LEGISLATIVE COUNCIL

Tuesday 13 February 1990

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

PAPERS TABLED

The following papers were laid on the table:

By the Minister of Tourism (Hon. Barbara Wiese):

Controlled Substances Act, 1984—Regulations—
Declared Drugs of Dependence—Fenetylline.
Declared Prohibited Substances—Fenetylline.
Declared Poisons—Fenetylline.
Declared Prescription Drugs—Fenetylline.

By the Minister of Consumer Affairs (Hon. Barbara Wiese):

Commissioner for Consumer Affairs and Commissioner for Standards—Report, 1988-89.

By the Minister of Local Government (Hon. Anne Levy):

Regulations under the following Acts—
Local Government Finance Authority Act 1983—
Riverton District Hospital.
Motor Vehicles Act 1959—Disabled Persons Parking Permits.
Real Property Act 1886—Solicitors and Land Brokers Charges.
Road Traffic Act 1961—Keith and District Hospital.

Corporation By-Laws—
District Council of Onkaparinga—
No. 1—Permits and Penalties.
No. 5—Caravans and Camping.
No. 6—Animals and Birds.
No. 7—Dogs.
No. 10—Repeal of By-laws.

District Council of Willunga—
No. 1—Repeal of By-laws.
No. 2—Petrol Pumps.
No. 3—Bees.
No. 4—Driving Cattle and Horses.
No. 5—Garbage Bins.
No. 7—Nuisances.
No. 8—Tents.
No. 9—Height of Fences.
No. 10—Caves.
No. 11—Camping.
No. 12—Caravans.
No. 13—Vehicles for Hire.
No. 18—Parklands.

ADVERTISER DISPUTE

The PRESIDENT: Before proceeding further, I wish to make a statement to the Council concerning a dispute with the Editor of the *Advertiser* in regard to the opening day of Parliament and the subsequent editorial in the *Advertiser* of Friday 9 February. On Wednesday 7 February it was made quite clear to the political photographer/reporter from the *Advertiser* that he would be allowed to photograph any of the opening proceedings of Parliament, but he was not given permission when we commenced the normal day's proceedings after the opening to take still photographs of Question Time. I explained to him that it had been a long-standing tradition of the Council not to allow the press or photographers to take photographs of members of the Council, and he said that he would report this to his Editor.

The following day, Thursday 8 February, my office was contacted by the Pictorial Editor of the *Advertiser*, Mr Richard Mitchell, to clarify the policy which I had laid down, that is, not to take still photographs in the Chamber. Mr Mitchell was informed that photographs could be taken during all the opening proceedings but they would not be allowed once Parliament began the formal session commencing with questions without notice.

In the light of the editorial, I feel I have no other alternative than to answer point by point the issues raised by the Editor. His derogatory remarks about 'the new President in a flowing wig and a big white car' did nothing to dignify his editorial. Tradition, and my firm belief that the individual should be divorced from the office as far as is possible, results in my carrying on the tradition of the office by wearing a wig and gown on formal occasions. In fact, I have taken the matter futher by wearing the gown on all occasions Parliament sits. A 'big white car' went with the job long before I inherited it and will, no doubt, be still there when I am gone. It has nothing to do with my vitality as President whether members are alert or asleep.

Why Mr Rob Lucas should be especially picked out to be the person photographed in the new session asking his first question is beyond me, as Mr Lucas or any other member is available at any time for a photograph. Likewise, to see Mr Chris Sumner as making a significant statement merely by a photograph is beyond me.

The fact that the *Advertiser* has permission to photograph Question Time in the House of Assembly does not automatically give it the right to photograph in the Council. In fact, that is one of the main pillars of the bicameral system—the complete independence of the two Houses. Television cameras are permitted in the Council, and there are strict guidelines as to their use. I do not consider that it is blatant discrimination that a television camera, which does not produce a frozen image, is allowed to film a member, whilst a still camera is not allowed to film a member at a particular moment of his speech. Obviously, a television film completes the imagery of the person's comments, whereas I consider a still camera is very selective. I understand that the press has an adequate library of members' photographs for insertion in the paper to highlight various articles. It would appear that, in Mr Akerman's opinion, one man's arbitrary decisions are linked with a salary of '$80 000 plus chauffeur, car and wig', and that this somehow denies the fundamental principles of democracy by this man's decision not to allow the press photographer into the Council.

This is not so, because I, as President, consider myself the custodian of Parliament for the public, members and the institution itself, and in this particular instance I have not acted in an arbitrary manner but have upheld the traditions that have been handed down over many years. I do not want to be in the position of being the person who decides whether or not the press shall take a photo at any given time. The print media have never been denied their right to sit in Parliament and be the eyes and ears of the people whose Parliament it is, but I do not believe that the stand-over tactics of the Editor in threatening me with an editorial in order that he may have his way does anything to enhance the democratic principles of Parliament.

He goes on to say that our Parliament is plagued with 'petty points individually but they add up to a scandalous picture of secretive inefficiencies'. He states, 'The Council refuses to open any office areas to help ease the accommodation problems of the House of Assembly.' Mr Akerman or any member of the Parliament is welcome to accompany me on a tour to see what accommodation is available. Members and staff have operated in cramped conditions that would not be tolerated anywhere else in the business world. In fact, staff occupy corridors for offices. The media itself, time after time, has asked for facilities for

reporting staff, and the requests have had to be refused because of the shortage of space which is well-known to everyone who frequents the building. In fact, as an aside, I would suggest that the *Advertiser* has the biggest media area in the entire building available for its use.

Mr Akerman further states the the Council and Assembly have separate messengers with different uniforms and different titles. This is as it should be, because we are operating in two separate Houses of Parliament and, in accordance with worker participation, the messengers and attendants on both sides of the Parliament are given the right to choose and participate in their job title and uniform; and this was done.

I now refer to Mr Akerman's argument that the main central doors of the Parliament building, opening into a rather fine domed hall, remain firmly shut because the Council and the Assembly cannot agree on which side should provide the staff. That is true, but it is not because of discrimination between the Council and the Assembly: it is purely on the basis of not having enough staff to adequately police the area for security reasons when the front door is open. For the past 10 years that I have been in Parliament sufficient funding to employ extra staff has been an ongoing saga with Governments of the day.

The matter of the different computer systems of the Houses has re-emerged once again, and some people seem to be obsessed with this matter. We have a computer with a modem which is available for the House of Assembly to communicate with our computer should they wish. To this day there has been no formal, nor for that matter informal, request for such a facility. The different types of computers have absolutely no bearing on their ability to communicate via a modem, which is the recognised method of communication embodying adequate security checks.

Mr. Akerman refers to arguments about the joint use of the switchboard and suggests that individual operators are appointed. The facts of the matter are that for many years each House had employed its own telephonist, who worked a common switchboard and were rostered accordingly so that at all times one was on duty. There was no conscious decision of a separate operation and to this day there has never been any argument between the two Houses on the switchboard operation. In fact, for the past four years the switchboard operation has been part of the new Parliamentary Joint Services Division.

He further states that 'Council messengers will not put mail in the pigeonholes of Assembly members; instead they take it to Assembly Attendants to deliver, even though the boxes are in the same area'. This is not true. The boxes are in different areas and it is much easier that, if mail is delivered for members of either House, it should be given to the appropriate staff for distribution.

In relation to his suggestion that Mr. Sumner suggested a joint house committee to look at improving the efficiency of the Parliament, it would appear that Mr. Akerman is somewhat behind the times in that the joint committee did undertake an investigation and report, which was implemented and formed the Joint Parliamentary Service Act. The Joint Parliamentary Service Committee has been operating successfully for some four years. This committee, with members from both Houses of the Parliament, has control of those common areas of Parliament used by all members: that is library, *Hansard*, catering and switchboard, but in a bicameral system naturally the running of the two Houses is left to the individual Presiding Officers.

The Editor says all these 'are petty points individually but they add up to a scandalous picture of secretive inefficiencies'. I agree with him—they are petty points, but I cannot agree that they are scandalous or secretive. At any time I am prepared to make available to the public, the Parliament and the Editor any facets of the administration which come under my control. I do not consider myself the 'supreme commander of the Council'. I see myself as the custodian of its traditions, of its building and of its members' rights in a bicameral system which I intend to defend and enhance, and at no time would I knowingly act contrary to these beliefs in such matters.

To his gratuitous remark that he sees me as a 'pompous big wig in North Terrace', I would cordially invite any member of the public to come in and view the proceedings of the Parliament to judge for themselves.

Following this editorial, I have had a letter from the Editor requesting that we give consideration to his pictorial staff being allowed to take photographs in the Legislative Council. I have circulated this letter to all members and will be governed in my actions by their response, once again trying to exercise in a democratic way the rights of the people, the politicians and the Parliament.

Members can be assured that I will not be intimidated or bullied by the threats of the *Advertiser* Editor. Members should be aware that this threat and the request all came to a head on Thursday. I have been President since the last Parliament, and during the previous 10 months I have never had any correspondence or requests from the Editor to accede to his wishes or his seeking clarification on his paper's rights to be in this Chamber.

Following my seeking of information from other Parliaments in Australia, members may be interested to learn the role of still photography in those Parliaments. In New South Wales, the answer is 'No', still photography is never allowed, apart from the opening. In Victoria, 'Yes', with prior application for approval. It has a sessional order which allows this. In Western Australia, 'No', the opening only, but one television session with no sound allowed, for filming members and any member may refuse if they wish, in which case the television cameras cannot film. In Tasmania, the answer is 'No', never. In the Federal Senate, 'No', but application can be made on each occasion it is required, which frequently happens.

