsible for the administration of the Act and the deed will appoint trustees who will be nominees from the industry, a nominee as a representative of the Minister and a nominee to represent consumers. The trustees will comprise, as presently indicated, a nominee of the Minister as a representative of the Minister; a nominee of the Minister to represent the travel industry and a nominee of the Minister to represent consumers. I seek leave to table this fourth draft dated 6 January 1986 and titled 'Travel Compensation Fund Deed of Settlement' prepared by Dawson, Waldron Solicitors, 16 National Circuit, Barton, Australian Capital Territory.

Leave granted.

The Hon. C.J. SUMNER: I emphasise that this is not the final version, that discussions are still proceeding, but that should any honourable member wish to peruse the document and provide me or the Department of Public and Consumer Affairs with any comments on the deed I will be quite happy to receive them. Honourable members have raised the question of negative licensing. When the Commonwealth withdrew from participation in this scheme in April of last year it was decided that those States that wished to (and that has turned out to be New South Wales, Victoria, Western Australia and South Australia) could get together and develop a cooperative scheme amongst those States, which is in effect what we have done, or a uniform scheme.

At the time that those discussions commenced I gave instructions to the officers concerned in the department that the licensing scheme should be as minimal as possible consistent with the public interest. I certainly did not want to establish a closed shop situation. I did not want to reduce competition in the industry and I personally would have been happy with a system of so-called negative licensing, provided that there was adequate protection for the travelling public by way of a compensation fund to reimburse travellers who were disadvantaged by the default of a travel agent.

So, I was happy to have a scheme that was one of minimum regulation consistent with the public interest. I would have been happy with a system of notification—an effective modified licensing scheme, together with a compensation fund. However, I understand from the officers who have been involved in these negotiations that the industry was concerned that unless there was some up-front system—a positive licensing system—which required certain qualifications and fitness to act in the industry, successful operators in the industry could be subsidising the less successful operators by way of contribution to the compensation fund.

Those established in the industry and those who have a firm financial base in the industry did not want to contribute to a compensation fund if they did not have some guarantees that by way of a licensing scheme there were some criteria applied to people who were entering the industry. Faced with that, I had no alternative but to agree to an up-front licensing scheme as exists in this Bill.

However, had industry been happy with some other scheme I believe that a negative licensing scheme with adequate protection for consumers could have been examined. But, it was not to be, because industry would not accept it. As part of the negotiations with the other States an up-front licensing scheme was agreed to. A number of other queries have been raised and if I deal with them now I trust that honourable members will not prolong the matter at the Committee stage by asking the questions again.

The question raised by the Hons Mr Burdett and Mr Elliott with respect to the definition of travel agents is also a matter which will have to be given further attention. Ultimately who comes within the definition of a travel agent will be determined by regulations and the sorts of exemptions that will be laid down in the regulations after further consultation with the industry and the other States. It will be a difficult area but we are confident that the matter can be resolved.

In regard to the question raised by the Hon. Mr Burdett as to whether clauses 20 and 21 should be in erased type, I can only indicate that it was the view of Parliamentary Counsel that they were money clauses and therefore they should be in erased type and require a Governor's message before their introduction into the House of Assembly.

The Hon. J.C. Burdett interjecting:

The Hon. C.J. SUMNER: The honourable member is interjecting. I listened to his argument and I certainly concede that what he had to say was not without some merit. I certainly would not be prepared to assert categorically and unequivocally that clauses 20 and 21 were money clauses. It may well be that the honourable member is correct in the propositions that he has put. Nevertheless, they are in erased type because of advice of Parliamentary Counsel, who I believe has probably decided to include them in erased type in an excess of caution.

Obviously, if the honourable member wishes to challenge that, it can be done at the appropriate time and the Presi-

dent can make a ruling. But, if it is of any consolation to the honourable member I do not wish to mount a vigorous argument against the propositions that he put: it may well be that he is correct.

A number of issues were raised by the Hon. Mr Hill on behalf of some unnamed constituents of his. The first point raised by him dealt with representation on the Commercial Tribunal. The Act that established the Commercial Tribunal, which was passed when the honourable member was a Minister of the Crown in the Tonkin Government, provides that the tribunal when considering occupational licensing and adjudication of disputes in a particular industry should comprise the Chairperson of the tribunal, one consumer representative and one representative of industry. That will be carried through with respect to this particular legislation.

The second point raised by the honourable member relates to prescribed qualifications. That will have to be determined by regulations after consultation with industry. Clearly, some account will need to be taken of the practical experience that a person has had in the industry in the past. A question was raised as to the compensation fund and how it is to be financed. The question was raised by the Hons Messrs Hill, Griffin and Burdett. No determination has been made on that by the participating States.

That is one of the matters that is to be resolved. It is part of the final negotiations on the trustee, a draft copy of which is tabled. However, my own view would be, subject to those negotiations and further discussions, that some percentage fee or graduated fee would be more equitable than a fixed fee unrelated to the size or turnover of the business. But I am not in a position to determine that or give any more detail about it at this stage. The determination of the fee to be paid into the compensation fund has not yet been made.

The Hon. Murray Hill also referred to clause 32, which makes directors liable for an offence committed by a body corporate unless they can establish that they could not have, by the exercise of reasonable diligence, prevented the commission of that offence. I say to the honourable member that that is a kind of clause which is scattered throughout the Statute Books of South Australia. It is a very common clause and was no doubt used by him when he was a Minister of the Crown in legislation attaching liabilities to corporations. If the honourable member thinks about it he will see that it is a reasonable clause in order to ensure that where offences are concerned directors of a body corporate cannot hide behind the corporate veil.

Certainly, in relation to debts of personal liability to creditors directors can hide behind a corporate veil, but is not just that they should be able to do so in respect of offences against the law of the land. Therefore, I can assure the honourable member that there is no novelty in clause 32. I believe that that deals with matters raised by the Hon. Mr Hill—except for the question of consultation that he carried on at great length about. All I can say to the honourable member about that is that consultation has taken place on this proposal *ad nauseam* over many years with the travel industry and with AFTA. AFTA was aware of the agreement entered into by the participating States. It was aware that a Bill had been passed in Western Australia and that a Bill was to be introduced into other Parliaments in terms substantially similar to the Bill that has already been passed in Western Australia.

The Government can hardly be accused of not consulting with industry; of course, it is a common occurrence that when people feel that they have not seen the precise details of a Bill before it is introduced in Parliament they say that they have not been consulted. As far as I know, consultation has taken place on this measure for a considerable time. The Government did not want to hold up the introduction of this measure to enable even further consultation to take place for the very obvious reason that it is in the interest of consumers for this Bill to be passed by Parliament at the earliest opportunity.

I also indicate to the Council that the passage of the Bill will not mean that the scheme will be established within a week or two after that. There is still a lot of work to be done, and I anticipate that negotiations will continue for another six months or so, given that we must rely on three other States to get the scheme up and running. The sooner the Bill is passed, so that everyone knows that the Parliament approves of the principles in the Bill, the sooner the scheme can come into operation.

It is necessary to make that point so that honourable members realise that a considerable amount of work has yet to be done before a proposal is fully in place. It may be that, as the scheme is developed further by consultation over the next few months, there will be a need for the matter to be again put before the Parliament, if there is some minor tidying up to be done. We really had no choice but to introduce the Bill, get the principles accepted and have the Bill passed by Parliament and to then deal with any outstanding matters in consultation with the other States.

Given that there must be consultation with industry and the other States, I do not believe that there is really any other way for the Government or Parliament to go. I thank members for the support for the Bill. I trust that my response has answered most of the questions raised, but I will address any further matters during the Committee stage.

Bill read a second time.

In Committee.

Clause 1—'Short title.'

The Hon. K.T. GRIFFIN: Can the Attorney-General indicate what is the status of the legislation in the other three participating States?

The Hon. C.J. SUMNER: A Bill has been passed in Western Australia, and a Bill is due to be introduced in New South Wales and Victoria in their autumn sessions of Parliament.

Clause passed.

Clause 2—'Interpretation.'

The Hon. K.T. GRIFFIN: Which clauses of the Bill, if passed, are likely to be proclaimed separately from the rest of the Bill?

The Hon. C.J. SUMNER: It is not expected that such action will be necessary, although if the honourable member's proposition in relation to trust accounts is inserted in the Bill the relevant clause may need to be suspended, particularly if the other participating States indicate that that is not acceptable to them or if there are any substantial objections from industry on the basis that this is supposed to be a uniform scheme and that action would break the uniformity. That may not be necessary, and it pre-empts the decision of the Committee on the matter of trust accounts that we will debate later. However, there is no immediately obvious reason why a clause would need to be proclaimed at a time other than when the main Bill is proclaimed, although obviously the matter of the trust account comes to mind.

Clause passed.

Clauses 3 and 4 passed.

New clause 4a—'Act to bind Crown.'

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

Page 2, after clause 4—Insert new clause as follows:

4a. (1) This Act binds the Crown not only in right of South Australia but also, so far as the legislative power of Parliament permits, the Crown in all its other capacities.

(2) Nothing in this Act renders the Crown in right of South Australia or in any other capacity liable to be prosecuted for an offence.

Its object is to bind the Crown in so far as the legislative power of Parliament permits, and that would extend to the Crown in the right of South Australia and in all its other capacities. There is also a provision that nothing in the Act should render the Crown in right of South Australia or in any other capacity liable to be prosecuted for an offence. That aspect of the provision has been debated in another Bill introduced in the last Parliament, where it was agreed that it was not proper and perhaps not possible for the Crown to be both the complainant or prosecutor and the defendant at the same time.

I hold a very strong view that the Crown should be bound. The legislation seeks not only to regulate the travel industry but also to provide for a compensation fund, and it seems only proper that if the private sector is to be bound agencies of the Crown ought to be bound also. In moving the amendment, I reserve the opportunity to speak again on it, depending on the attitude of the Attorney-General to it.

The Hon. C.J. SUMNER: I am willing to accept the amendment, although it may be that another place will take a different view of the matter.

The Hon. C.M. Hill: What about Caucus?

The Hon. C.J. SUMNER: We do not put every amendment that comes before this Chamber to Caucus. We put the Bill to Caucus.

The Hon. C.M. Hill: You will be in trouble if you don't.

The Hon. C.J. SUMNER: No, generally amendments are left to the Minister of the day to assess.

The Hon. C.M. Hill: You got into trouble the other day.

The Hon. C.J. SUMNER: That is not correct.

The CHAIRPERSON: Order!

The Hon. C.J. SUMNER: The honourable member is very unruly when he is on the floor of the Chamber compared to his attitude as Acting President, when he tries to be a strict disciplinarian. I only say that to indicate that when the matter gets to another place if there seem to be any real difficulties with this provision I may have to reconsider it, but I will accept it now.

There are provisions in the Bill to exempt Crown agencies from certain obligations under the Bill, and therefore it would be possible to accommodate any difficulties that Crown agencies might have. Is it the honourable member's intention that the new clause should apply to the Crown in all respects? Should the Crown agencies be licensed and have to go through all those procedures, or is his concern primarily to deal with the contribution to the fund? If it is the latter, at this stage I have no real argument with him. If Crown agencies are operating in a commercial sense—for example, the State Bank Travel Service or the State Travel Centre—it is reasonable that they should contribute to the fund, as do other commercial organisations. A commercial bank could equally argue that it is as solid as the State Bank and ask why it should have to contribute to the fund.

The Hon. B.A. Chatterton: What happened to the Bank of Adelaide?

The Hon. C.J. SUMNER: True. The financial system has been rationalised since then. All the banks have been making heavy profits—probably too many in my view. Westpac is obviously doing well and I might have to consider my patronage. I accept the amendment. Perhaps we would exempt the Crown agencies from some of the provisions but at present I would expect them to contribute to the fund in the same way as other commercial organisations.

The Hon. K.T. GRIFFIN: I am pleased that they should be part of the scheme for compensation. It might not be appropriate to have them licensed as such, because they are agencies of the Crown and are presumably financially sound. In circumstances such as the State Bank, where it conducts a travel agency in competition with the private sector and in accordance with the provisions of the State Bank Act, where it is required to compete as nearly as practicably on the same basis as the private sector, it may be that the bank, whilst not having to formally carry a licence, ought to at least pay the same licence fees.

This would put the State Bank Travel Service in the same position as the Westpac Travel Service, the Hindmarsh Adelaide Travel Service and all those others in the private sector that will have to pay licensing fees and contribute to the surveillance of the industry. I presume the licence fee is not just to cover the costs of an application for a licence but also the costs for administering the licensing and surveillance system.

If that is the position there seems to be no reason at all why the State Bank and other agencies of the Crown in that position should not also contribute fees to the system. Perhaps that can be done without formal licensing, but it is really trying to put them on the same financial footing as the agencies with which they are competing. The same situation applies to TAA, for example. If it can be brought into the system or if the Commonwealth Bank Travel Service is brought in, there ought to be contributions to the administration of the scheme as well as the compensation fund from such sources. That will have to be worked out as the regulations are developed and the scheme is crystallised, but at least there ought to be that concept in view when the planning takes place.

The Hon. C.J. SUMNER: I do not wish to argue the toss with the honourable member over these points. It may be that the licence fee also ought to be paid, although we do not anticipate that that would be a particularly substantial fee, we are not looking to make it a money raising exercise. The fee will be sufficient to cover the cost of administering the scheme.

Nevertheless, in principle I have no argument with what the honourable member is saying. If State agencies are operating in the commercial sector in competition with the private sector—as they might be in this industry—they should contribute to the scheme. The precise way in which the Crown will be bound will have to depend on the regulations. At this time and subject to any further consideration, I have no argument with the proposition that State agencies should contribute to the operation of the scheme and the general coverage that the scheme will provide for travellers.

However, there is a practical problem with respect to the Commonwealth Crown, and I see that the honourable member has attempted to deal with that in his amendment. It may not be of any significance in the sense that it is unlikely that the Bill will be able to bind the Crown in the right of the Commonwealth.

The Hon. K.T. GRIFFIN: I recognise the difficulties in binding the Commonwealth Crown. Has there been any indication from the Commonwealth that its own agencies will participate in the scheme on a voluntary basis? The Commonwealth Bank is the one that comes to mind, along with TAA. It would be reasonable for the Commonwealth to be willing to participate voluntarily in the scheme across the four States in respect of at least such agencies.

The Hon. C.J. SUMNER: There has not been any discussion recently, apart from the preliminary discussions when the Commonwealth was involved in the whole scheme. I do not know whether at that time it was envisaged that the Commonwealth Crown would be bound, but I have asked the officers concerned with the future negotiations to take up this matter with the Commonwealth and make the request that the Commonwealth agencies operating in this area should also contribute to the costs of running the scheme.

New clause inserted.

Clauses 5 and 6 passed.

Clause 7—'Application for a licence.'

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

Page 4, after line 11—Insert new paragraph as follows:

(ba) that the applicant is a member of the compensation scheme established by the trust deed;.

This deals with the criteria for licensing and adds another precondition to being licensed, namely, that the applicant to be licensed is a member of the compensation scheme established by the trust deed.

The Hon. K.T. GRIFFIN: I have picked up a particular problem with this. I do not disagree with it in principle, but the Attorney-General's amendment to clause 19, in part, provides:

(1) A licensed travel agent must be a member of the compensation scheme established by the trust deed and consequently—

(a) a person shall not be licensed unless that person has been admitted as a member of the compensation scheme;

The Attorney's amendment to clause 7 (9) would mean that a travel agent cannot be licensed unless the travel agent is a member of the compensation scheme. Which comes first? It seems to me that there is a contradiction. It seems to me that you cannot be licensed if you are not a member of the compensation scheme and you cannot be a member of the compensation scheme if you are not licensed. So, you get nowhere. I wonder whether the Attorney could address that issue. Later, when we come to the amendment to clause 19, I will raise some other questions.

The Hon. C.J. SUMNER: Parliamentary Counsel does not see any problem. That fact is that a person must be admitted to the compensation scheme before they can be licensed. That is what new paragraph *(ba)* provides, and that is what clause 19 (1) *(a)* provides. In effect, they are both the same. I suppose the only potential quibble is whether in reference to clause 19 proposed subclause (1) should read 'a travel agent'. I do not see that there is the difficulty that the honourable member has outlined.

The Hon. K.T. GRIFFIN: It seems to me that the two things either happen concurrently or not at all. I would have thought that maybe a licence is issued after admission to the compensation fund and that that is the proper sequence. It seems to me that on the face of it there is still a contradiction.

The Hon. C.J. SUMNER: Parliamentary Counsel does not see any difficulties with the drafting. If the honourable member is concerned, perhaps we can look at some redraft if he feels that there is an insuperable difficulty.

The Hon. K.T. GRIFFIN: I will not pursue it on this particular clause; perhaps it is more appropriate to pursue it in relation to clause 19. I agree that a person must belong to the compensation fund before being formally licensed. You must remember that there are independent trustees of the trust deed. They may find themselves in some sort of difficulty if they get an application for membership of the fund from a travel agent who is not licensed. They may take the point technically that under the trust deed they cannot admit a person as a member of the compensation fund until that person is licensed.

Having raised the issue, I am happy to pursue it again when we reach clause 19. On the face of it there seems to be some difficulty, recognising that there are two different agencies dealing with the matter, on the one hand the Commercial Tribunal which is licensing and, on the other hand, the independent trustees who under the trust deed will determine the question of membership. Once the amendment has been dealt with, I will raise some questions about the licence fee.

The Hon. M.J. ELLIOTT: As an impartial observer in this instance I am quite happy with what is there. I suggest that the Hon. Mr Griffin should read the clause through again. On my first reading of it I think I saw what the Hon. Mr Griffin is worried about. I see clause 19 reading in exactly the same sense as clause 4. Perhaps the Hon. Mr Griffin should read it again and he will then see that the problem does not exist in any way.

Amendment carried.

The Hon. K.T. GRIFFIN: I have some questions about the prescribed licence fee. I wish to ascertain whether or not the Government has considered the amount of the licence fee and the basis upon which it will be calculated and applied. For example, will it be calculated with any reference to the size of a business or will there be a gradation of licence fees on some other basis and are there to be any distinctions between a small country agency (to which I referred during the second reading debate) and a large travel agency carrying on extensive business in, say, the metropolitan area?

The Hon. C.J. SUMNER: The intention is to collect sufficient licence fees to cover the administrative costs of the scheme. No decision has been made as to whether that will be a flat fee, some kind of graduated fee or a percentage fee. However, I point out that a flat fee is what operates under other occupational licensing areas, most notably recently with the Second-hand Motor Vehicles Act. However, that is a matter that needs further consideration and discussion with industry and it may be that some graded system might be desirable. I am not in a position to express a concluded view on that, except to say that a flat fee applies to secondhand motor vehicle dealers. It is not the intention to collect substantially more than is necessary to cover the administration of the Act.

The Hon. K.T. GRIFFIN: When the Attorney-General refers to a flat fee, is that possibly a fee per licensed agent or a fee per outlet operated by a licensed agent?

The Hon. C.J. SUMNER: I believe that the logical thing would be to apply the fee to the travel agent who is seeking the registration. If he has a number of outlets, his one fee would cover him—being a corporate entity—as being a registered travel agent.

The Hon. K.T. GRIFFIN: It has been drawn to my attention that the flat fee under the Second-hand Motor Vehicles Act—which I think is $500—

The Hon. C.J. Sumner: That is the compensation. The flat fee is $90.

The Hon. K.T. GRIFFIN: Perhaps we will talk about the compensation fee at a later stage, but I wish to put on the record that, under that Second-hand Motor Vehicles Act, there have been difficulties expressed from the small sort of rural second-hand dealers who have had to be licensed and be part of the fund, when their second-hand motor vehicle business is a very small part of other activities, and it has created some hardship.

I would hope that in the area of licence fees for travel agents, in the consideration of the fee to be fixed, the officers and the Government are sensitive to the fact that there are a number of small agencies (in rural areas particularly) that might have bus line bookings or intrastate airline bookings, which do not form a very large part of their business, and on which they probably would not make a very large amount by way of commission. If the fee and the compensation levy are too high, they will just decline to continue carrying on that business and provide a service to local rural residents. I hope that that will not occur and that, in setting fees, the Government will be sensitive to that particular problem.

The Hon. C.J. SUMNER: The Government will take into account those comments. I should say, and I said in my response to the second reading debate, that I anticipated that the compensation fee would be some kind of graduated

fee, but it may be that the licensing fee will be a flat fee. Obviously, that is something that is still to be determined. Certainly, we do not wish to cause hardship or reduce services that might be available, and I will request that the honourable member's comments be taken into account when the level of the fee is being discussed in the subsequent negotiations.

The Hon. M.J. ELLIOTT: Could I ask a question before making a comment to the Attorney-General. The question of flat fees: I do not know whether my concentration blinked, but I did not catch where it first came into this discussion. Flat fees are simply a proposal that would come from the regulations—is that correct?

The Hon. C.J. Sumner: Yes.

The Hon. M.J. ELLIOTT: Would it be possible to consider some sort of percentage fee which would be well below 1 per cent? In that way, the small travel agent would not be disadvantaged.

The Hon. C.J. SUMNER: All I can say to the honourable member is that we will examine what is possible with respect to the fee. In other occupational licensing areas a flat fee is applied. Whether it will be appropriate in this area, I do not know. Rather than a percentage fee, however, it would be more likely to be a graduated fixed fee—a fixed fee—perhaps depending on some criteria that would need to be determined about the size of the business. I understand the concerns being expressed, and these matters will be fully discussed with the industry, but we intend, with respect to the licensing fee, to cover the administrative costs.

Clause as amended passed.

Clause 8—'Duration of licences.'

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

Page 4—Leave out subclause (8).

I also speak to new clause 10a, to be moved later. The deletion of subclause (8) and new clause 10a are a package which deals with the question of what should happen if a licensee dies. With most occupational licensing provisions there is allowed a period of grace after a licensed operator dies, to enable the business to be continued without there being a licence in place. My amendment would enable (indeed, this is the intent of the Bill: the amendment just revamps the provisions) the business to continue to operate for the six-month period in those circumstances.

The Hon. Mr Griffin's amendment is to permit it to operate for 12 months. I think that is far too long. I believe that six months is quite an adequate time for the affairs of the deceased person to be put in order, and for an application to be made for a new person to be licensed. I commend the amendment to honourable members and ask them to support my proposition that six months is an adequate time. I point out that in the Bill dealing with the licensing of builders there is a 28 day grace period which is, in fact, much less than the period we have provided for in this Bill.

The CHAIRPERSON: At this stage you are only dealing with the amendment to clause 8.

The Hon. C.J. SUMNER: That is common to both.

Amendment carried; clause as amended passed.

Clause 9—'Conditions of licences.'

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

Page 5, after clause 9—Insert new subclause as follows:

(3) A licensee who contravenes or fails to comply with a condition of the licence is guilty of an offence.

Penalty: $5 000.

This amendment provides for a penalty for contravention of the conditions of a licence of up to $5 000. That does not appear in the Bill as presented to the Council. The only penalty appearing for breach of a condition of a licence is disciplinary action by the tribunal. It is felt that, in addition to that, there should also be a penalty that can be imposed by the courts for a breach of a condition of the licence.