As members would be aware, I have circulated a letter to them requesting their advice as to how they see it, and members may rest assured that, once I have those answers, I will act accordingly. If it is the wish of the members of this Chamber that the press be allowed in to take still photographs, I will accede to that request. However, at this stage I reject completely the allegations made by the Editor of the *Advertiser* that I am a 'big wig' in North Terrace standing over the decisions, traditions and principles that have been observed in this Parliament for many years.

QUESTIONS

NATIONAL CRIME AUTHORITY

The Hon. R.I. LUCAS: My questions are to the Attorney-General:

1. When was the South Australian Government informed of the decision by Mr Faris to resign as head of the National Crime Authority?

2. Was the South Australian Government, or the Attorney-General, consulted about any aspect of that resignation?

3. Has the Government been made aware of any reason, other than ill health, for his resignation?

The Hon. C.J. SUMNER: The South Australian Government heard yesterday that Mr Faris had resigned. A media

release was issued by the Minister for Justice, Senator Michael Tate, in the following terms:

The Acting Attorney-General, Senator Michael Tate, today announced that the Chairman of the National Crime Authority, Mr Peter Faris, had submitted his resignation, on the grounds of ill health, to the Governor-General.

'This is distressing news for the National Crime Authority and for the Government. But indeed, I am sure that the whole Australian community is concerned that such a good and able man should need to resign in the midst of a great battle on behalf of us all,' Senator Tate said. 'I express the sincere hope that without the burdens of this demanding office, Peter Faris may be restored to good health.' In accordance with standing arrangements, Mr Julian Leckie will be acting Chairman of the National Crime Authority.

That statement was issued yesterday from Senator Tate's office, and a letter of resignation was attached to it from Mr Faris to the Governor-General.

The Hon. R.I. Lucas: That was the first you were aware of it?

The Hon. C.J. SUMNER: That was the first I was aware of Mr Faris's resignation. I was certainly not consulted about Mr Faris's resignation. In answer to the third question, they are the only reasons that have been provided to me. I understand that there has been some speculation in media circles about the resignation but I am certainly not in a position to comment on those.

The Hon. R.I. LUCAS: I ask the following supplementary question. Has the South Australian Government at all times had confidence in the manner in which Mr Faris discharged his responsibilities as head of the NCA and, in particular, does the South Australian Government endorse the actions of Mr Faris in relation to the first report on the Operation Ark investigation completed by Mr Justice Stewart, and endorse his criticisms of the Stewart report?

The Hon. C.J. SUMNER: It was not a supplementary question but nevertheless I will answer it. There has been nothing to suggest, from the actions of the NCA when Mr Faris took over, that the South Australian Government ought not to have confidence in the way that the authority was conducting its affairs. It is obvious—and now on the public record in any event—that Mr Faris took at least some different views on matters from those of Mr Justice Stewart, who was the previous Chair of the NCA. It is also worth remembering that Mr Faris was the Chair of the authority and there were three other members: Mr Leckie in Victoria, Mr Cusack in New South Wales and Mr Le Grand in South Australia.

The Hon. R.I. Lucas: Do you have confidence or not?

The Hon. C.J. SUMNER: I have no reason not to have confidence in the activities of Mr Faris as Chairman of the NCA or of the authority under his guidance up to the time of his resignation. He was Chair of an authority in which there were other people. I have nothing before me which would indicate that the Government should not have had confidence in Mr Faris as Chairman of the NCA.

With respect to the second so-called supplementary question, the matter for the handling of the first report, the Stewart report (or, as Mr Faris referred to it, the earlier documents that have been prepared in the Stewart authority)—how the authority handled those matters was a matter for the authority and it was not just a matter for Mr Faris. As I understand it, a majority of the authority at that time, Mr Le Grand obviously excepted, now, took the view that the Stewart findings should be reviewed, and that is what they did.

They produced a report which gave their conclusions on the findings in relation to Operation Ark. That was the decision the authority took—to review those findings. It was entitled to do that.

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: It is a matter for the authority. Again, as I have said before, one has to be careful about second guessing a body which is reporting to Government, which has a charter under the Federal legislation, which has appointments by the Federal Executive Council and which has references given to it by an intergovernmental committee comprising State and Federal Ministers.

On the face of it, the Government ought to be able to have confidence that whoever it is—whether it is Mr Justice Stewart or Mr Faris—is carrying out his duties properly and making assessments that are reasonable. So, the fact is that Mr Faris and the other members of the authority, I understand, made the decision, it was not just Mr Faris's decision. The official Operation Ark report that I tabled in full was a product of the authority as chaired by Mr Faris.

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: That is right, but when Mr Faris came in he decided to review the evidence taken in relation to the Operation Ark report by Mr Justice Stewart and to review its findings, and he came to alternative conclusions and recommendations. Many of the conclusions are similar. It is certainly true that the Stewart report is more criticial of the South Australian police than the Faris report but the following is also true—and I guess I will just have to repeat this again and again because people do not seem to want to accept it and there is continual media speculation that the earlier Stewart document refers to findings of corruption within the South Australian Police Force. It did not. The common ground in the whole thing was that there were no findings of corruption or illegality by South Australian police officers as far as the reporting of the Operation Noah allegations were concerned. Subsequently, as a result of the Police Complaints Authority and NCA examination, it was found that there was no substance in the actual 13 allegations.

That is the situation with respect to Operation Ark. I have made that clear before. Whatever Mr Justice Stewart said and, as I said last week, the Government is examining at the present time whether or not that report can be made public and, if so, in what form, whatever view one takes between Stewart and Faris, and there is a difference of opinion—I have said that the Stewart version is more critical of the South Australian police than the Faris version—the bottom line is that there was a common finding that there was no corruption or illegality in relation to the reporting of the Operation Noah allegations.

Having said that, one needs to put Operation Ark/Noah into some kind of context. It has certainly not been the whole of the National Crime Authority's operations in South Australia during the past 12 months. It arose and Mr Justice Stewart took the view that inquiring into this particular matter, that is, police handling of Operation Noah, ought to be investigated within the terms of reference given to the authority on 24 November 1988—and that is what he did and that was a decision for him to take. But, in the final analysis, we are talking about criticisms of police procedures. In the Stewart document there were certainly criticisms of certain police officers with a suggestion that their positions be reviewed. But it goes no further than that. It does not suggest that people should be sacked. There was a suggestion at one stage that six officers should be sacked, that it found corruption, etc. None of that is correct. So, I repeat that the bottom line is no corruption or dishonesty in relation to this particular matter.

That does not mean, of course, that there are no on-going inquiries by the National Crime Authority into other matters; there are, there have been and there will continue to

be. I have already indicated publicly on several occasions now that the Government intends to provide a report to the Parliament on these issues during this session of Parliament so that the Parliament can make an assessment of the operations of the NCA in South Australia during the past twelve months, and I think that is fair enough. The reality is that the Operation Noah/Operation Ark matter is a comparative side-show; as it has turned out, it is not central to the NCA's investigations in South Australia.

It has not found corruption or illegality. Both reports are critical of the South Australian police and procedures have been put in place to deal with those criticisms. At the present time, the Stewart Report is with the Government. I have said that we would consider whether or not it could be released. That process is going on: I am having the report examined to see whether it is possible that it can be released. Members must bear in mind that Mr Faris does not believe it should be released because it contains material which is prejudicial to individuals and unfair to them, as can be seen from the correspondence I tabled last week.

Initially, when Mr Justice Stewart forwarded the report to the Government, he made the statement that the report contained information which could be prejudicial to individuals and which could prejudice law enforcement agencies. So, he did not believe, either, that the report should be tabled. He has now said, in the light of the difference of opinion and dispute, that it ought to be tabled and, in the light of his request, we are considering that, as I indicated last week.

The Hon. K.T. GRIFFIN: I seek leave to make an explanation before asking the Attorney General a question about the National Crime Authority.

Leave granted.

The Hon. K.T. GRIFFIN: I refer to the letter from Mr Justice Stewart tabled by the Attorney-General last week and, particularly, to the following statement by His Honour:

> I am aware that there were media reports touching upon the matter towards the end of 1989 and I conclude that after these media reports appeared the then constituted authority substituted a report and watered down the original report almost completely.

This is a most serious assertion to make, affecting, as it does, the whole credibility of the NCA's investigatory and reporting methods, suggesting unjustified changes to a report which had made serious criticisms of south Australian police officers and, moreover, clearly implying that if the matter had not been raised by the media, beginning with the *7.30 Report* on 12 December last year, the whole Operation Ark investigation and its outcome could have been concealed from the public. What, however, gives this assertion significant credibility is the fact that, in writing his letter to the Attorney-General last Thursday, Mr Justice Stewart stated that he was also replying on behalf of Mr Le Grand, the former member of the NCA, with specific responsibility for the authority's South Australian reference. Mr Le Grand remained a member of the authority until December last year, so the Council is entitled to assume that he was privy to reasons why Mr Faris decided to review the report by Mr Justice Stewart and the timing of the action by Mr Faris, particularly whether he wrote his 11 page report on Operation Ark only after, as Mr Justice Stewart suggests, the media began aking questions.

It is also relevant to point out that, while the NCA investigation of Opertion Ark began on 8 March last year and Mr Justice Stewart was able to complete his 139 page report in a period of less than four months (that, remember, includes a number of formal hearings), it took Mr Faris almost four months to provide an 11 page report on the same matter, without, apparently, taking any more evidence or considering further hearings; a delay which was fortuitous to the Government from the point of view of the date of the last election.

In view of Mr Justice Stewart's letter, I ask the Attorney-General a number of questions as follows:

1. When Mr Faris decided not to deliver Mr Justice Stewart's report to the South Australian Government, and in reaching that decision, did Mr Faris or any member or officer of the NCA speak formally or informally, officially or unofficially to anyone acting for or on behalf of the South Australian Government? If so, on what occasions was this done and to whom did Mr Faris speak or others speak?

2 Did Mr Faris write his 11 page report on the Operation Ark investigation at some time after 12 December and, if so, what was the reason for this delay?

3. If the Attorney-General is unable to answer these questions will he obtain further information from Mr Faris and Mr Le Grand to enable him to do so?

The Hon. C.J. SUMNER: Mr Faris, as members know, has resigned so I do not know that I am able to refer any particular matters to him, but presumably I can refer them to Mr Leckie who is the acting chairman of the National Crime Authority and who, as I understand it, along with Mr Cusack of New South Wales, agreed with the Operation Ark report as prepared by Mr Faris. Clearly, the second question is not one that I can answer as it is not within my knowledge but I will take that on notice.

I do not see any point in getting further information from Mr Le Grand about his position in relation to the matter. I think one can assume that his view, and that of Mr Justice Stewart is adequately—and I think probably people would concede reasonably forcefully—expressed in the letter from Mr Justice Stewart which I tabled in the Council last week. I should say that that letter was provided by Mr Justice Stewart after I had sent him, as a matter of courtesy, a copy of the Faris letter, with the indication that the Government intended to table it in Parliament. Mr Justice Stewart then sent his letter, and, as members know, having received his letter I tabled both of those letters last week. As to the first question, obviously the honourable member has cast a net very widely and, again, I would have to check; except I can say that as far as I am aware there were no discussions by anyone within the South Australian Government with Mr Faris prior to Mr Faris deciding to review the matters which had been determined or which were in the process of discussion within the National Crime Authority when it was chaired by Mr Justice Stewart. The question that the honourable member has asked is broad. Presumably, it could be anyone—it could be a South Australian police officer; it could refer to a Government official; it could refer to a Minister.

The Hon. Diana Laidlaw: It has to be a senior officer, though.

The Hon. C.J. SUMNER: Well, it doesn't. It refers to anyone, so obviously I am not going to answer a question of that kind unless I make the appropriate inquiries. All I can say is that as far as I am concerned, as far as Mr Kelly is concerned—that is, the Chief Executive Officer of the Attorney-General's Department, who have been responsible for the official dealings with the National Crime Authority over these matters, there were no discussions with Mr Faris prior to the Faris authority taking the decision to review the Operation Ark matter.

The Hon. K.T. GRIFFIN: As a supplementary question, Mr President: while Mr Le Grand's dissent from the review of the Stewart report and the preparation of the 11 page Faris NCA report is on the record, will the Attorney-General, nevertheless, take up with Mr Le Grand the procedures which were followed within the NCA which would indicate

the reason why Mr Faris and his new NCA, apart from Mr Le Grand, took the decision to review the Stewart report?

The Hon. C.J. SUMNER: Mr President, I am not going to do that. The authority is, as a corporate body, an authority. We have to deal with it. There was a difference of opinion within the authority. I have said that, to say the least, that has been unfortunate, but that is the fact of the matter. Beyond what I have already done, I do not really see that I can go into an inquiry second guessing the circumstances in which the Faris authority determined to review the work done on the Ark reference prior to 30 June 1989. I can see no useful purpose being served by that; it is on the record.

I am not quite sure what more can be put on the record in relation to this matter apart from the Stewart report itself (which the Government has said it is considering). I have tabled Mr Faris's correspondence to me when he made available the earlier document, as he referred to it, and I also made available Mr Justice Stewart's response to that last week. As there was a difference of view, one would assume that Mr Le Grand would agree with Mr Justice Stewart, but again I point out that it was a decision taken within the authority, and the Government (whether it be this Government, a Federal Government or any other Government in Australia) is really in a position of having to deal with the authority as it is constituted. I have said that before, and I will say it again.

I think that the situation would be fairly intolerable if Governments, journalists, or anyone else, in their dealings with any organisation such as the National Crime Authority, or any other organisation where there was a corporate decision-making process, were able to get in behind and find out exactly what discussions took place within those organisations. As far as I can see, we have on the record the fact that there was a difference of opinion. The reasons for that difference of opinion have been outlined in the correspondence, and I do not see that there is really much point in taking the matter any further with Mr Le Grand.

I point out that, while members are asking questions about this matter in the South Australian Parliament—and that is fair enough (I am not denying their right to do it)—I repeat what I have said before, that is, that the National Crime Authority is a national body; it is established by Federal legislation with complementary legislation in the States. The appointments are made by Federal Executive Council, but on recommendation of an inter-governmental committee comprising State and Federal Ministers, so it is not a body exclusively responsible to the State Government.

The Hon. R.I. Lucas: I am not saying it is.

The Hon. C.J. SUMNER: I am just ensuring that members are aware of the situation. I am not saying that questions cannot be asked in relation to the matter. However, what I am saying (and this is quite clear) is that there are also bodies with probably more direct oversight of the operations of the National Crime Authority than the South Australian Government. The Federal Government, the intergovernmental committee (of which I and the South Australian Government are members along with the other States and the Federal Government) and the Federal joint parliamentary committee all have an overseeing role in the National Crime Authority. If those bodies believe that there is within the National Crime Authority a major crisis which should be resolved or inquired into, then presumably that course of action could be taken by them.

FREE STUDENT TRAVEL

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Minister of Tourism, representing the Minister of Transport, a question about the free student travel policy.

Leave granted.

The Hon. DIANA LAIDLAW: The Executive Director of the Bus and Coach Association, Mr Brian Dutch, wrote to the Minister, in her capacities as Minister of Tourism and Minister of Small Business, outlining the association's concern that, when the Government's policy to provide 24 hour free travel to primary and secondary school students was initially formulated and then implemented, no account was taken of the adverse impact upon sections of the bus and coach industry, I quote from that letter, in part, as follows:

> It is clear from our information provided by a BCA subcommittee in a survey of some 21 operators that the loss of income may well cause the financial demise of some operators. One small business can clearly identify a reduction of two vehicles in its small fleet and a reduction of income by 50 per cent. As stated in our letter to the Minister of Transport [of the same date, 8 January], we are concerned that some operators may well not survive until the proposed working party can make recommendations, probably not before April or May 1990.
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> In the area of tourism we believe there is a level of operation in tourism which is 'pitched' at the economic end of the market. While we recognise that standards must be maintained, not all tourists are 'international big spenders'. The loss of providers and competition at the lower end of the market will certainly erode standards or outprice the demand should small operators be forced out due to bankruptcy.

My questions to the Minister are:

1. Does she concede that the viability of small private bus and coach operators has been placed at risk by the Government's free student travel scheme?

2. What consideration, if any, did the Government give to the plight of such operators prior to the announcement of its free travel policy?

3. Does the Minister consider that the tourism industry in South Australia requires a strong and viable bus and coach system providing a keenly priced service at the lower end of the market?

4. Does she consider it appropriate that the only response to date by the Government to the association's concerns has been the establishment of a working party to assess the adverse effect upon small private bus operators—the same operators who may not even survive for the period during which the Government has agreed to monitor the effects of its free travel scheme?

The Hon. BARBARA WIESE: I have received such correspondence from Mr Dutch and, before I make a detailed submission to my colleague the Minister of Transport on the question of any possible impact on coach operators in relation to tourism, I am currently seeking advice on the subject from my officers in Tourism South Australia.

I want to be clear about the possible impact on coach companies from a tourism perspective before I pass onto my colleague any correspondence from Mr Dutch, although I am fully aware that my colleague the Minister of Transport is already aware of the concerns that have been expressed by Mr Dutch's organisation. The question of the impact that would flow to coach companies from the Government's decision to provide free transport to students was, I understand, taken into account by the State Transport Authority.

The Hon. Diana Laidlaw: Did you make any representations?

The Hon. BARBARA WIESE: I was not asked to make any representations nor invited to do so prior to that decision being made. However, I believe that the matter was

taken into account and the view was that there would be very little impact on the private sector coach companies. I am not sure whether that study also included an impact on the tourism business of those coach companies, but it is a matter that I am currently examining.

If it seems to me, on examining the evidence, that there is a case to be made, I will take up the matter with my colleague the Minister of Transport. However, just making a judgment in advance, I should be very surprised if this decision impacts on the tourism end of coach companies' business. It is very difficult to see how such an impact would flow from the decision to provide free transport to students. As I have said, if there is any evidence to that effect, that is something I will take up with the Minister of Transport to see whether some action can be taken to assist coach companies that are providing a dual service, that is, providing transport for tourists as well as a commuter service. Once I have the information before me I will be better placed to make those judgments, and I am sure that at that point the representations I make to the Minister of Transport will be in the interests of the people who operate within the coach sector of the tourism industry.

The honourable member asked whether I support the work of those people in that sector of the industry. I can say without any shadow of a doubt that I do, very strongly, and one of the things we appreciate in the tourism industry is that the coach companies are now growing in importance within that industry because, as the transport facilities they provide are improving, so the number of people who wish to travel around Australia using that method of transport is growing. So, in future it will be an increasingly important sector of the tourism industry. We must, therefore, do all we can to support the people in those industries who are providing such an important service.

INTERNAL POLICE REPORT

The Hon. I. GILFILLAN: I seek leave to make a brief explanation before asking the Attorney-General, representing both himself and the Minister of Emergency Services, a question about an internal police report on the CIB.

Leave granted.

The Hon. I. GILFILLAN: Before asking this question, I indicate that it has been very difficult to extract information about reports in this State, in particular in relation to these matters. Therefore, I feel that this question is important as this Parliament seems to be the only place in which we can move to obtain a thorough public investigation of what have been up until now secret reports and information. I have been informed by a previously serving police officer that about 2 to 2½ years ago a report was taken by Inspector Lister of the Australian Police Department from a Sergeant Trevor Allen, then of the Vice Squad, who has since resigned. I have been informed that this report is 48 or 49 pages long and covers the activities of the Vice Squad up to that time. I have been further informed that the report alleges that all but three of the then Vice Squad were involved in illegal or corrupt practices.