Amendment carried; clause as amended passed.

Clause 10—'Person not entitled to fees, etc., if acts as travel agent in contravention of this part.'

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

Leave out all words in the clause and insert—

An unlicensed person who carries on business as a travel agent is not entitled to recover or retain any fee, commission or other consideration for services performed in the course of that business.

I made the point during the second reading debate that the clause in the Bill is a harsh one, providing for any travel agent who carries on business in contravention of the part not to be able to recover any fee, commission or other consideration. That travel agent may be a licensed agent who commits a relatively minor breach and suffers the penalty of not being able to recover any fee, commission or other consideration at all. I think that that is harsh. My amendment deals only with an unlicensed person. I think that that achieves a proper balance.

The Hon. C.J. SUMNER: I am prepared to accept the amendment. I was considering whether or not clause 10 *(b)* should remain, which would have allowed the courts, in effect, to order a travel agent to repay the amount or value of the fee or consideration. However, on reflection, and on taking into account the provisions of the Western Australian Act, I am prepared to agree to the honourable member's amendment. Any recovery would then be left to civil proceedings.

The Hon. M.J. ELLIOTT: I take the point made by the Hon. Mr Griffin. My one concern about his amendment is that it has been suggested that a travel agent is not entitled to retain the fee, commission, or other consideration, but it does not say where it goes if it is not retained. I think that it should be treated in some way—how that should be recovered. I thought that was covered by clause 10 *(b)* of the Bill.

The Hon. K.T. GRIFFIN: That is what the Attorney-General referred to as he responded to my amendment. He said that it is really a matter to be dealt with civilly. The right is established on the part of a customer because the unlicensed person is not entitled to retain it or recover it. There is no problem with that, as far as I can see. It is a civil matter. There is an entitlement on the part of a customer to recover any fee or commission that has been paid. The amendment that I am proposing is adequate to establish that right. Paragraph *(b)* of clause 10 of the Bill does not take the matter very much further.

Amendment carried; clause as amended passed.

The CHAIRPERSON: After clause 10 there are two proposed new clause 10a's, one to be moved by the Hon. Mr Griffin and the other by the Attorney-General.

New clause 10a—'Business may be carried on by unlicensed person where licensee dies.'

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

Page 5, after clause 10—Insert new clause as follows:

10a. Where a person carrying on business in pursuance of a licence dies, the personal representative of the deceased, or some other person approved by the tribunal—

(a) shall be deemed to have been licensed (on the same conditions as were applicable to the former licence) as from the date of death of the licensee until the expiration of six months from that date or until such later date as may be fixed by the tribunal; and

(b) shall be deemed to have been admitted to membership of the compensation scheme on the date of death of the licensee.

The Hon. K.T. GRIFFIN: I am pleased that the Attorney-General has conceded that there needed to be more flexibility in dealing with deceased travel agents. I am disappointed that he has decided to adopt a period of six months rather than 12 months. I would have thought that in the normal course of winding up an estate 12 months was a

reasonable period of time. I grant that probate can be obtained fairly quickly these days, in a matter of a couple of months, but it is not so easy to wind up an estate within such a short period as six months, recognising that in the case of a business there will have to be steps taken to find a purchaser.

If a purchaser cannot be found for one reason or another within a matter of months then there will have to be an application to the commercial tribunal. I would have thought that a period of 12 months would have obviated the need to go to the tribunal so soon after the death of a travel agent and that there is a better prospect of getting everything resolved in the 12 months proposed in my amendment. I think that there was other legislation considered during the last Parliament where we had 12 months as the period during which the personal representatives of a deceased licensee could continue to carry on business. I have not had time to look at the particular legislation.

The Hon. C.J. Sumner: It was six months.

The Hon. K.T. GRIFFIN: I would prefer to see 12 months, but I am not going to the barricades on it because flexibility has been recognised in the amendment that the Attorney-General is moving. That was my primary objective.

The Hon. C.J. SUMNER: I believe that six months is the general provision in these occupational licensing areas. It is adequate because the protection of the Commercial Tribunal is there if the matter cannot be resolved within six months. At least it ensures that there is tribunal supervision of the matter within the six month period.

New clause inserted.

Clause 11—'Tribunal may exercise disciplinary powers.'

The Hon. K.T. GRIFFIN: I make one general observation which I made in my second reading speech in relation to what I still see as a problem, in a sense, of separation of powers between the tribunal and the Commissioner of Consumer Affairs. I do not propose to do anything about it in this Bill because I am told that it also appears in the Second-hand Motor Vehicles Act, but I really think that it is not a good practice for the Commercial Tribunal to be, in effect, the receiver of a complaint, the investigator of a complaint and the inquirer under an inquiry and subsequently being the body which determines what disciplinary action should be taken. It is much preferable for complaints to be made to the Commissioner for Consumer Affairs, for complaints to be laid with the Commercial Tribunal and for the tribunal to hear evidence rather than making a decision as a *quasi* judicial tribunal. I have fought this battle before and I will keep fighting it because it is an unreasonable combination of responsibilities which, in the judicial context, would not be tolerated. Therefore, I move:

Page 6, line 22—Leave out, 'fraudulently or unfairly' and insert 'or fraudulently.'

Subclause (8) provides:

> There shall be proper cause for disciplinary action under this section against the respondent if the respondent—
>
> *(a)* has been guilty of conduct that constituted a breach of this Act;
>
> *(b)* has in the course of carrying on business as a travel agent—
>
> (i) been guilty of conduct that constituted a breach of any other Act or law;
>
> or
>
> (ii) acted negligently, fraudulently or unfairly;

'Negligently' and 'fraudulently' are concepts well defined in the law but the concept of 'unfairly' is not. I have considerable difficulty with the concept of disciplinary action being taken against a travel agent for something which a complainant might regard as unfair where, in fact, the travel agent may have acted according to law, not committed any breach of an Act or regulation and in relation to a particular customer be construed to have acted unfairly, which is a subjective test, whereas the same behaviour in relation to some other consumer might equally be regarded as fair. It is dangerous to introduce into this sort of legislation that concept of unfairness which is really not open to reasonable definition and has no certainty for a travel agent in the course of the operation of his or her business. So, I move my amendment accordingly.

The Hon. C.J. SUMNER: I oppose the amendment. If the honourable member wants to address this area he will need to do it in the context of a general occupation or licensing area, because this provision is the same as a provision inserted in the Second-hand Motor Vehicles Act 1983. I believe that while 'unfairly', as the honourable member says, is a subjective concept many concepts in the law are subjective and depend on judges or an adjudicating authority making up its mind about a particular issue that may depend on a certain subjective consideration.

After all, the concept of reasonableness can invoke considerable subjectivity. I do not believe that there is any real difficulty in the concept of unfairness that is imported in this Bill as a ground for the exercise of disciplinary powers. One way that unfairness might be determined is in relation to any code of practice that exists. It may not be a strict breach of the Act but may be a substantial breach of any code of practice that is established by the industry. If the honourable member wishes to address this matter, he should address it to a general issue. This is now in the Second-hand Motor Vehicles Act. Perhaps when all the occupational licensing areas are finally established under the Commercial Tribunal, the matter can be reviewed but I wish to see it maintained at present.

The Hon. K.T. GRIFFIN: I have been made aware that it is in the Second-hand Motor Vehicles Act. I obviously did not address that issue, but if the Attorney-General says it is something I ought to address in the context of general occupational licensing there is no mechanism for me to do that in Opposition. If it goes through now it is an opportunity missed. I want to raise the issue now. Maybe if I do raise it now and we deal with it satisfactorily, the Attorney-General can then address it in the Second-hand Motor Vehicles Act, because he has the opportunity to do so as Minister responsible for that Act.

It may be that it is better to relate the concept of unfairness to a code of practice recognised in the industry. That area was drawn to my attention when this amendment was being drafted. Somewhat belatedly I have an alternative which deals with that very point. We can deal with my amendment now and then later come back to the matter on a recommittal, but the alternative is to provide that for the purpose of section 8 any question of whether particular conduct is unfair shall be determined by reference to a relevant code of practice prescribed by regulation under this Act.

If that happens and the code of practice is developed in consultation with the travel industry, no travel agent who is licensed could then quarrel with the concept of unfairness. In that case the question of fairness and unfairness would be defined and travel agents would have a standard to apply. At the moment there is no standard. The point I make is that, if there is no standard by which travel agents can determine whether or not they are acting fairly, it seems to be unreasonable in so far as the obligation that is placed on travel agents. I apologise to the Commitee for the alternative amendment being circulated belatedly. However, it attempts to clarify the position in the same context in which the Attorney-General has responded to the amendment presently before the Committee.

The Hon. C.J. SUMNER: I prefer to insist on the Bill as it was introduced, although I recognise that we will end up with different provisions in different Acts, because the

Builders Licensing Act contains a clause similar to the one that the honourable member is seeking to insert here while the Second-hand Motor Vehicles Act does not. I think it is a matter that needs to be addressed at some stage, but at this point I insist on the Bill as it was introduced.

The Hon. K.T. GRIFFIN: Will the Attorney-General consider, with reservations, accepting the alternative amendment which I have circulated but which I have not yet moved, so that he could give some consideration to the matter between now and the time when it is considered in the other place?

The Hon. C.J. Sumner: I will do it the other way round.

The Hon. K.T. GRIFFIN: Of course in that way it is lost from my point of view. I seek leave of the Chair to withdraw the amendment that I have moved with a view to moving an alternative amendment, making that the amendment on which the decision of the Committee is made.

Leave granted; amendment withdrawn.

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

Page 6, after clause 11—Insert new subclause as follows:

(9) For the purposes of section (8), any question of whether particular conduct is unfair shall be determined by reference to a relevant code of practice prescribed by regulation under this Act.

As the Attorney-General has said, this brings the legislation into line with the Builders Licensing Act, and I think it clarifies the concept of what is unfair. It is a reasonable proposition.

The Hon. C.J. Sumner: What if you don't have a code of conduct?

The Hon. K.T. GRIFFIN: There can be a code of conduct, can there not? The answer to this is to develop a code of conduct in conjunction with the industry, and then non-compliance by a travel agent can be made the subject of disciplinary action. It seems to me that that is perfectly reasonable, whereby the consumer would know where he or she stands. The travel agent would also know where he or she stands and there would be no doubt as to what is or is not unfair conduct.

The Hon. C.J. SUMNER: For the reasons stated previously, I oppose the amendment at this stage. However, I undertake to consider the matter further in the context of occupational licensing generally.

The Hon. M.J. ELLIOTT: The problem I have with the amendment proposed is that with a code of practice people keep thinking of new things that are not there at any given time. I think that is why it is necessary for the word 'unfair' to appear rather than trying to delineate a code of practice, in relation to which people always think of new ways of getting around various things. Accordingly, I support the original clause.

The Hon. K.T. GRIFFIN: At least with a code of conduct, travel agents and the consuming public have something by which they can make a decision as to whether a practice is fair or unfair. Without a code of conduct, there is a situation where the tribunal might consider that the behaviour of a travel agent, who has acted perfectly within the law, towards a poor old pensioner, for example, is unfair, but that it is perfectly fair in relation to a businessman or a businesswoman who knows his or her way around the traps. In this respect travel agents will be uncertain about the way the legislation is to be administered. A code of conduct would apply equally no matter what the circumstances of the customer or the travel agent, with both parties knowing where they stand, knowing that in all circumstances certain behaviour is either fair or unfair even though agents might think other things that they might want to add to the code of conduct, that could be done by regulation. At least with a code of practice or a code of conduct laid down in black and white there is a standard by which things can be judged. That is what I think is important, to avoid the uncertainty of the vague concept of unfairness.

The Committee divided on the amendment:

Ayes (8)—The Hons J.C. Burdett, L.H. Davis, Peter Dunn, K.T. Griffin (teller), C.M. Hill, J.C. Irwin, Diana Laidlaw, and R.J. Ritson.

Noes (9)—The Hons G.L. Bruce, B.A. Chatterton, M.J. Elliott, I. Gilfillan, Carolyn Pickles, T.G. Roberts, C.J. Sumner (teller), G. Weatherill, and Barbara Wiese.

Pairs—Ayes—The Hons M.B. Cameron and R.I. Lucas. Noes—The Hons J.R. Cornwall and M.S. Feleppa.

Majority of 1 for the Noes.

Amendment thus negatived; clause passed.

Clauses 12 to 15 passed.

Clause 16—'Supervision of conduct of business.'

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

Page 7—
Line 26—Leave out 'personally'.
Line 28—Leave out 'personally'.

One of the concerns I expressed in the second reading debate was that it appeared from the way in which the Bill was drafted that it might require the licensed person or a person with prescribed qualifications to be personally present at all times—every minute of the day. The deletion of the word 'personally' in those two lines will overcome that difficulty.

The Hon. C.J. SUMNER: The Government accepts the amendment.

Amendment carried; clause as amended passed.

Clause 17 passed.

New clause 17a—'Trust account to be kept.'

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

Page 7, after clause 17, insert new clause as follows:

17a. (1) A person who carries on business as a travel agent—

(a) shall maintain a trust account in accordance with the regulations;

(b) shall, in accordance with the regulations, pay into the trust account money of a specified class; and

(c) shall not withdraw money from the trust account except for a purpose authorised by the regulations.

(2) A person who contravenes or fails to comply with a provision of subsection (1) is guilty of an offence.

Penalty: $1 000 or imprisonment for six months.

I am happy to have the requirements for the maintenance of a trust account provided by regulation. It is a highly complex matter and regulations are the best place for this to be developed. It is important in the case of persons handling the money of other persons to recognise that that money is held in trust and ought to be accounted for in that way.

I believe the requirement to keep a trust account would overcome many of the difficulties in the travel industry arising as a result of defalcation through the mixing of customers moneys with the moneys of the agent and, although it may create immediate problems, the opportunity to resolve those problems is allowed by the prospect of requirements being included in regulations.

The Attorney said earlier that it may be that this is one of the clauses of the Bill whose operation is suspended if other States do not agree with it or if the travel industry does not agree with it. I understand that in the industry there are some who favour and keep trust accounts and others who do not favour and do not keep trust accounts.

From my background as a lawyer, where the keeping of trust accounts has been mandatory—and for those accounts to be kept scrupulously and be subject to audit and, more recently, be subject to spot audit—it provides an important safeguard against abuse of customers' moneys and largely prevents defalcations. It will not prevent them absolutely, but it will go a long way to ensuring that the defalcations are kept to a minimum.

The Hon. C.J. SUMNER: I have addressed this issue previously. It is a bit hard to argue against the general

propositions being advanced by the Hon. Mr Griffin. In principle, when one receives moneys from another person to be applied for the purchase of certain services, that money remains the money of the person who has provided it. In those circumstances it is difficult to argue against the provision relating to the keeping of trust accounts.

However, I am faced with the fact that this is a uniform scheme. The Western Australian Act does not contain provisions relating to the keeping of trust accounts. The fail safe mechanism in this scheme is the compensation fund, and it could be argued that, in the light of the establishment of the compensation fund by the industry, there should not be a further imposition on the industry, that is, the requirement to keep a trust fund.

The real public mischief has been solved by ensuring that consumers—travellers—are covered in the event of defalcation or the insolvency of a travel agent. That being the case, it might be argued by the industry that this is overregulation and unnecessary regulation. Obviously, I will have to take the matter back to participating States and the industry to obtain their views, if it is decided that this should be inserted in the Bill, I would appreciate the views of others on this topic.

The Hon. J.C. BURDETT: I support the amendment. One cannot gloss over everything by saying that it is a uniform scheme. It is not reasonable for the Governments of the various States to put their heads together and decide on a piece of legislation that is uniform and then try to steamroll the various Parliaments into accepting that and abdicating their own responsibility. As to trust funds, this is the point: consumers pay substantial amounts of money to travel agents in advance, often thousands of dollars, and that ought to be set aside and kept in a separate trust account with proper records kept to show that that is not part of the travel agents money. It should not be mixed with their own funds and, in cases where travel agents have become insolvent, that has been the problem: they have used money received from consumers for their own purposes. It had been put in their own ordinary accounts, in a mixed fund. This is an elementary protection that will prevent many travel agents from becoming insolvent if the money they receive on behalf of a consumer is held separately in a trust fund. I support the amendment.

The Hon. M.J. ELLIOTT: The Democrats support the proposed amendment. I believe that there are sufficient safeguards in terms of what happens in other States, and so on, if that becomes important, in clause 2 (2) whereby that clause need not be proclaimed immediately. Within the proposed clause itself the amount of moneys actually held within the trust funds is really open to regulation. I think that provides a sufficient safeguard and will not cause problems for the businesses themselves.

The Hon. C.J. SUMNER: In view of the intimation from the Hon. Mr Elliott that the Democrats will support the proposition moved by the Hon. Mr Griffin I will not divide on the amendment. However, I repeat that, if there are difficulties as a result of further consultations with the States and with industry, I may have to reconsider this new clause.

New clause inserted.

Clause 18—'Approval of the trust deed.'

The Hon. J.C. BURDETT: I wish to direct some questions to the Attorney in relation to the trust deed. The Attorney today tabled a fourth draft of the trust deed. I appreciate that the Attorney made it quite clear that it is still only a draft and is not in its final form. It is noted that the draft was prepared by solicitors in the Australian Capital Territory. When the deed is finalised is it intended to be uniform in all States? Will the deed and the fund be administered from a common place such as Canberra, or will it be administered from each State? Is it intended that there be a separate trust fund in each State and a separate trust deed in each State, or is it intended that there be a common fund which is administered from a common place?

The Hon. C.J. SUMNER: It is to be a uniform document. At this stage I believe that there will be separate deeds in each of the participating States.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: No, it will be one fund. However, as I understand it, there will need to be separate deeds in each of the States.

The Hon. K.T. Griffin: Is it proposed to be a common fund administered by nominees of each of the four States who act as trustees?

The Hon. C.J. SUMNER: Yes.

Clause passed.

Clause 19—'Membership of compensation scheme.'

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

Page 8—Leave out all words in this clause and insert the following:

(1) A licensed travel agent must be a member of the compensation scheme established by the trust deed and consequently—

(a) a person shall not be licensed unless that person has been admitted as a member of the compensation scheme; and

(b) if the membership of a licensee in the compensation scheme is terminated, the licence is, by force of this section cancelled.

(2) A licensed travel agent shall not cease to be a member of the compensation scheme unless the trustees terminate the licensee's membership in the scheme in accordance with subsection (3).

(3) Where the trustees decide to terminate the membership of a licensee in the compensation scheme, notice of the decision must be given to the licensee and—

(a) the termination shall not take effect until a date fixed in the notice (being at least 28 days, after the date of service of the notice on the licensee) or, if there is an appeal, until the determination of the appeal; and

(b) the licence shall, by force of this subsection, be suspended from the date of service of the notice, until the termination takes effect or the decision is reversed by the tribunal.

(4) If the trustees decide—

(a) to refuse an application for membership of the compensation scheme; or

(b) to terminate the membership of a licensed travel agent in the compensation scheme,

the person affected by the decision may, within 28 days after receiving notice of the decision, appeal against the decision to the tribunal.

(5) On an appeal under subsection (4) the tribunal may confirm, vary or reverse a decision of the trustees and make any consequential or ancillary order that the tribunal thinks just.

(6) An appeal by an applicant who has been refused membership of the compensation scheme may be heard and determined concurrently with an application for a licence.

This fleshes out clause 19, which provides:

Every licensed travel agent shall be a participant in the compensation scheme established by the trust deed.

My amendment fleshes out that basic proposition and provides that a person shall not be licensed unless that person has been admitted to the compensation scheme; the licence is cancelled if membership of the compensation scheme is terminated; a licensed travel agent must remain in the compensation scheme unless the trustees terminate the licensee's membership; if the trustees decide to terminate the licensee's membership of the compensation scheme, the licensee has 28 days within which to appeal against that decision and membership would in effect be suspended during those 28 days; and at the expiration of the 28 days the licensee's membership of the compensation scheme would be cancelled.

The Hon. K.T. GRIFFIN: What are the criteria for admission? I have only had a brief chance to look through the

trust deed. It appears that it is essentially a question of financial resources.

The Hon. C.J. SUMNER: Membership of the compensation fund is largely determined by financial resources.

The Hon. K.T. Griffin: Is the wording in the Attorney's amendment included in the other States' legislation?

The Hon. C.J. SUMNER: The legislation is not word for word identical in each State because, first, there are different draftspeople and, secondly, in relation to appeals and the administration of occupational licensing there are different procedures in the different States; for instance, in Western Australia an appeal lies with a district court, while in South Australia an appeal lies with the Commercial Tribunal. However, it is intended that similar provisions will be contained in the legislation in each of the participating States.

The Hon. K.T. GRIFFIN: Under the deed is there provision for supplementary levies to be raised against members of the compensation fund in the circumstances where there is a large defalcation by a travel agent and the amount in the fund is inadeqate to cover that? Is it possible for the trustees to make a supplementary levy in any year?

The Hon. C.J. SUMNER: It would be possible to impose a supplementary levy. However, the intention is that the fee that is imposed will build up the fund over a period of time such as to reach in excess of $1 million, and then the trustees would be able to invest the moneys in the fund.

The trustees will also be able to purchase back-up insurance to cover any defalcation which the amount of the fund would not cover. It should be noted that, through the use of annual returns and the power to inspect travel agents' records, agencies which are at risk of defaulting may have conditions imposed on the conduct of their business by the Commercial Tribunal, and this should lessen the danger of major collapses.

As I said, the intention with the fee is to build up a fund and then to invest the proceeds of that fund. It may be that as time goes by, if there are no calls on the fund, the fee to be collected or to be paid into the compensation fund may well be able to be reduced. We are not in a position to predict that at this stage.

The Hon. K.T. GRIFFIN: I have not been able to find a provision which subrogates the trustees in the event that compensation is paid in full. Is there any provision which would enable the trustees to recover from the defaulting travel agent any amounts which might be paid out by the compensation fund?

The Hon. C.J. Sumner: Are you reading from the Act?

The Hon. K.T. GRIFFIN: I am just having a look at the Act.

The Hon. C.J. SUMNER: I understand that that is intended to be dealt with in the trust deed, not the Act. I can certainly take a note of that. It is, certainly, the intention that the trustee should be subrogated, that right should be subrogated to the person to whom the money is paid, such as the trustees, who can sue the defaulter and recover whatever funds they are able to recover.

The Hon. L.H. DAVIS: Could I ask the Attorney whether, given that this is a cooperative scheme between various States with a common fund—

The Hon. C.J. Sumner: Uniform: cooperative; not all the States.

The Hon. L.H. DAVIS: No, not all States, but amongst the States concerned, whether there has been a review of losses that have been suffered, for instance, in the past two or three years which will be picked up under the Act, and what level of funding would have been needed to cover such losses? That question is pertinent in so far as, obviously, a licence fee will have to take into consideration not only the capacity of travel agents to pay it but also, of course, the history of losses suffered by failed travel agents. I thought there may be information of this nature available.

The Hon. C.J. SUMNER: We do not have any particulars of that. If we can ascertain that information, we will do it. When pooled, it may give us some idea as to the level at which the fee should be set, but at this point in time we do not have it. Obviously, it is relevant to the determination of the fee, which will occur when the regulations are being drafted in cooperation with the other States.