I therefore ask the Attorney General: Does he or his colleague, the Minister of Emergency Services, in control of the police, or any member of the Government have knowledge of this report? If not, will the Attorney make inquiries regarding this report and inform this Parliament in relation to the following: what action, if any, has been taken by the Police Department on the contents of the report? Has the Commissioner (Mr Hunt) read the report? If so, what was his response? Has the report been made available to the National Crime Authority? If not, why not, and will the Attorney ensure that the report is made available to the NCA?

The Hon. C.J. SUMNER: I will have to take those questions on notice, refer them to the Minister of Emergency Services and bring back a reply.

WILLUNGA BASIN

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister of Local Government, representing the Minister for Environment and Planning, a question about the Willunga Basin.

Leave granted.

The Hon. M.J. ELLIOTT: The Aldinga scrub is the last significant representation of the vegetation which formerly covered the Adelaide Plains and nearby areas, and it is now considered to be under threat. The Field Naturalists' Society and the Nature Conservation Society have been lobbying for 20 years for a great deal more action on the Aldinga scrub. We have a situation where a conservation park is under threat and it may not survive because ground water is drying out. I have been informed that the water table in the Willunga basin has dropped by as much as five metres in some places. There is a real threat that, if this trend is not reversed, we may lose a number of the trees from the Aldinga scrub and therefore the whole of the ecological system in that area will be upset.

I am told that on 4 October last year the Minister for Environment and Planning was approached and given a concept management plan for the Willunga Basin which provided for the re-routing of drainage channels into seasonal wetlands around the scrub to recharge ground and surface waters and provide a buffer zone and an Aboriginal interpretive centre.

My questions to the Minister are: Why has there been no response to the concept management plan in the past four months? Secondly, has the Minister given this whole issue a matter of low priority, particularly since the officer in the Department of Environment and Planning who was dealing with the case has been taken off it? Finally, does the Government concede that the drop in water tables threatens this last vestige of the Adelaide Plains vegetation at the Aldinga scrub?

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

LOCAL GOVERNMENT ADVISORY COMMISSION

The Hon. J.C. IRWIN: My questions are directed to the Minister of Local Government. Has the Local Government Advisory Commission reported to the Minister on the abolition of the Henley and Grange council following the Minister's referral back to the commission in July last year? If it has reported, when did the Minister receive the second Advisory Commission report and when will the Minister announce the findings of the commission?

The Hon. ANNE LEVY: I referred the report from the Local Government Advisory Commission relating to the boundaries between Henley and Grange, Woodville and West Torrens back to the Local Government Advisory Commission with questions whether the commission felt that there had been adequate consultation. I did that at the time many residents of Mitcham were complaining that they had not had an opportunity to be consulted and to

express their opinion. I have not received a report from the Local Government Advisory Commission on this matter.

However, I have had correspondence from it regarding its view on the degree of consultation. This morning I met with the mayors of Woodville, West Torrens and Henley and Grange to discuss with them the correspondence I have received from the Local Government Advisory Commission. These discussions are continuing. It is only proper that the matters contained in the report should remain confidential until I have completed discussions with the mayors of the three councils involved. I have arranged to have further discussions with them next Tuesday.

The Hon. J.C. IRWIN: As a supplementary question, will the Minister still give an undertaking that she will not proclaim anything in regard to the Henley and Grange, West Torrens and Woodville situation before the commission until the Advisory Committee that she set up has reported back to her and those matters reported on have been discussed by the public?

The Hon. ANNE LEVY: The question of the implementation of anything in that part of the metropolitan area depends, first, on what decision is made. As I say, I have had discussions with the three mayors who have informed me that they wish to discuss the matters with their respective councils. We will have further discussions next Tuesday. I do not wish to pre-empt any matters which may arise from those discussions that I will be having with the mayors.

INTELLECTUALLY DISABLED

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before asking the Minister of Tourism, representing the Minister of Health, a question regarding support services and facilities for the intellectually disabled.

Leave granted.

The Hon. CAROLYN PICKLES: In the past month, the *Advertiser* has run a number of articles on problems faced by parents of intellectually disabled children and in particular children suffering from autism. In one article a mother tells of how lack of outside support or accommodation for her autistic child has forced her to release him for adoption through the Department for Community Welfare. This action has, I understand, been caused by his intense and often violent behaviour.

Another article highlights the need for specialised support for parents with autistic and severely disabled children. The Intellectually Disabled Services Council has indicated that more than 650 people are in need of accommodation, 154 of whom require urgent accommodation support. At least 350 of these people need to be accommodated over the next 10 years. However, it seems that only eight to 10 will be accommodated this financial year. Clearly some families are in crisis because of lack of support and accommodation.

Can the Minister indicate what type of accommodation and education programs are available? Also, are there plans to increase in-home support services for families of the intellectually disabled?

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

SOUTH AUSTRALIAN HOUSING TRUST

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Minister representing the Minister of Housing and Construction a question about the South Australian Housing Trust.

Leave granted.

The Hon. J.F. STEFANI: The South Australian Housing Trust is operating under the South Australian Housing Trust Act 1936-1973. Section 16 of the Act provides that the trust shall produce a balance sheet showing accurately and in detail its assets, liabilities, receipts and expenditure, and a profit and loss account. In addition, section 18 requires a triennial investigation into the operations and administration of the trust and the submission of a report.

In the 1988-89 financial and statutory reports, the Housing Trust reported an extraordinary item of income of $5.786 million. Note 9 in the accounts qualifies this extraordinary income as a surplus generated by the sale of the central office property, and further indicates that the agreement covering the sale of the property provides that the trust would receive further financial benefits from the redevelopment of the site. Given that only $40 000 was received by way of a cash deposit and given that a bank guarantee for $860 000 was being held by the trust as a security against the future payment of the balance of the cash deposit, the 1988-89 financial reports have in fact overstated the actual cash income received by $4 886 million without qualification.

In a Brisbane Supreme Court action taken by Prangley Crofts and Partners Pty Ltd, a liquidator has been appointed to Trikon Corporation, the developer which had entered into agreement with the trust for the purchase and redevelopment of the property situated in Angas Street. As the accounts presented to Parliament did not clearly qualify the sale transaction, my questions to the Minister are:

1. What will the trust do about the cash shortfall which has occurred in the 1988-89 accounts?
2. How will this cash shortfall affect the present and future budgets of the South Australian Housing Trust?
3. What steps will the Minister take to ensure that similar future transactions are properly qualified?
4. As the last triennial review of the trust was undertaken in May 1986, can the Minister advise why the trust has not authorised and undertaken an investigation into its operations and administration by the due date—that is, May 1989—as required by the Act?
5. When will the Minister direct the review of the trust?
6. Will the Minister tell this Chamber the name of the consultant who will be appointed to conduct the review of the trust?

The Hon. BARBARA WIESE: As the honourable member has already raised these questions through the pages of the daily press, I am sure that the Minister of Housing will have ready replies and will be able to respond very quickly. I will therefore refer the questions to him and bring back a reply as soon as I can.

CUSTANCE

The Hon. T. CROTHERS: I seek leave to make a brief explanation before asking the Leader of the Government a question about early political retirement.

Leave granted.

Members interjecting:

The Hon. T. CROTHERS: At least we know who our Leader is; you keep changing yours all the time. In an article in the *Sunday Mail* of 11 February 1990 by that well known journalist, Randall Ashbourne, headed 'Olsen left high and dry', Mr Ashbourne said:

John Olsen had better get used to the idea of being a mere South Australian parliamentary backbencher. Tony Messner orig-

inally hadn't planned to retire until later this year. The plan was he would leave, creating a casual Senate vacancy for the Party's South Australian Director, Nick Minchin. It was pointed out that, if he waited too long, John Olsen might go for the job. So, Messner decided to jump early, apparently believing it would be too soon for Olsen to move. But, the conservatives misjudged. Olsen did jump.

Mr President, it is quite clear from some of the rest of the article that Mr Olsen jumped because he knew that the Liberal Party conservatives or dries, as they are colloquially called, did not have the numbers to stop him. But John Howard, Senator Messner's former Canberra flatmate, had a chat with his former room mate and the upshot of that conversation appears to have, at the very least, delayed the early retirement of Senator Messner. My questions are as follows:

1. Does the Attorney-General believe that this latest manifestation of Liberal Party public differences is clearly another fight between the wet and the dry factions?

2. Does the delay in Senator Messner's departure mean that the Liberal dries now are number crunching the wets?

3. What does the Minister now think are the chances of an early by-election in Custance?

The Hon. C.J. SUMNER: Internecine struggles within the Liberal Party are completely beyond my comprehension. I really could not say whether Mr Olsen is a wet, dry or damp or what but he certainly seems to have jumped out of the boat a little bit too early. I am not sure whether there is anything I can do about that. The fact is that this is a matter for the Liberal Party to resolve. Like the National Crime Authority, the Liberal Party has its internal differences which have to be resolved within the Liberal Party. The Labor Party is not able to intervene in those matters.

However, it does seem as though Senator Messner's resignation may have provoked dispute in Canberra between the so-called wet and dry factions of the Liberal Party, Senator Messner being a strong supporter of the Howard dry faction, and Mr Olsen apparently having hitched himself to the falling star of Mr Peacock, because there is little doubt that one way or another Mr Peacock will fall.