The CHAIRPERSON: It has been pointed out to me that there is a motion changing clause 19 to amend the heading of Part III and change 'compensation fund' to read 'compensation scheme'. I now put that change to the title of the heading. The Ayes have it.

The Hon. K.T. GRIFFIN: I make another comment: when we were talking earlier about the question of licensing and a prerequisite being admission to the fund, I did refer to the proposed clause 19, which requires licensing before admission to membership. I do not intend to do anything more about it. I still think that there is a technical problem with it, keeping in mind that there are trustees involved who make decisions about admission as a member of the compensation scheme, but I have drawn attention to it and it is something which I hope the Attorney will look at in due course.

Amendment carried; clause as amended passed.

Clauses 20 and 21.

The CHAIRPERSON: I point out to the Committee that these clauses are money clauses and are therefore in erased type. Standing Order 298 provides that no questions shall be put in Committee upon any such money clause. The message transmitting the Bill to the House of Assembly is required to indicate that this clause is deemed necessary to the Bill.

The Hon. J.C. BURDETT: In regard to clause 20, I seek your ruling. I am not worried about clause 21. I raised this matter in my second reading speech. I suggest that clause 20 is clearly not a money clause, and therefore should not be in erased type but should be in clear type, and that the Bill should be reprinted accordingly. Section 60 of the Constitution Act sets out the definition of money Bills and money clauses—and this definition is exhaustive and, of course, overrides anyone else's view as to what a money clause may be. A money clause is defined as:

> A clause of a Bill, which clause appropriates revenue or other public money, or deals with taxation, or provides for raising or guaranteeing any loan or for the repayment of any loan.

Going through that piece by piece, clause 20 in erased type clearly does not appropriate revenue. It clearly does not appropriate other public money. It does not deal with taxation: it deals with a compensation fund and payments into that fund. The rest of this Part III sets out how the compensation fund is to be dealt with. It is to be dealt with by paying out to people who suffer through any defalcation. There is no way in the Bill—as disclosed by its clauses—that that money can get into general revenue.

It is not a fee: it is a compensation fund to be dealt with for the benefit of people who suffer through the defalcation of travel agents. In the Bill as disclosed in its clauses, it would perhaps be better if we really did have the trust deed, but the Bill—as disclosed in its clauses—does not in any way allow any part of that fund to get into the revenue. If that cannot get into the revenue, it cannot be said to be taxation. Further, the Constitution Act states:

> —or provides for raising or guaranteeing any loan or for the repayment of any loan.

It certainly does not do that. There is only one justification for treating clause 20 as being a money clause, and that would be if it could be said to be taxation.

It is clearly not. It is providing a compensation fund for the benefit of consumers. When I raised this matter during the second reading debate it was dealt with by the Attorney-General in his reply. He suggested that doubtless it had been put in erased type by Parliamentaray Counsel as an excess of caution, and I have no doubt that that is correct. Nonetheless, if a clause is not a money clause it should not be treated as such and should not be put in erased type.

I believe that, in some small way, treating clauses that are not money clauses as if they were out of the jurisdiction of this Council is an erosion of the powers of this Council. With regard to clause 21, that provides for a fee, which of course becomes public money, which possibly goes into general revenue at some stage. While I have some doubt about that, I guess that it could be said that a licence fee is a form of taxation, so I do not take that point with regard to clause 21. However, I take it with regard to clause 20.

I am aware that at times in the past clauses like this have been put in erased type and have been treated as money clauses, but that does not make them right. My submission is that clause 20 is clearly not a money clause; there is no way of justifying it as such; it is not taxation, because it deals with compensation only for citizens and it is certainly not any of the other things set out in the definition of 'money clause' in section 60 of the Constitution Act. I ask you, Madam Chairperson, to rule on this matter and, if you rule that this is not a money clause, I ask you to direct that it be dealt with by this Council and voted on and that in the copy of the Bill transmitted to the House of Assembly it be in clear type.

The Hon. C.J. SUMNER: I will address the point made by the honourable member, Madam Chairperson, to enable you to fully consider the important issues before you. As a preliminary point, I think that it would probably be in the interests of brevity and expedition preferable to allow this matter to remain as a money clause in erased type. Nothing turns on it in this particular Bill. It could be inserted in the House of Assembly and then, once inserted in that House, could be debated subsequently in this Council if people want to argue the toss about it. I understand that there is no argument or debate about the substance of the matter, so it seems to be tilting at windmills for the Hon. Mr Burdett to mount this particular argument in relation to clause 20.

The Hon. L.H. Davis interjecting:

The Hon. C.J. SUMNER: It may well be and, if it requires further investigation, and if you, Madam Chairperson, need to get the considered view of Crown Law officers, that is something that we can do when the matter has perhaps some significance, but it has no particular practical significance in this case. I put the argument of Parliamentary Counsel, on whose advice clauses 20 and 21 have been considered to be money clauses. As the Hon. Mr Burdett has pointed out, if we turn to section 60 of the Constitution Act, which deals with money Bills, we find that the definition of a money clause is as follows:

> . . . a clause of a Bill, which clause appropriates revenue or other public money—

we are not dealing with that in this case—

> or deals with taxation . . .

That, I think the honourable member would concede, is the relevant aspect of the definition. Parliamentary Counsel argues that clause 21 clearly imposes a tax because every licensee is required to pay to the Commissioner a contribution for payment into the compensation fund as required by the regulations.

As it is obligatory for every licensee to pay that fee, that is taxation; therefore, clause 21 deals with taxation and is therefore a money clause. Clause 20 says that all of that money shall be paid into the compensation fund. If the honourable member concedes that the contributions collected under clause 21 are taxation and that therefore clause 21 deals with taxation, then it follows that clause 20, which provides that all those contributions shall be paid into the compensation fund, is also a clause that deals in part, at least, with taxation. That is the argument for the defence.

The Hon. J.C. BURDETT: I will comment on the argument adduced by the Attorney-General. His first and apparently principal argument was that the clause should remain in erased type in the interests of brevity and expedition. I suggest that that is a bad argument. I have raised the suggestion that this is not a money clause and the convoluted argument eventually used by the Attorney to suggest that it is taxation was, he said, that I had conceded that clause 21 was taxation.

I said that I had doubts about clause 21, too, and I am prepared to leave that, but the question about clause 20 has got to stand alone. Clause 20 deals only with a compensation fund; it does not deal with any kind of taxation that the Government can get its hands on in any way at all. Therefore, it cannot be said to be taxation and I ask you, Madam Chairperson, so to rule.

The CHAIRPERSON: I do not accept the argument that clause 20 should be made a money clause if we are not quite sure. It seems to me that we should come to a decision one way or another. To me, clause 21 is undoubtedly a money clause because it is imposing a tax that is required to be paid into the compensation fund that we find in clause 20. This contribution is required to be paid by the licensee: it is not a fee for a service; it is not a fee for a licence; it is deemed to be a tax. So, under section 60 of the Constitution Act, clause 21 is undoubtedly a money clause and hence must be in erased type.

Clause 20, however, deals with distribution of this tax. Subclause (3) deals with appropriation of this compensation fund, which is appropriation of a tax. Therefore, I class it as a money clause: it is dealing with taxation because it is appropriation of that fund, so under section 60 of the Consitution Act it is a money clause. I rule, therefore, that it has to be in erased type.

Clauses 22 to 34 passed.

Clause 35—'Regulations.'

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

Page 11—Leave out subclause (4) and insert new subclause as follows:

(4) A regulation made under this Act may refer to, or incorporate, in whole or in part, and with or without modification, a code of practice for the time being, or from time to time, adopted by a body which, in the opinion of the Governor, represents the interests of a substantial number of persons licensed under this Act.

Apart from my amendment, I want to refer to subclause (2) *(f)*, which provides a power to regulate the form and content of advertisements concerning services offered by persons carrying on business as travel agents. What sort of regulation is contemplated by this power?

The Hon. C.J. SUMNER: It is partly to deal with any misleading advertising that might be contemplated. Also, it might be required or be deemed appropriate that an advertisement include whether or not a person is a licensed travel agent.

The Hon. K.T. GRIFFIN: I do not have any objection to an advertisement identifying that a person is or is not licensed. I presume, though, that with the severe penalties imposed by the Act for anybody to advertise without being a licensed travel agent would be quite a foolish act. Maybe

it is unnecessary to require travel agents to put their licence number at the bottom of each advertisement.

My only point in relation to this is that I hope there are not regulations proposed which seek to regulate the size of type and the sorts of things which can be stated in travel advertisements. A mass of travel advertisements and brochures is published. It would be to the disadvantage of the consuming public if it was contemplated that those sorts of advertisements should be regulated. Part of the fun of travelling is the colour of the brochures and pamphlets that all travel agents put out. It is part of the thrill of determining where one is going and where one can afford to go. I would be disappointed to see that sort of brochure being regulated by regulations passed under this Act.

The Hon. C.J. SUMNER: I do not think that is contemplated. I imagine that there will be a fairly limited use of this power of regulation. It is in the Western Australian legislation, but I do not anticipate any difficulties of the kind outlined by the honourable member. It might spoil his fun!

Amendment carried; clause as amended passed.

Title passed.

Bill read a third time and passed.

CRIMES (CONFISCATION OF PROFITS) BILL

Adjourned debate on second reading.

(Continued from 18 February. Page 201.)

The Hon. J.C. BURDETT: I support the Bill for the reasons put forward by the Hon. Mr Griffin and support what he said in regard to the crimes or offences to which the Bill applies. I support the concept very strongly indeed that persons who commit crimes should not be allowed to profit from them and the profits therefrom ought to be made available to the victims. The Hon. Mr Griffin made the point, and I referred to it in my Address in Reply speech yesterday, in relation to what I believe to be an improper use of 'regulation'. The offences to which the Bill applies ought to be spelt out.

According to the Bill the offences are, first, indictable offences. We all know or can ascertain what they are. So, we know what offences the Bill relates to. However, if we are dealing with a Bill, which relates to offences and which has quite far reaching and proper consequences about the profits that flow from those offences, we ought to know to what offences the Bill relates. In regard to summary offences, in terms of the Bill the offences to which it relates are to be prescribed by regulation. I suggest that is an example of the things I was talking about yesterday, namely, things that ought to be spelt out and dealt with by Parliament and not left to regulations, over which Parliament has some limited jurisdiction after they have been made. I support the Bill, but I believe that it should set out clearly what are the offences to which it relates.

The Hon. I. GILFILLAN: As a man of very few words, I will not hold up the proceedings for very long. I indicate the support of the Democrats for this Bill. The arguments in favour of it given by both the Attorney and members of the Opposition substantially cover the grounds on which we support the Bill. I do not intend to take up the time of the Council duplicating those remarks, other than to repeat emphatically that we support the principle involved. This measure is long overdue and we hope that it goes some way towards ameliorating the suffering of the victims of crime.

The Hon. C.J. SUMNER (Attorney-General): I thank members for their support of the Bill. The major issue that will have to be dealt with during the Committee stage is whether or not the offences to which the Bill applies should be all spelt out in legislation or left to regulation. There is no dispute that indictable offences should be covered. The problem with confining it just to indictable offences is that some summary offences are serious and to them the confiscation provisions should apply. For instance, there is the question of SP bookmaking, which has been identified in a number of inquiries as being one outlet for funds from organised crime. The keeping of a brothel is a summary offence, and it may be that confiscation provisions should apply there also. I believe that the objections of members would be overcome by providing (and I am prepared to do this) that any regulation prescribing a summary offence would do nothing else. If it was decided that it should be disallowed, it could be disallowed, so that the whole regulation could fall without affecting any other parts of the legislation that honourable members may agree to. The main problem is that there are certain summary offences (we have not undertaken an exhaustive analysis of those offences) to which this Bill should obviously apply. The Hon. Mr Griffin's amendment does not cater for that aspect, since it applies only to indictable offences.

I shall deal briefly with the other issues raised by the Hon. Mr Griffin, and I hope that I will not have to rehash them during the Committee stage. In relation to clause 4, the Hon. Mr Griffin asked whether families would be left homeless if the only asset left was the family home and that was confiscated. Approval of an application for a confiscation order is at the discretion of the Attorney-General. If a family home has clearly been bought with the proceeds of criminal activity it would still be hard to justify that the people who had profited albeit indirectly, from that criminal activity should be able to keep the title over the property. However, I believe the discretionary power provided would be exercised sensibly and that, if any real hardship occurred as a result of the provisions of the Bill, the discretion could be exercised in favour of the person who may lose the family home.

The Hon. Mr Griffin also raised the question of mechanisms for tracing ill-gotten assets. I am prepared to concede right now that considerable attention will have to be given to that matter. When I was overseas last year at the United Nations Congress on Crime and the Rehabilitation of Offenders I ascertained from discussions that, in the experience of some other countries, one of the problems with these sorts of clauses has involved the training of police officers to ensure that, when investigations are made into an offence and evidence is collected for that, inquiries are also made to trace assets and profits that may have been obtained as a result of the offence. Attention will have to be given to that in South Australia. Obviously there are difficulties in tracing these profits and proving that assets are related to a crime or that they have been obtained from criminal activity. So, this is a caution that we should all take into account.

Certainly, I am very cognisant of this matter, and I do not necessarily expect that overnight money will pour into the coffers of the criminal injuries compensation fund from the confiscation of assets worth millions of dollars. Clearly a lot of work will have to be done in tracing the assets. Attention will need to be given to training the police officers to be involved, and even when that is done, because of the need for considerable expertise in tracing assets through financial records and the like, there will still be difficulties.

With respect to a general point, I indicate however that clause 4 (1) is incredibly wide. If property is the proceeds of crime or is acquired with the proceeds of a crime or into which the proceeds of a crime have been converted, the property is liable to forfeiture. The property remains liable

to forfeiture no matter who has it. However, a person innocent of any complicity shall not be liable to forfeit property unless that person acquired it without giving valuable consideration for it or acquired it knowing of its origin or in circumstances such as to arouse a reasonable suspicion as to its origin (as in clause 5 (2)). Thus, property can be traced until it is in the hands of a complete innocent. With respect to clause 8 (2), regarding search warrants, they can be executed between 7 a.m. and 7 p.m. This is similar to the provision in the Criminal Investigation into Extra-territorial Offences Act 1984. It merely requires special reasons to be shown before warrants are executed at night.

Unless there is special reason searches should not be carried out at night, and that which is the reason for that provision about search warrants. I trust that that answers the questions raised by honourable members in general terms, and we will have to address in Committee the question of offences to which this confiscation provision should apply.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Interpretation.'

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

Page 1, lines 32 and 33, and page 2, lines 1 to 3—Leave out the definition of 'prescribed offence'.

I heard what the Attorney said about the clarification of summary offences to which this Bill might apply. I am disappointed that, in the time since this question was raised on 29 October last year in relation to a similar Bill, and the time of introduction of this 1986 Bill, it was not possible to identify the summary offences to which the legislation is to apply. Parliamentary Counsel has been able to take into consideration one of the matters to which I referred during the course of the debate on that occasion. It is an important principle that, where wide powers are to be given to the courts or to anyone else for that matter involving the confiscation of assets for particular reasons, those reasons and the basis of the confiscation should be clearly stated in the Act of Parliament and debated and passed by Parliament.

I have difficulty in accepting the proposition that the wide powers of confiscation granted by this legislation ought to be applied to summary offences which are not identified in this legislation but which are to be identified by regulation. I accept the Attorney's undertaking that, when a summary offence is to be prescribed, each summary offence will be the subject of a separate regulation, so that it can then be the subject of disallowance and debate in Parliament. That is still deficient.

It may be, depending on how the numbers go, that I have to be satisfied with that undertaking. The difficulty is that it may well be overlooked at some time in the future if Attorneys-General change or if staff change. The undertaking may be overlooked, without some specific provision in the regulation making power as to that undertaking.

Let me make it clear: I support wholeheartedly the concept of the confiscation legislation. I proposed it on a more restricted basis in regard to drug trafficking in 1982 and I support this Bill but, as a matter of principle, I have difficulty in accepting that Parliament will not have full control and make the final decision on the summary offences to which it is applied. I would prefer to see the legislation limited to indictable offences and a clear commitment given that we will support any amending legislation dealing with specific summary offences that might be identified in that legislation, subject of course to a majority in both Houses of Parliament being satisfied that the summary offences that are referred to in any amending Bill are proper offences against which this quite wide power of confiscation is to be exercised. Therefore, I prefer to move my amendment to test the feeling of the Committee.

The Hon. I. GILFILLAN: I sympathise with the Hon. Mr Griffin's disappointment that there has not been more specific action on his request from October last year. One must realise that even Attorneys sometimes have to swan around the continent on holidays and it is not always possible to achieve the desired result.

The Hon. L.H. Davis: Mr Milne used to do that.

The Hon. I. GILFILLAN: When he did he was referred to in pretty tart tones by the Attorney in this place. We are all human. Whatever deficiences there are in time, I know it will not apply to a lack of statesmanlike approach to this amendment. The Democrats are in sympathy and agreement with it. We agree with the argument that the Hon. Mr Griffin has advanced: it seems to involve little extra effort to amend legislation so that it is clearly spelt out which summary offences will be subject to confiscation of profits. We support the amendment.

The Hon. C.J. SUMNER: It is very disappointing that the Democrats have decided to limit the scope of this Bill by supporting the Hon. Mr Griffin's amendment. Clearly, there are some offences that are not indictable offences that will not be subject to confiscation provisions.

The Hon. K.T. Griffin: We do not know what they are.

The Hon. C.J. SUMNER: I have just outlined two: one is SP bookmaking and another is prostitution. What about fisheries offences? Much money can be made from that. What about some of the corporate offences that are dealt with summarily? They are not all dealt with by way of indictment. I will not oppose or call for a division on the amendment because the Hon. Mr Gilfillan has indicated his support, and I assume that of his colleague, for the amendment.

The Hon. L.H. Davis: The Democrats are quite independent.

The Hon. C.J. SUMNER: I know, just like honourable members opposite. I will not call for a division and I will consider the summary offences that may need to be inserted in the legislation and see whether if it can be done in time for another place. If it cannot, I will have no alternative but to leave the Bill in a defective form until Parliament resumes in August.

Amendment carried; clause as amended passed.

Clause 4—'Liability of property to forfeiture.'

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

Page 2—

Lines 31 and 32—Leave out 'a prescribed' and insert 'an indictable'.

Line 33—Leave out 'a prescribed' and insert 'an indictable'.

Line 34—Leave out 'a prescribed' and insert 'an indictable'.

Line 36—Leave out 'a prescribed' and insert 'an indictable'.

Line 37—Leave out 'a prescribed' and insert 'an indictable'.

Line 41—Leave out 'a prescribed' and insert 'an indictable'.

These amendments are consequential upon the amendment which has just been carried to the previous clause.

Amendments carried; clause as amended passed.

Clause 5—'Forfeiture orders.'

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

Page 3—

Line 7—Leave out 'a prescribed' and insert 'an indictable'.

Line 10—Leave out 'prescribed'.

Line 28—Leave out 'a prescribed' and insert 'an'.

These amendments relate to the same matter.

Amendments carried; clause as amended passed.

Clause 6—'Sequestration orders.'

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

Page 3, Line 39—Leave out 'a prescribed' and insert 'an indictable'.

Page 4, line 29—Leave out 'a prescribed' and insert 'an indictable'.

Again, the amendments are in a similar form to those already moved and carried.

Amendments carried; clause as amended passed.

Clauses 7 to 9 passed.

Clause 10—'Payment into criminal injuries compensation fund.'

The CHAIRPERSON: I point out to the Committee that this is a money clause in erased type. Standing Order 298 provides:

> No question shall be put upon any clause printed in erased type.

Standing Order 278 provides:

> The message transmitting the Bill to the House of Assembly for its concurrence shall also draw attention to the suggestion indicated by the clause or amendment printed in erased type, stating that such a clause or amendment cannot originate in the Council, but is deemed necessary to the Bill.

Clause 10 is a money clause because it deals with the appropriation of public moneys.

Remaining clauses (11 to 13), schedule and title passed.

Bill read a third time and passed.

STATUTES AMENDMENT (VICTIMS OF CRIME) BILL

Adjourned debate on second reading.

(Continued from 18 February. Page 211.)

The Hon. J.C. BURDETT: I support the second reading of this Bill, because it improves the position of victims of crime and I think that is very important.

The Hon. C.J. Sumner interjecting:

The Hon. J.C. BURDETT: Yes, it does. The maximum compensation still remains unchanged at $10 000. Nonetheless the Bill improves the lot of victims of crime and I support it. As an example of why I support it I will recount a case history briefly of a female constituent who came to me. This story shows the plight in which victims of crime may find themselves. I might add that on 24 January I wrote to the Attorney about this matter. I have not yet received a reply, but I am not complaining about that because something like about three months is par for the course.

The lady in question was in the course of a domestic dispute when she was hit over the head a very severe blow with a hammer. She became unconscious immediately and while she was unconscious her assailant pushed his fist up her anus. She was admitted to hospital in a very serious condition indeed. I have seen the medical reports and she was hospitalised for some time and has serious permanent disabilities. In laymen's terms she has suffered brain damage which is irreversible; she suffers from dizziness; she cannot drive a car; she cannot work (both of these things she was able to do before); she has a serious defect of vision which will not improve; and the medical reports indicate that there is a considerable risk of epilepsy. Her assailant is in gaol and in any event has no income and no assets. She received the maximum amount of compensation payable under the Act, namely, $10 000.

I recognise that money paid to the victims of crime under the Act is paid out of the public purse and is not the same as a civil claim for damages; it must be dealt with on a different basis. However, had the lady had the ability because of the situation of her assailant of making a claim in a civil court, which would be effective, she doubtless would have been awarded several hundred thousand dollars. Certainly, the $10 000 which she was awarded (the maximum she could be awarded under the Act) was very poor compensation indeed and helped her very little in her very serious plight. That amount was fixed in 1978 and inflation has considerably eroded that amount since then. I would think that the amount of compensation is something that the Government should consider. At the present time, this Bill assists in the plight of victims of crime, persons such as the lady that I have mentioned—and there must be others—whose injuries are very serious and for whom a mere $10 000 is not very much. Because the Bill enhances the situation and helps the victims of crime I support the second reading.

The Hon. I. GILFILLAN: I seek to make plain the substantial support for this Bill by the Australian Democrats and raise a few issues of a minor nature in the context of the Bill. I would like it established on the record once again how substantially we support the move and congratulate the Attorney-General, who has earnt in his own words an international reputation in this area—and we consider quite rightly so. However, in responding to the second reading debate the Attorney may care to comment among other things on a few of the points that I raise now. Clause 6 (b) (2a) provides:

> Where a person is killed by homicide, any of the following persons may, within 12 months of the date of death, apply to the court for an order for compensation in respect of the grief suffered by that person in consequence of the death.

The clause then lists the following: the spouse of the deceased; a putative spouse of the deceased; and, where the deceased was less than 18 years of age at the date of death, a parent of the deceased. We are somewhat concerned that there does not appear to be a recognition that juveniles suffering grief from the death by homicide of a parent are covered in that particular context.