I cannot say just what circumstances are behind Senator Messner's delaying his resignation. It is interesting that he has not told his electors when he does intend to retire. If my recollection is correct, when he announced his retirement, he said he would go at the end of January, but now there is speculation that he may not go at all. That will leave Mr Olsen in deep trouble. Frankly, I would feel sorry for Mr Olsen if he were to find himself in the position where he cannot trust one of his Federal colleagues to do what he originally said he would do, which was to retire with honour in January or February of this year.

The Hon. R.J. Ritson interjecting:

The Hon. C.J. SUMNER: Well, I am a distant observer of all these events, and would not have commented on them in any way had the Hon. Mr Crothers not thought that it was a matter of public interest that should be raised in the Council for all members to consider. I certainly would not have embarked on a discussion of this topic had a question not been asked of me but, as the honourable member feels that it is a matter on which I should comment, I have done so to the best of my ability. Whatever my qualities may be in other areas, they do not extend to a great understanding of what happens in the Liberal Party. I am sorry that I am not able to answer the honourable member's questions fully. If Standing Orders permitted, he could direct the question to an honourable member opposite.

The Hon. R.I. Lucas: We'll give him the same answer.

The Hon. C.J. SUMNER: The Hon. Mr Lucas says that, if he is asked the question, he will give the same answer as I have given. It is pure speculation to consider what might be the chances of a by-election in Custance but, if there is not one, the Hon. Mr Crothers should be delighted because the money that he was horrified to think would be spent on a by-election (as he stated in a question he asked last week) will be saved.

ISLAND SEAWAY

The Hon. PETER DUNN: I seek leave to make a brief explanation before asking the Minister representing the Minister of Transport a question about the *Island Seaway* or, as it is now renamed, the *Pure Bad Luck.*

Leave granted.

The Hon. PETER DUNN: I quote from the *Advertiser* of last Friday, regarding the service to Port Lincoln by the *Island Seaway.* The article states:

The trouble-plagued *Island Seaway* was last night bound for Kingscote after two abortive attempts yesterday to sail from Port Lincoln. The ferry, carrying about 1 000 live sheep bound for Kangaroo Island meatworks, left Port Lincoln on schedule at 3.15 p.m. but, 20 minutes out to sea, it lost power and had to limp back to port.

Department of Marine and Harbors divers worked for several hours to free a large tyre on a length of rope which had wound itself around the ferry's port-side propellor.

After testing on the port-side motor was completed the *Island Seaway* sailed again for Kingscote at 8.15.

The PRESIDENT: Order! Time having expired for questions, I will call on the business of the day.

The Hon. PETER DUNN: You miserable old bugger. I withdraw.

The Hon. CAROLYN PICKLES: The honourable member has made a reflection on the Chair.

The PRESIDENT: I am not too concerned about it; members all know Standing Orders, and exactly when Question Time has expired, and the clock showed that it was 3.30.

SESSIONAL COMMITTEES

The House of Assembly notified its appointment of sessional committees.

JOINT PARLIAMENTARY SERVICE COMMITTEE

The House of Assembly informed the Legislative Council that, pursuant to section 5 of the Parliament (Joint Services) Act 1985, it had appointed Messrs De Laine and Lewis to act with Mr Speaker as members of the Joint Parliamentary Service Committee, and that it had also appointed Mr M.J. Evans as the alternate member of the committee to Mr Speaker, Mr Heron alternate member to Mr De Laine, and the Hon. E.R. Goldsworthy alternate member to Mr Lewis.

JOINT COMMITTEE ON SUBORDINATE LEGISLATION

The House of Assembly, by message, requested the concurrence of the Legislative Council in the appointment for the present Parliament of the Joint Committee on Subordinate Legislation in accordance with Joint Standing Orders 19 to 31, the members to represent the Assembly on the committee being Messrs M.J. Evans, McKee and Meier.

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

That the request contained in the House of Assembly's message be agreed to and that the Hons J.C. Burdett, M.S. Feleppa and G. Weatherill be the members of the Legislative Council on the joint committee.

Motion carried.

STANDING ORDER 14

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

That for this session Standing Order 14 be suspended.

It has become customary to move this motion, which enables matters other than the Address in Reply to be dealt with prior to the conclusion of the Address in Reply. However, I trust that honourable members will be prepared to cooperate to ensure that the Address in Reply is dealt with as expeditiously as possible, particularly given that there are special circumstances, namely, an opening of Parliament for this autumn session. This means, of course, that more time will be taken up with the Address in Reply (that is, in non-Goverment business) than would otherwise be the case. I also point out to honourable members that there is a Government legislative program, some of which has been left over from the session prior to the election. I trust that those matters, which have now been in the public arena for three months, can be dealt with expeditiously.

Motion carried.

UNIVERSITY OF ADELAIDE COUNCIL

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

That the Council do now elect two members to be members of the Council of the University of Adelaide.

Motion carried.

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

That the Hons G.L. Bruce and R.J. Ritson be the members of this Council on the Council of the University of Adelaide.

Motion carried.

FLINDERS UNIVERSITY COUNCIL

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

That the Council do now elect two members to be members of the Council of the Flinders University of South Australia.

Motion carried.

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

That the Hons J.C. Burdett and Carolyn Pickles be the members of this Council on the Council of the Flinders University of South Australia.

Motion carried.

CRIMES (CONFISCATION OF PROFITS) ACT AMENDMENT BILL

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Crimes (Confiscation of Profits) Act 1986. Read a first time.

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

That this Bill be now read a second time.

As this Bill is the same as that which was introduced last year but not debated, I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

This Bill which was introduced but not debated in the last parliamentary session is designed to enhance the effective operation of the confiscation of profits of crime legislation currently operating in this State.

The Crimes (Confiscation of Profits) Act came into effect in March 1987. Since that time the Act has shown the potential to be an effective means of depriving criminals of the profits of crime. Just over $116 000 has been confiscated in a total of 11 cases, and a further seven restraining orders over real property are in place.

In order to ensure that this potential is fully realised it is necessary to provide those who are responsible for the Act's day-to-day operation with the means to carry out their responsibilities as effectively as possible. This Bill incorporates some features of equivalent interstate legislation not currently found in the Crimes (Confiscation of Profits) Act, as well as addressing some deficiencies pointed out by those who administer the Act.

The major provisions of the Bill are as follows:

1. Definition of Property and Effect of Forfeiture on Third Parties

- The definition of 'property' is extended to include any interest in any real or personal property. This will enable a specific interest held by a person liable to forfeit property (for example, a leasehold interest) to be forfeited, and brings the South Australian definition into line with that incorporated in interstate Acts;
- Where the interest of a person liable to forfeit property cannot be severed or realised separately from other interests (for example, a joint tenancy) in the same property, provision is made for the whole property to be forfeited and the third party interests to be paid out. At present it is not possible to forfeit property in which an innocent third party has any interest. This has meant that in a number of instances the Crown has not tried to obtain forfeiture orders because the existence of the other interest made forfeiture impossible.

2. Proceeds of Crime

- The definition of 'proceeds' of an offence has been expanded to include property derived directly or indirectly from the commission of the offence which is converted to another form in one or more transactions. In this way the intention of the Act cannot be subverted by a person who undertakes a series of transactions to hide the proceeds of crime. Property converted in this way will remain liable to forfeiture.
- In addition, a person who receives property or proceeds of crime knowing of its origin or in circumstances that should raise a reasonable suspicion as to its origin will also be liable to forfeit that property.

3. Notoriety for Profit Provisions

- A new provision is included in the Bill to ensure that a person who commits or is a party to the commission of an offence and who obtains any benefit through the publication or prospective publication of material concerning his or her exploits or opinions or the circumstances of the offence or in any other way exploits the notoriety of the offence will be liable to forfeit that benefit or its equivalent value.
- These provisions should serve as a useful deterrent to those persons who seek to sensationalise criminal activity.

4. Forfeiture in Relation to Serious Drug Offences

- The Bill provides that a person who commits or is a party to a serious drug offence is liable to forfeit all property except property that the court is satisfied (on

evidence from that person) was not the proceeds of offences against the law of this State or any other law. The effect of this provision is that the onus will be on the person to prove that items of property were legitimately obtained, not on the Crown to prove that property was the proceeds of crime. The Government considers that such a provision will hit hard at serious drug traffickers and will provide a significant weapon for attacking the profit motive of such crime.

5. Administrator of Forfeited and Restrained Property

- The Bill makes provision for the appointment of a person to administer forfeited and restrained property. The Deputy Crown Prosecutor advised that she considered it appropriate for an officer to be appointed both to manage property which has been restrained and to supervise the sale and distribution of proceeds of forfeited estates. It is her view that such an officer should be located in the Attorney-General's Department and should work closely with prosecutors and solicitors who handle proceedings under the Act. The Administrator's salary will be paid from the proceeds of confiscated assets and it is hoped that such an appointment will facilitate the further and better utilisation of the Act in the future.

6. Information Gathering Powers

- The present Act contains no information gathering powers other than provisions relating to search warrants. The Acts in operation elsewhere contain extensive information gathering powers. The Bill includes wide ranging and effective powers to allow law enforcement officers and investigators to gain access to documents relevant to following the money trail and the transferring of tainted property. The Supreme Court will be able to order the production of documents relevant to identifying, tracing, locating or qualifying forfeitable property; order the seizure of such docments; or order that a person appear to answer questions relevant to identifying, tracing or locating such property.
- A further significant power is provided by the introduction of monitoring orders which will be issued by the Supreme Court and will require a financial institution to report on transactions affecting an account or accounts. These orders should significantly improve the chances of tracing the proceeds of crime.

7. Registration of Interstate Orders

- Full recognition is given to forfeiture and restraining orders made by the courts in other States under corresponding laws.
- In summary, this Bill should significantly enhance the State's ability to locate, and confiscate the proceeds of crime.