In clause 26 there is an obligation on probation officers to actually cover in their pre-sentence reports the victims who have been affected by the offence. It is not hard to discover from the department responsible for pre-sentence reports that they are fully laden as far as their court work is concerned, and that this would quite substantially increase the workload that they would need to perform to provide adequate pre-sentence reports.

I would like the Attorney to acknowledge that, if he sees fit, and perhaps to explain how the Government intends to handle that extra workload which will, when this part of the Bill is proclaimed, come into effect and put what I consider to be an impossible workload on the probation officers who are currently involved in preparing pre-sentencing reports.

In clause 30 there is what appears to be to us a somewhat ambiguous situation where, when there has been some compensation paid through workers compensation, there could perhaps be a double payment. I do not say that that is, in fact, the interpretation of the Bill, but I cannot define clearly enough for our satisfaction that that is not the case, and I would like the Attorney to address some comments of explanation to that.

Will the Attorney when summing up outline for us all, and for those who read *Hansard* in due course, the definition between the offences dealing with motor vehicles which will be exempted from the effects of this Bill and those offences with motor vehicles that will be taken into the ambit of this Bill? In conclusion, I once again express the Democrats enthusiastic support for the Bill as it appears before us as we only have a few minor questions that really need answering.

The Hon. C.J. SUMNER (Attorney-General): I thank honourable members for their support for the Bill. I am pleased that there is significant bipartisan support for what is very important legislation. Indeed, if it is passed by the Parliament, it will undoubtedly place South Australia clearly

as the State that has taken the most significant initiatives in Australia with respect to the rights of victims of crime: that is, this legislation combined with the other action taken by the Government to promulgate a list of rights of victims of crime which were enumerated in the second reading speech that I gave last year.

I will address the issues that have been raised by honourable members. First, the Hon. Mr Griffin asked what sorts of fines are to be paid into the criminal injuries compensation fund. There is no mechanism for excluding any fines, so it will be a proportion of all fines. That proportion will be prescribed by regulation and, indeed, may vary from year to year.

The intention in providing for this was to specifically establish a compensation fund to provide that there would be a continual source; namely, a certain percentage of fines to be paid into it. It may, of course, need to be supplemented from general revenue and, indeed, it may be supplemented by any assets confiscated as a result of the Bill that we have just passed. It is not a panacea for all the problems of compensating victims of crime, but it is a step in specifically identifying a fund and, therefore, the Parliament saying that this area should be given particular consideration by providing a source of money to go into that compensation fund.

I do not want to exaggerate the significance of it, because clearly we are still basically dealing with funding by taxpayers, from general revenue, of criminal injuries compensation. However, it is hoped that, by establishing a separate fund over a period of time, it can be built up and therefore provide scope in the future for improving compensation to victims.

There is no particular mechanism for notifying an offender of what portion of the fine is to be used for victim services. It will be a fixed proportion that will apply across the board. In so far as it is known, therefore—and I certainly hope that it is known—it will be known generally. It is not a matter of there being a supplement to the fine: it is a proportion of the fines that are actually levied that will be paid into the fund.

The honourable member has dealt with the question of the obligation to inform victims of the outcome of parole proceedings. I will not address that at this stage: obviously, the honourable member will raise it in the Committee stages and I will deal with it then. Suffice it to say that I think that there are significant problems with the amendment that he has on file.

I would also argue the same with respect to his amendment providing by statute that a victim should be informed of the outcome of all bail applications. I respond to his argument about a victim having a right to have his or her perceived need for physical protection put before a bail authority that I believe that is already covered, because one of the things that a bail authority should take into account when determining bail is the need or perceived need for physical protection by a victim. If that is something that the bail authority must take into account in determining bail, then it is a matter that ought to be put by the prosecution to the bail authority. That is provided in the Rights of Victims of Crime that have been promulgated and approved by Cabinet and distributed to appropriate Government departments.

The honourable member drew attention to the principles of the Rights of Victims of Crime numbers 11 and 12, and indicated that they should also refer to the Crown. Those rights refer to not requiring the victim to appear at preliminary hearings unless deemed material to the defence. The honourable member wished to have the Crown added to that.

It is really a very minor matter. It is the defence that usually calls on the victim unnecessarily so that a fishing expedition can be undertaken. I cannot imagine circumstances in which the Crown would call on the victim unnecessarily to appear in committal proceedings. Therefore, I do not think that the point raised by the honourable member is of any practical importance.

The honourable member also hoped that there would be a discretion not to recover money paid out in an emergency if a compensation claim is unsuccessful and not proceeded with. Section 11a (2) provides that the Attorney-General may recover money paid out by way of emergency assistance, so it is clearly discretionary and would be left to the Attorney-General of the day to determine, depending on the merits of the particular case.

With respect to victim impact statements, they have been written in to be provided where a pre-sentence report is ordered for an offender. That is where it becomes a statutory obligation. In other cases, the impact on the victim is covered by the declaration of the rights of victims and would be handled administratively. I think that that covers the points raised by the Hon. Mr Griffin.

I now turn to the Hon. Mr Gilfillan's query about pre-sentence reports. The Bill provides for sequential proclamation. The Government intends not to proclaim the section dealing with victim impact statements until the resource implications have been examined by the Government. I made that clear in a second reading speech that I made last year. It was felt that it should be included in the package because it is obviously a very important measure.

However, the point was raised whether parole officers and probation officers who had to get information from an offender for pre-sentence reports would be able to cope with the added workloads imposed by this legislation. I do not think that the additional workload will be all that substantial, provided that mechanisms can be established to get the views of victims, and I think that that can be done reasonably simply. However, it is recognised that there may be resource implications and for that reason those resource implications will be examined and the operation of that section will be suspended until we have looked at that issue.

In the meantime, however, it does not mean that the victim's position will not be put to the courts because the administrative declaration of the rights of victims will still apply. Principle No. 14 of the Rights of Victims provides that the victim is entitled to have the full effects of the crime made known to the sentencing court, and that will be done administratively by the prosecutors until the section relating to pre-sentence reports is proclaimed.

The Hon. Mr Gilfillan asked about the payment of solacium and whether that should apply to children. We have extended the provisions of the existing law to provide for solacium because there is no present provision in criminal injuries compensation for automatic payment for grief as there is in the Wrongs Act, so this is a significant extension of existing rights of victims. The reason why children are not included is that the rights that we have included for victims are a direct take from the Wrongs Act where solacium is paid. In the case of a negligent act, a road accident or industrial accident solacium is paid to a surviving spouse or to a parent of a child who is killed. Those provisions have been picked up and put into this legislation. If the honourable member wishes me to deal with that question then I think that it needs to be dealt with in a broader context.

Clause 30 dealing with workers compensation I will deal with in the Committee stages. With respect to motor vehicles, it was decided ultimately to exclude offences committed with motor vehicles from the scope of the legislation, except in the case of larceny of a motor vehicle. The reason

for that—although there are differences of opinion on this topic—is, first, that there is compulsory insurance for personal injury and death caused by motor vehicle negligence.

Secondly, in the area of property damage, although there is not compulsory insurance a substantial number of people are insured and it was felt that, in practical terms, it would be unsatisfactory to impose on the criminal courts the power or the obligation to adjudicate on whether compensation should be paid by a victim in a road accident. The reason for that is that in most road accidents it is not a clear cut situation: there is usually an apportionment of blame made even though a person may have committed an offence and been subjected to prosecution under the Road Traffic Act for driving without due care.

In civil proceedings, even in that circumstance it is usual that there will be an apportionment of blame. It is felt that to import those compensation provisions into the road accident arena could lead to unsatisfactory practical problems of turning the criminal courts into courts that would have to adjudicate in road accident areas, given the problems of the apportionment of blame that usually occur when there is a claim for damages following a road accident.

The third difficulty in the road accident arena is again a practical problem. One of the really significant changes to the law in this package is the provision that the payment of compensation to a victim should take priority over any fine. It was felt that, in the motor vehicle accident arena particularly, if the courts decided to make those compensation orders they could take priority over fines and therefore that would reduce the money that went from fines into general revenue and would, in effect, constitute an additional burden on the taxpayer so far as criminal injuries compensation is concerned, particularly if the courts started making those orders with respect to damage for which there was insurance cover.

It was decided that the best solution to this difficulty was to exclude motor vehicle accidents altogether except for any damage that might flow from the theft of a motor vehicle. I believe that that covers the issues raised by honourable members. I will deal with the others in the Committee stages.

Bill read a second time.

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

That Standing Orders be so far suspended as to enable me to move an instruction without notice.

Motion carried.

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

That it be an instruction to the Committee of the whole Council that it have power to consider amendments to the Bail Act 1985 and the Correctional Services Act 1982.

Motion carried.

In Committee.

Clauses 1 and 2 passed.

New clauses 2a and 2b.

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

Page 1, after clause 2—Insert new clauses and headings as follow:

PART IA
AMENDMENT OF BAIL ACT 1985

2a. *Interpretation.* "The Bail Act 1985 is in this Part referred to as the principal Act".

2b. *Amendment of s. 10.* Discretion exercisable by bail authority. Section 10 of the principal Act is amended by inserting after subsection (2) the following subsection:

(3) Where a bail authority releases an applicant on bail and is of the opinion that there is a person—

(a) who was a victim of the offence, or one of the offences, in respect of which the applicant was taken into custody;

and

(b) who should be notified of the applicant's release, the bail authority shall notify the victim accordingly, unless—

(c) it is not reasonably practicable to do so in the circumstances; or

(d) the whereabouts of the victim is unknown to, and not reasonably ascertainable by, the bail authority.

I will deal with the two new clauses relating to amendments to the Bail Act 1985. I want to ensure that there is a specific provision in the Bail Act that, where a person is released on bail, as far as it is reasonable and possible to do so the victim is notified of the applicant's release. There are several opportunities for that not to be done under the proposals that I am moving because the bail authority has to be of the opinion that there is a person who was a victim and who should be notified.

The bail authority shall, in those circumstances, notify the victim of the release of the accused person on bail, unless it is not reasonably practicable to do so in the circumstances, or where the whereabouts of the victim is unknown and not reasonably ascertainable by the bail authority. So, there are a number of discretions in the bail authority, but it seems to me that it is important to enshrine the principle in the Bail Act so that all those who are working with it have before them the requirement to at least take into consideration to a much greater extent than is provided in the Bail Act already the need to notify a victim of the release of the accused person.

One particular example drawn to my attention involved a woman who had been assaulted, questioned and had a statement taken by the police. The assailant had been charged and by the time the victim had arrived home the assailant had been released on bail without the victim being notified of that happening. It created a great deal of consternation when the victim discovered that there had been no consideration given to her protection from the assailant after the assailant had been released on bail. She had not been notified of the release on bail and therefore was not able either to prepare herself mentally for that fact or to take reasonable precautions to protect herself at her address or by taking temporary refuge elsewhere.

That is the sort of situation where the bail authority could well have ensured that the victim was informed of the release on bail of that particular offender. I do not think that the provision I am moving creates any problems at all for the bail authority. I certainly urge members to support it as evidencing an important principle of concern for victims of criminal activity.

The Hon. C.J. SUMNER: I am not opposed to the sympathy or the sentiments that the honourable member has expressed. I point out that the rights of victims which have been approved by Cabinet, and which were included in the second reading explanation, deal comprehensively with the rights of victims in the criminal justice system. Those principles have been forwarded to all relative departments—Attorney-General, Courts, Police, Community Welfare and Correctional Services—with the instruction that they should notify me of any amendments to the law that may be necessary to give effect to these principles and with the Cabinet instruction that administrative procedures in their departments accord with the principles.

Principle 13 is that a victim has a right to be advised of the outcome of all bail applications and to be informed of any conditions of bail which are designed to protect the victim from the accused. That really covers the point raised by the honourable member. I note that the honourable member has not persisted with amendments to the Bail Act that he was foreshadowing previously; namely, that the prosecutor should ascertain from the victim whether he or she has any fear of the offender being released on bail.