The provisions of the Bill are as follows: Clause 1 is formal. Clause 2 provides for commencement on a day to be fixed by proclamation.

Clause 3 amends section 3 of the principal Act which is an interpretation section. The amendment inserts definitions of 'Administrator', 'drug', 'financial institution', 'forfeitable property', 'gift', 'party', 'serious drug offence' and 'tainted property', amends the definitions of 'appropriate court' and 'prescribed offence' and strikes out the definitions of 'proceeds' and 'property', substituting new definitions of these words.

The definition of 'proceeds' incorporates money which has been laundered. Subsection (3a) is inserted after subsection (3). This clarifies when a person is involved in a commission of an offence for the purposes of this Act. Subsection (4) is struck out and a new subsection (4) is substituted. This deals with tainted property. A new subsection (4a) is inserted immediately after subsection (4). This deals with determining who is in effective control of property for the purposes of this Act.

Clause 4 repeals section 4 of the principal Act and substitutes a new provision concerning liability to forfeiture. Subsection (1) deals with the forfeiture of tainted property or of an accretion of property in anticipation or in consequence of the commission of an offence. There is provision for the prevention of double forfeiture. Subsection (2) deals with forfeiture of any benefit by anyone profiting from publication, in any form, of events leading to notoriety if the notoriety is a result of being the principal, or party to, the commission of an offence. Subsection (3) states that all property of a person who has committed or is party to the commission of a serious drug offence is liable to forfeiture unless that person can satisfy the court that the property was not derived from the proceeds of offences against any law. Subsection (4) deals with forfeiture by any person of a gift of tainted property. Subsection (5) allows property that is in the effective control of a person involved in the commission of a prescribed offence to be treated as the property of that person for the purposes of forfeiture proceedings.

Clause 5 amends section 5 of the principal Act by striking out subsections (1) and (2) and substituting subsections (1), (2), (2a) and (2b) dealing with the making of forfeiture orders by the court. Subsection (2a) enables the court to make a forfeiture order in respect of property in which persons, other that the person liable, may have an interest. Subsections (6) and (7) have been inserted. These vest forfeited property in an Administrator.

Clause 6 amends section 6 of the principal Act. 'Sequestration orders' are now 'restraining orders' and subsection (1) grants the court power to make restraining orders. Subsection (3) is struck out and a new subsection (3) is substituted, setting out what may be done by a restraining order. There is provision to confer on the Administrator certain power, to control and manage the property, for management or control of the property, for payment of a specified kind to be made out of the property, to allow the owner to use the property as security for raising money, in a manner allowed by the court, and to make any other necessary provision in respect of the property.

Clause 7 amends section 7 of the principal Act by striking out subsection (1) and substituting a new subsection (1). This allows a member of the Police Force to apply to a magistrate for a search warrant where there are reasonable grounds to suspect that a search would reveal forfeitable property or documents relevant to tracing or identifying forfeitable property.

Clause 8 amends section 8 of the principal Act by striking out subsections (4) and (5) and substituting new subsections (4) and (5). These deal with the powers conferred by a search warrant.

Clause 9 inserts section 9a into the principal Act following section 9. This deals with orders for obtaining information which may be made by the Attorney-General, the Administrator, or a member of the Police Force, on application to a Judge of the Supreme Court sitting in Chambers. The court may make a monitoring order requiring a financial institution to report certain transactions, an order for a person to appear before the court to be examined, or an order to produce documents to the court.

Clause 10 amends section 10 of the principal Act by striking out subsection (1) and substituting a new subsection (1) and inserting subsections (3) and (4) after subsection (2). Subsection (1) states that certain money obtained under this

Act is to be paid into the Criminal Injuries Compensation Fund. Subsections (3) and (4) provide that the costs of administering this Act, among other specified costs, may be paid from that fund.

Clause 11 inserts section 10a after section 10 of the principal Act. This deals with registration of interstate orders on application by the Administrator to the Supreme Court. The court is then granted certain discretions to modify or adapt the order to enable it to operate effectively in this State.

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

MAGISTRATES ACT AMENDMENT BILL

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

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

That this Bill be now read a second time.

Its purpose is to amend the Magistrates Act 1983. Section 13 (1a) of the principal Act empowers the Chief Justice to direct a Magistrate to perform special duties. This provides the flexibility to meet emergencies and other ad hoc requirements which arise from time to time. While the Magistrates Act 1983 makes provision for the appointment of Supervising Magistrates, no provision exists whereby Assistant Supervising Magistrates may be substantively appointed in appropriate circumstances.

Some time ago the need was perceived to provide assistance to the Supervising Magistrate in the Adelaide Magistrates Court, given the heavy listing and administrative workload in that court. In order to meet this requirement, and in the absence of an appropriate, relevant provision, an appointment was made under section 13 (1a).

However, it is clear that this section is intended to cater for assignment of special duties, usually on a temporary basis, and does not provide for substantive appointment. The requirement at the Adelaide Magistrates Court is obviously for a substantive appointment of a permanent nature. Moreover, the improvements in the management of the lists and the significant reduction in delay in that court are directly attributable, to a great extent to the current judicial administrative arrangements. It is intended that these arrangements will continue.

Therefore, the Act should be amended to provide for the appointment of Assistant Supervising Magistrates. It is not intended to make such appointments, except at the Adelaide Magistrates Court. Nevertheless, the new provisions will enable this to be done, should it be necessary in the future. The Remuneration Tribunal will be requested to fix the appropriate level of salary. The Bill has the full support of the Chief Justice and the Chief Magistrate. I seek leave to have the explanation of clauses to be inserted in *Hansard* without my reading them.

Leave granted.

Explanation of Clauses

Clause 1 is formal.

Clause 2 amends section 6 of the principal Act which provides for appointment to administrative offices in the magistracy. The clause amends this provision so that an office of Assistant Supervising Magistrate is included with the other administrative offices in the magistracy.

Clauses 3 and 4 are consequential, providing for delegation by the Chief Magistrate to Assistant Supervising Magistrates, and for the fixing of their remuneration by the Remuneration Tribunal, in the same way as for Supervising Magistrates.

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

WRONGS ACT AMENDMENT BILL

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Wrongs Act 1936. Read a first time.

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

That this Bill be now read a second time.

This Bill is the same, I understand, as a Bill that was introduced last year, and I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

This Bill seeks to implement a recommendation of the Children's Protection and Young Offenders Act Working Party. The Working Party recommended that consideration should be given to imposing some measure of responsibility on the parents and guardians of young offenders. Parents who can be shown to have taken little or no responsibility for their children should not be able to escape complete responsibility for the actions of their children.

Traditionally, a parent has not been held responsible for the acts of his or her child, although parents may be held personally, rather than vicariously liable for torts committed by their children. Liability may arise because the parents authorised the actions of their child or because they have not reasonably controlled their child. The usual case in which parents are held personally responsible for torts committed by their children is where a child injures somebody while playing with a dangerous article such as a shanghai, gun, dart or such like.

The law in South Australia, and the rest of Australia, is in contrast to that under some civil codes of Continental Europe. For example, Article 1384 of the French Code Civil provides:

> The father, and the mother after the father's death, are responsible for the damage caused by their minor children residing with them. The aforesaid responsibility is imposed unless the father and mother can prove that they could not prevent the act which gives rise to that responsibility.

The working party did not recommend the adoption of the Continental approach. Rather the Committee recommended that where a court is satisfied that the acts or omissions of the parents or guardians of a child under fifteen have materially contributed to the criminal conduct of the child, the court should be empowered to order the parents or guardians to pay so much of the damage incurred by the child as is fairly attributal to the acts or omissions. It was recommended that the institution of such an action against the parents or guardians should be in the civil courts. The age of 15 was chosen to coincide with the age at which children are under no compulsion by law to attend school.

The amendment contained in the Bill is a refinement of that proposed by the working party which on further examination proved difficult to implement.

New section 27d makes a parent joint and severally liable with the child for injury, loss or damage resulting from a tort where the child is also guilty of an offence arising out

of the same circumstances, if the parent was not, at the time of the commission of the tort exercising an appropriate level of supervision and control over the child's activities. It is a defence to a claim against a parent to prove that the parent generally exercised an appropriate level of supervision and control over the child's activities. Thus, those parents who are responsible parents will not be liable for the injury, loss or damage caused by their children. I commend the Bill to members.

Clausel is formal. Clause 2 provides for commencement of the Act by proclamation.

Clause 3 inserts a new section that makes a parent of a child who, while under 15 years of age, commits a tort, jointly and severally liable with the child for injury, loss or damage resulting from the tort, but only if two factors exist, namely, that the child is also guilty of an offence arising out of the same incident and the parent was not, at the time of the commission of the tort, exercising an appropriate level of supervision and control over the child's activities. Subclause (2) provides that the child must have been convicted or found guilty of the offence or the court before which proceedings under this section are taken must be satisfied beyond reasonable doubt of the child's guilt. Subclause (3) gives a defence to a parent who can establish that he or she generally did provide, as far as reasonably practicable, an appropriate level of supervision and control over the child's activities. Subclause (4) limits the liability to the natural or adoptive parents of the child. Subclause (5) provides that this liability will only arise in relation to torts committed after the commencement of this amending Act.

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

CHILDREN'S PROTECTION AND YOUNG OFFENDERS ACT AMENDMENT BILL

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Children's Protection and Young Offenders Act 1979. Read a first time.

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

That this Bill be now read a second time.

As it is the same as the Bill introduced last session, I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

This Bill seeks to implement recommendations of the Children's Protection and Young Offenders Act Working Party as well as other miscellaneous amendments.

The Working Party delivered an interim report on options in relation to penalties and compensation for damage to school property in October 1988 and its final report in September 1989.

The Working Party's terms of reference were to review:

- options in relation to penalties and compensation for damage to school property;
- screening panel and children's aid panels—their use, effectiveness and alternatives;
- bail and the review thereof;
- the need for a more open system;
- the trial of juveniles as adults;
- the review of orders by the Children's Court;
- penalties, including the use of community service orders;
- the adequacy of statistics in allowing proper monitoring and evaluation of the juvenile criminal justice system; and
- any further matters referred to the Attorney-General by the Working Party which he agrees should be considered.

In relation to penalties and compensation the Working Party recommended that the maximum fine that a children's court can impose should be increased from $500 to $1 000 and that the amount of compensation be increased from $2 000 to $5 000. The Working Party further recommended that community service orders should be a discrete sentencing option available to the court. At present a requirement for a child to perform community service can only be imposed or as a condition of the suspension of a custodial sentence. That is it can only be imposed as a penalty for a relatively serious offence.

The Working Party was of the opinion that there is value in impressing on a child and his or her peers the need to make good damage caused by a child to, for example, a school. The Working Party accordingly favoured the wider implementation of community service orders but was concerned that without some safeguards the problem of escalation of sentences will arise, that is, that it would be used as a sentencing option when the offence is minor and other less interventionist options are available (for example, a fine or unsupervised bond).

The Working Party considered that work schemes should be developed, first in relation to school property and then perhaps in relation to damage to STA property. Before a court can order a child to perform community service it would need to be satisfied that work in a work scheme was available and that the offender was suitable for the work available. The maximum hours of work which a child could be ordered to perform should be 60 hours and no child should be required to work more than 8 hours a day. These recommendations of the Working Party are contained in clauses of the Bill.

Clauses 20 and 21 reflect the recommendation of the Working Party that section 92 (2) of the Act should be amended so that when a child is being tried as an adult as a result of an application by the Attorney-General under section 47 the court should be open to members of the public and that section 93 should be amended to remove the prohibition on the publication of a report of those proceedings.

The Working Party considered the problems faced by victims of crime in obtaining information about an alleged young offender's appearance before a children's aid panel in the face of the prohibition in section 40 of the Act of disclosing without the approval of the Minister, the appearance of a child before a children's aid panel. The Working Party suggested that some mechanism should be developed to enable victims of crime to obtain this information. The Government, however, believes that victims of crime have a right to know of the outcome of the investigation of the crime and clause 9 amends section 40 to provide that a victim is entitled, upon request, to be informed of an appearance of a child before a children's aid panel.

Section 40 is further amended, as recommended by the Working Party, to ensure that appearances before children's aid panels do not jeopardise children in their future employment and life prospects. Employees of at least one organisation have received notices of dismissal for failing to disclose to their prospective employers appearances before children's aid panels. The amendment to section 40 provides that a person can without incurring any liability refuse or fail to disclose an appearance before a children's aid panel.

Clause 3 amends the definition of 'alternative offence' in section 4. This is presently defined as meaning any offence that is founded upon the same facts as the offence for which the child has been committed for trial and that bears a lesser penalty. Thus an adult court cannot try and sentence a child for an alternative offence when the penalty is the same as the penalty for the offence charged. For example, where the original charge is attempted murder the child cannot be tried for wounding with intent to do grievous bodily harm since the maximum penalty for both offences is life imprisonment.

The Working Party recognised that while there are likely to be few instances when it will be desirable that an alleged offender should be tried on an alternative charge for which the penalty is the same as for the offence charged there is no good reason to retain the present restriction. When the penalties for the two offences are identical there can be no question of unfairness to the child.

Section 80 of the Act is amended in accordance with the Working Party's recommendation that reconsideration of an order by a Children's Court magistrate must be made by a Judge of the Children's Court and that there be no reconsideration of an order made by a judge; rather, the matter should be dealt with by way of appeal to the Supreme Court. The present section allows for reconsideration of one magistrate's order by another magistrate or one judge's order by another judge. The Working Party considered that not only is it repugnant to ordinary principles to have reconsideration of an order by a peer but also that peer review tends to limit the opportunities for a higher court to lay down authoritative guidelines as to what are appropriate sentences.

The Bill also seeks to address a number of potential problems and anomalies in the Act in regard to the sentencing of young offenders.

At present, the Act prohibits an adult court from setting a non-parole period for a young offender sentenced to imprisonment, part of which is to be served in a Training Centre. Section 64 (2) of the Act provides that the Training Centre Review Board may order the release of a child who has been sentenced to detention in a training centre at any time, subject to conditions. This section operates even where a child has been sentenced as an adult to a substantial term of imprisonment, and he or she is to be transferred to an adult prison on attaining the age of 18 years. Therefore, the Training Centre Review Board would have the power to order the child's release from detention, before the child attains the age of 18 years. Although the Board is unlikely to ignore the fact that a period of imprisonment has been set, it is not bound to take it into account. The Board could therefore circumvent a judge's order that a child serve a substantial period of imprisonment after his period of detention in a youth training centre.

I consider this to be an undesirable consequence as it is against the Government's policy of giving responsibility for sentencing decisions to the courts. Therefore, the Act will be amended so that the Training Centre Review Board can no longer order the release of a child from detention in such circumstances.

However, the net effect of that amendment when considered with the existing legislation prohibiting the setting of a non-parole period could result in a child sentenced to imprisonment being treated more harshly than an adult sentenced to imprisonment. A child sentenced to imprisonment would not have a non-parole period set nor could he or she be released by any authority. Therefore, the Bill removes the prohibition on the setting of a non-parole period except in respect of a sentence of life imprisonment. It will also allow a young offender to earn remissions off that period whilst detained in a Training Centre. A young offender will be able to be released on parole, if appropriate, before the age of eighteen years. Responsibility for the child will move from the Training Centre Review Board to the Parole Board when the child reaches 18 years. These amendments will have the effect of ensuring that young offenders are not treated more harshly than adult offenders and will provide for the Court to be able to determine when a child sentenced as an adult can be released. Children currently in a training centre under these provisions will only earn remission from the commencement of this Act onwards.

Section 7 of the Act requires a court, when exercising powers in relation to young offenders, to seek for the child such care, correction, control or guidance as will best lead to the proper development of his personality and his development into a responsible member of the community. The section enumerates the factors which must be considered by the court when making an order in any proceedings under the Act.

Section 56 (1) of the Act provides that, subject to the Act, where a child is committed to an adult court for trial otherwise than on his own request, the court may, if it finds the child guilty of an offence, deal with the child as if he were an adult.

As the provisions of section 56 (1) are prefaced with the words, 'subject to this Act', the courts have held that section 56 relates to the making of orders (such as imprisonment) and does not detract from the effect of section 7 on sentencing. Therefore, section 7 results in courts being unable to take the general deterrence of a penalty into account when sentencing a child as an adult.

The Bill provides for section 7 to continue to apply to all young offenders. However, in the case of young offenders, who are to be sentenced as adults, the court can also take into account the general deterrent aspect of a penalty and the question of deterring the particular offender.

By virtue of section 56 (2), an adult court cannot deal with a child as if he were an adult, where the child has been found guilty by the court of an alternative offence to the offence to which he was committed for trial.

The Bill amends this subsection so that a child who has been found guilty by an adult court of an alternative offence to the offence for which he was committed for trial may be sentenced as an adult. In such a case, the judge will need to be satisfied that, had an application been made pursuant to section 47 for the child to be tried in an adult court for the alternative offence, the judge would have granted the application.

One of the factors that the court must consider in dealing with a child is the need to ensure that the child is aware of his or her responsibility to bear the consequences of any action against the law. The provisions in the Criminal Law (Sentencing) Act 1988 requiring information on the impact of the crime on the victim to be provided to the court do not apply to the Children's Court. To ensure that a child offender is aware of his or her responsibility to bear the consequences of any action against the law it is necessary that the child is fully aware of the consequences of his or her actions. Accordingly, new section 50a requires the prosecutor to furnish the court with particulars of any injury, loss or damage resulting from the offence.

The Bill also provides for an amendment to sections 31 and 32 of the Act relating to the composition of Children's Aid Panels. Firstly, in relation to offences under the Controlled Substances Act, section 32 (1) (ab) currently provides as follows:

where a drug offence is alleged, a member of the Police Force an officer of the Department and a person approved by the Minister of Health.

The subsection has the effect that a Children's Aid Panel dealing with an alleged drug offence must consist of three people, whereas a Children's Aid Panel dealing with other offences would be constituted of two people. The third person was included for drug related offences to ensure that appropriate drug counselling would be available. The requirement for an additional person is not so important at this time as Department for Community Welfare workers are receiving training in drug counselling through the Drug and Alcohol Services Council.

The Drug and Alcohol Services Council, whose officers have been nominees to the panels, is of the view that the drug related panels could usually be managed by a Community Welfare Officer. The Drug and Alcohol Services Council officers would be available in particular cases and to advise, consult with and follow up in a treatment capacity the small number of offenders who will warrant such attention.

The second amendment to the composition of children's aid panels is to allow aboriginal police aides to be members of the panels in place of members of the police force. Presently two members of the police force stationed at Marla are on children's aid panels in the Pitjantjatjara lands. The appointment of police aides as members of children's aid panels in this area will not only bridge language and cultural barriers but assist the two present members of the police force by reducing their great work load. Police aides are respected by the Aboriginal community and would be effective in dealing with Aboriginal juvenile crime. I commend the Bill to members.

Clause 1 is formal. Clause 2 provides for the Act to come into operation by proclamation.

Clause 3 amends the definition of 'alternative offence' to include an offence that bears the same penalty as the principal offence.