I pointed out that I am quite confident that as section 10 of the Bail Act provides that where there is a victim of the offence the bail authority must have regard to any need

that the victim may have or perceive he has for physical protection from the applicant. That is sufficient, because the prosecutor should put that information to the court. That is clearly one of the things covered by the principle. The honourable member has dropped that, but he has moved that the bail authority should inform a victim. I have no argument with the sentiments expressed by the honourable member, but I do have some argument about the practicality of it as it is being prepared and drafted and is considered to be inserted in the Bail Act.

The first problem is how a bail authority would notify a victim that a person has been released on bail? Will they do it by letter? In that case if the offender is released on bail and immediately goes around to the premises of the victim, the victim will be in the same position as applies presently. What is a sanction? If a bail authority does not notify the victim, there is no sanction, and so in that sense it is pious.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: It is a principle which is already covered by the rights that we have approved in Cabinet administratively. I would prefer the Committee to adopt this course of action. It may be necessary to introduce legislation to insert in the statutes some of these matters, which are currently being dealt with and which have been outlined as principles, as rights that will be dealt with administratively.

I strongly suggest that even the enumeration of the rights is a most significant step that has not been taken anywhere else in Australia, and that in this area we are feeling our way to a considerable extent because of the uniqueness of the principles and the legislation. Therefore, it is preferable to allow a degree of flexibility as to how these principles are to be implemented through the Government departments concerned. As we go through, over time it may appear that a particular administrative way of doing it is not satisfactory, that it may be better to do it in some other way. I think it would be more administratively tenable for a prosecutor to advise a victim of release; it would probably be better for the police to do that. The police are in court when the bail application is made, and presumably they would be in a more flexible position to notify the victim than would the bail authority. They might be able to do it more quickly. So the right is there, but administratively who should do it? Should it be the bail authority, the prosecutors or the police?

That is something that we need to sort out, given that there is a clear principle established that should be followed by Government departments involved. Therefore, I suggest that that is the best way to handle the matter at this stage. I agree with the sentiments that have been expressed. The right is there, but let us see how those administrative principles work and then, if there is a need to amend the legislation in some way when we have seen how they are working, we could give further attention to those matters later in the year.

The Hon. K.T. GRIFFIN: I would prefer to see the provision enshrined in the legislation. It may be pious; it may have no sanction; but at least it is there as an act of the Parliament expressing the Parliament's view as to the desired course of action. It is not something that can get lost in a departmental docket, and would be there on the public record. Everyone who works with the Bail Act would see this principle enunciated in the legislation. I cannot believe that this would create administrative problems, because a number of discretions are identified in the drafting.

The Government has the ultimate responsibility for proclaiming legislation, in any event, and if it decides for some reason or other to suspend the operation of the provision for the time being or to put it to Parliament for some amendment, I suggest that that would be the better course to follow, rather than to decide now that the provision will not be put in the legislation, that it will not be in the Act when proclaimed, that reliance will be placed on the declaration that has gone to Government departments, and it will be dealt within the future. Put it on the record now, while we are dealing with a whole range of rights of victims. That would be a positive step to take and if necessary the legislation could be amended later. I do not think that that would occur, but steps could be taken later to amend the positive principle already on the public record rather than the other way round. I hope that the amendment is accepted as a clear indication of the acceptance by the Parliament of the principle.

The Hon. I. GILFILLAN: It seems to me that we are virtually unanimous in agreeing that this is a principle that should be pursued, and therefore the Democrats do not consider ourselves to be the arbiters in a conflict between the Government and the Opposition. However, we recognise that this is a Government initiative, and unless pursuaded otherwise we intend to support the Government's attitude to the amendment. I think there is some justification for holding back from enshrining the provision in legislation (as the Hon. Trevor Griffin so eloquently argued), and that is that it may be that some other procedure for informing the victim of an offence earlier than through the bail authority maybe the most appropriate. I do not see that there is likely to be any serious deficiency in implementing this principle, as the Attorney-General has very clearly spelt out in *Hansard* details of its implementation. The Attorney-General would be the Government officer responsible for that, so one can be confident that it will be implemented. Therefore, the Democrats oppose the amendment, but I make plain that we are not opposing the intention of the amendment.

The Committee divided on the new clauses:

Ayes (8)—The Hons J.C. Burdett, L.H. Davis, Peter Dunn, K.T. Griffin (teller), C.M. Hill, J.C. Irwin, Diana Laidlaw, and R.J. Ritson.

Noes (9)—The Hons G.L. Bruce, B.A. Chatterton, M.J. Elliott, I. Gilfillan, Carolyn Pickles, T.G. Roberts, C.J. Sumner (teller), G. Weatherill, and Barbara Wiese.

Pairs—Ayes—The Hons M.B. Cameron and R.I. Lucas. Noes— The Hons J.R. Cornwall and M.S. Feleppa.

Majority of 1 for the Noes.

New clauses thus negatived.

New clauses 2c and 2d.

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

Page 1—After clause 2 insert new clauses and headings, as follow:

PART IB

AMENDMENT OF CORRECTIONAL SERVICES ACT 1982

2c. The Correctional Services Act 1982 is in this part referred to as "the principal Act".

2d. The following section is inserted in part IV of the principal Act after section 39c:

39d. Where a prisoner is about to be released from a correctional institution, whether released on expiry or extinguishment of sentence, on parole or pursuant to Part VII, and the Permanent Head is of the opinion that there is a person—

(a) who was a victim of the offences, or one of the offences, for which the prisoner was at any time during the period of imprisonment serving a sentence; and

(b) who should be notified of the prisoner's release, the Permanent Head shall notify the victim accordingly, unless—

(c) it is not reasonably practicable to do so in the circumstances; or

(d) the whereabouts of the victim is unknown to, and not reasonably ascertainable by, the Permanent Head.

The amendments provide that, where a prisoner is about to be released, notice should be given to a victim of the offences. Discretions are allowed to the Permanent Head of the Correctional Services Department: the qualifications say

that notice should be given only where it is reasonably practical to do so and the whereabouts of the victim are known.

Again, the same arguments apply to these amendments as applied to the Bail Act. I do not wish to canvass them at length, but I refer to this one example. In the last week of the election campaign a murderer was released from Port Lincoln Gaol. He had been convicted of murdering a man at Kimba and, after serving 2½ years, was released on parole. The disturbing aspect was that the widow of the victim had not been notified of the impending release. The murderer slinked quietly out of gaol in Pt Lincoln without the widow having been notified. That caused great consternation to the widow, who had some fears for her own safety.

That might well have been after the declaration of victims' rights had been circulated to the department. How much notice had it taken of the obligations on the department under the declaration? It is important to have this in the Statute so that people working with the Statute recognise the principle.

The Hon. C.J. SUMNER: I oppose the amendment with even more emphasis than I opposed the previous one. I do not oppose the sentiments, but we have provided for the rights of victims, as approved by Cabinet, so that a victim is entitled to be informed of the outcome of parole proceedings. There is a right to be advised of the outcome—it is a right. The Hon. Mr Griffin wishes to make it not only a right but also a duty on Correctional Services officers to advise the victim of the result of parole proceedings. That imposes a virtual absolute duty, irrespective of the wishes of the victim. Experience shows that many victims do not want to know anything more about a case, especially if it occurred some time ago.

They might have gone interstate or have remained in South Australia, but they do not want memories brought back; but they do not want any advice about what happened to the offender. They merely want to block it out, and they might have done that over a period. Then they will have the poor Director of Correctional Services—the Permanent Head--who must then divine whether or not to advise a victim about the outcome of parole proceedings.

Certainly, the victim has a right to be advised. We will have to establish mechanisms whereby that can be done but to impose an absolute duty on the Director, even if the victim does not wish to be advised, is the problem with these amendments. They are pious in a sense because there is no sanction if victims are not notified. The amendments are too rigid in another sense and I would prefer the matter to be dealt with administratively for the time being and, if legislation is needed subsequently, we can consider it. In this case the Permanent Head has an absolute obligation to advise the victim.

The Hon. K.T. Griffin: It is a discretion.

The Hon. C.J. SUMNER: It is an absolute obligation: there is no discretion for the Permanent Head unless it is not reasonably practicable or the whereabouts of the victim are unknown. The Permanent Head shall notify the victim, that is an absolute duty. It says 'shall'. There is an absolute duty irrespective of the wishes of the victim. True, the victim has a right to be advised but I do not believe an absolute duty should be placed on the Permanent Head to advise a victim irrespective of a victim's wishes. I refer to the arguments I made with respect to the Bail Act. They are equally applicable here. I have no argument with the sentiment. The right must exist. It must be dealt with administratively for the moment, as we have outlined in principle 16. The case early in December that the honourable member mentioned is not relevant. The victim should have been notified but, to claim that the department overlooked or ignored the principles, is drawing a long bow: I am not even sure the principles had been distributed then. If they had been, it was certainly only a short time before that occurred.

The Hon. I. GILFILLAN: I think the Attorney has misread the wording in the amendment because 39d (*b*) states 'who should be notified', so it is a discretion for the Permanent Head and, having made that decision, he shall notify. In fairness to the wording of the amendment I do not think that it was accurately interpreted by the Attorney.

The Hon. C.J. Sumner interjecting:

The Hon. I. GILFILLAN: It is up to the Permanent Head. I indicate that the Democrats will oppose the amendment on similar grounds to our opposition to the earlier amendment. Is a method envisaged whereby a victim can record or have recognised in some reliable way that they wish to be notified about the release on parole of a prisoner and that it is not simply left to determination by a third person? Is that intended to be put in place or is it already in place?

The Hon. C.J. SUMNER: It is not yet in place. With all these things it is intended to develop procedures to try to ensure that the victim's wishes in these matters are placed on file. When the time comes it can then be identified as to whether or not the victim should be notified. The problem is that given the lengths of time involved the victim's wishes may change. We are trying to develop mechanisms (that is the aim) to give effect to the wishes of the victim. We are doing that with the 17 principles of the rights of victims of crime that have been outlined.

Different mechanisms will be developed for different rights. The one that we are attempting to come to grips with is how to ascertain the wishes of a victim with respect to parole proceedings. At the moment the intention is to attempt to develop some means whereby there can be a definite record on the file of the victim's wishes. That would then be automatically checked off when the parole application is before the Parole Board.

The Hon. K.T. GRIFFIN: In relation to my proposal the Attorney-General has clearly misrepresented both the drafting and the intention. The fact is that there is a discretion in proposed new section 39d (*b*) in the sense that the Permanent Head will determine who should be notified. That is the first point. The second point is that whether the principle is established in the declaration of victims rights, or whether it is in the statute the same difficulty raised by the Attorney applies, that is, how to determine the wishes of the victim.

It is not a valid argument to use against my proposed clauses and not to acknowledge that the same problem arises in relation to the declaration of victims' rights. If there is a discretion, as I argued that there is in my drafting, it seems to me that the determination of a victim's wishes can be resolved administratively in the same way for my clause as it will be resolved in relation to the declaration of victims' rights. So, the Attorney-General misrepresents the difficulty in relation to my clause. I do not see that there is that difficulty. As the Australian Democrats have indicated that they will not support the amendment, I do not have the numbers on the floor to succeed. While I will persist with the moving of the amendment I will not divide on it but will take the division on the earlier clause and amendments to the Bail Act as a clear indication of the likely outcome of any division on the amendment.

New clauses negatived.

Remaining clauses (3 to 30) and title passed.

Bill read a third time and passed.

ADJOURNMENT

At 12.31 a.m. the Council adjourned until Thursday 20 February at 2.15 p.m.