Clause 4 adds a further factor to be considered by courts when sentencing a child as an adult. In this case, the court must consider the possible deterrent effect of the sentence.

Clause 5 provides for the inclusion of Aboriginal police aides on screening panel lists.

Clause 6 provides that a screening panel may have either a member of the police force or an Aboriginal police aide on it.

Clauses 7 and 8 provide for the inclusion of a drug counsellor on a children's aid panel when a drug offence is alleged against a child.

Clause 9 provides that the victim of an offence committed by a child is entitled to be informed of the fact that the child is being dealt with by a children's aid panel. New subsection (3) provides that a child is not obliged to disclose the fact of his or her appearance before a children's aid panel, except in proceedings under this Act.

Clause 10 makes provision for a victim impact statement to be furnished by the prosecution to assist the court in bringing a child to an awareness of his or her responsibility to bear the consequences of breaking the law (see section 7 of the principal Act).

Clause 11 provides for the imposition of an independent sentence of community service on a child who has been convicted of an offence. An order for supervision must be made to complement such a sentence. The maximum fine that can be imposed on a child is increased from $500 to $1 000.

Clause 12 allows an adult court to deal with a child as an adult where the child is found guilty of an alternative offence that is an indictable offence, if the court is satisfied that the child should be so dealt with, on the same grounds as those set out in section 47.

Clause 13 makes it clear that a non-parole period is not to be fixed in relation to a child imprisoned for life for murder, as the release and ultimate discharge of such a child is provided for in section 58a of the principal Act.

Clause 14 removes the prohibition on fixing non-parole periods for children sentenced to imprisonment and provides that such a child, while serving part of the sentence in a training centre, is not subject to the Correctional Services Act 1982, except for those provisions dealing with remission and release on parole. Remission will be awarded by the Director-General of Welfare, and release on parole at the end of a non-parole period (less remission) will be handled by the Training Centre Review Board until the child turns 18. A child who is being detained under this provision at the moment will only earn remission from the commencement of this amending Act onwards.

Clause 15 inserts a new division in Part IV for the purposes of community service orders. New section 58b provides that a child cannot be sentenced to community service unless there is a placement in the department's community service program available to the child. New section 58c provides that certain ancillary orders must be made for the implementation of community service orders. The child will be required to perform the community service in accordance with the directions of his or her community service officer. New section 58d sets out the same limitations on the way in which the child will be required to perform the community service as currently apply to adults performing community service. The only exception is that the maximum number of hours that can be imposed on a child is 60, whereas the maximum for adults is 320. New section 58e requires the Minister to insure children against death or injury arising out of, or occurring in the course of, community service. New section 55f provides (as does the Correctional Services Act 1982, in relation to adults) that the tasks that will be assigned to young offenders must be for the benefit of disadvantaged people, non-profit making organisations or Government or local government agencies, and these tasks must not replace paid work for which funds are available.

Clause 16 firstly makes it clear that this section dealing with conditional release does not apply to children serving life sentences, as section 58a of the Act deals specifically with such children. This section also does not apply to children serving part of a sentence of imprisonment in a training centre, as the adult remission and parole system will apply to such children.

Clause 17 increases the limit on the amount of compensation that can be awarded against a child from $2 000 to $5 000. The time limit for payment is removed and will now be left to the discretion of the court.

Clause 18 provides for the enforcement of community service orders made by the Children's Court. A day of detention will be imposed by the court for each eight hours of community service unperformed. Such detention can be made accumulative on other detention or imprisonment if the court thinks fit.

Clause 19 removes the right to have a sentence imposed by a judge of the Children's Court reconsidered by that court, and further provides that reconsideration of sentences imposed by a magistrate, special justice or justices of the peace of the Children's Court will be dealt with by a judge of that court.

Clause 20 provides that the restrictions contained in this section as to the persons who may be present in court when a child is being dealt with under this Act do not apply to

children who are being tried in an adult court for homicide, or who are being dealt with as an adult by an adult court pursuant to an application by the Attorney-General under section 47.

Clause 21 effects an amendment consequential upon the insertion of new section 93a.

Clause 22 inserts a new provision that provides that a report of proceedings against a child in an adult court may be published where the child is charged with homicide, or is to be dealt with as an adult pursuant to an order made under section 47. However, the anonymity of the child must be preserved unless the court orders otherwise. The penalty for publishing a report that contravenes this section is a division 5 fine ($8 000).

Clause 23 is a consequential amendment that allows work projects and programs to include work done for the benefit of Government and local government bodies.

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

ADDRESS IN REPLY

The Hon. C.J. SUMNER (Attorney-General) brought up the following report of the committee appointed to prepare the draft Address in Reply to His Excellency the Governor's speech:

1. We, the members of the Legislative Council, thank Your Excellency for the speech with which you have been pleased to open Parliament.

2. We assure Your Excellency that we will give our best attention to all matters placed before us.

3. We earnestly join in Your Excellency's prayer for the divine blessing on the proceedings of the session.

The Hon. T.G. ROBERTS: I move:

That the Address in Reply as read be adopted.

In doing so, I would like to congratulate formally the members who have been re-elected and, in particular, the Hon. Mr Ron Roberts, who had to wait for so long for the result to be announced. I am delighted to support the legislative program outlined and I hope that the legislative program for our State, set out in the opening speech of His Excellency the Governor to the Premier, the Government, Ministers, backbenchers and parliamentary staff will be accompanied by a maximum of constructive debate, maintaining a focus on the substance of the initiatives that are outlined in the legislation that will come before us.

The Hon. R.I. Lucas: Hear, hear!

The Hon. T.G. ROBERTS: It is good to get agreement from the Hon. Mr Lucas on the other side, and I hope that that cooperative spirit remains for the rest of the session. I would like to pay a tribute to the people associated with the rural industries, who at the end of this financial year will have contributed through their agricultural production an amount in excess of $2 billion to the State's economy for the second successive year. I would particularly like to pay a tribute to those farmers on the West Coast who had to battle under extremely difficult circumstances and who, hopefully, have had a very good year this year. I hope that their financial position can be recouped and that, with another good year next year, and perhaps one after that, they may be on the road to recovery and able to get their farms back on a strong financial footing.

The Hon. Peter Dunn: I can see this speech getting around the place.

The Hon. T.G. ROBERTS: I hope that the Hon. Mr Dunn circulates it. I would also like to pay a tribute to those employers and unions in the manufacturing, retail, service and governments sector who are constructively—and I underline the word constructively—getting on with the difficult job of restructuring. These industries include the manufacturing sector that is gearing up for both domestic and export markets, and the defence industries, which will provide us with import replacement defence needs and put us on a sound base for future defence and consumer manufacturing.

If the rate of structural and social change can be maintained in Australia through our own brand of perestroika, we should be well placed to assist other nations in putting their own programs into place. I think that both Australian and the South Australian Governments and manufacturers do have respect internationally, and I am sure that many of those nations that are restructuring their economies will call on the expertise of both the Federal and State Governments—and, in some cases, local government support and assistance—and, hopefully, call on those decision makers in the business sector and the trade unions, not just to have information exchanges in their countries but to visit Australia to look at how Australia puts its social and political house together.

I think that we can be a model for many of those countries that are looking for some guidance and leadership to take them into their restructuring periods. The Eastern European nations, particularly, in the next decade will have to come to terms with political and economic restructuring, with all the trauma of dismantling and rebuilding and, hopefully, we can assist in that process.

The Federal Government has already taken a number of initiatives in supporting those nations and I would like to read into *Hansard* an article by Bronwyn Young from the *Financial Review* of Wednesday 31 January 1990 on economic development aid for Eastern Europe:

> Australia is trying to position itself to take commercial advantage of the changes sweeping Eastern Europe. Cabinet approved yesterday a range of measures including negotiating a bilateral investment-protection and double-taxation agreements with Czechoslovakia. It also approved the establishment of a $5 million training program aimed at helping Eastern bloc countries reform their economies; plans to encourage tourism and civil aviation links with the Eastern bloc; and the opening of an embassy in Czechoslovakia's capital, Prague.
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> Yesterday's package announced by the Prime Minister, Mr Hawke, follows Australia's decision last October to extend tariff protection to goods from Hungary and Poland and to negotiate investment-protection agreements and double-taxation agreements with both countries. The training scheme, to be put in place over the next three years, aims to help the Eastern Bloc countries acquire the skills needed to reform their economies which have stagnated over 40 years through central planning.

The commentator here says 'central planning' but there were a number of problems associated with the Eastern Bloc countries; some were internal and many of them external. There are a number of nations internationally that are well placed to support and assist in this restructuring and rebuilding, but I do hope that the visit of Eduard Shevardnadze that is being set up at the moment will develop stronger closer political and economic ties with the Soviet Union, which is also going through that restructuring period called perestroika. If we have the drive and the energy to maintain a central focus to provide support and assistance to those nations, plus the change in the trading bloc rules from 1992 in Europe, I think Australia and South Australia will be well placed to set its economics on a sound footing to take us into the 1990s and into the year 2000.

I guess we also have to include in those interchanges of cooperative mechanisms the Asia and Pacific rim regions. Australia is indeed lucky to be able to carry out its period of restructuring, and that has been going on since 1983, with a strong cooperative spirit that is being displayed at

many levels in the community. We should be well placed, not just to put our own economy and society on a sound footing into the year 2000, but to assist these other nations.

Unfortunately, we do have a slightly separate philosophical point of view being advanced in the community through the new right advocates who have burnt their Trojan Horse that they built in 1985-86, where they were going to take their Trojan Horse through the National Party and into the Liberal Party coalition and undermine what I would regard as the small 'l' elements of the Liberal Party who have a constructive view on how Australia should be structured, taking us to the year 2000. Unfortunately, the wheels fell off the Trojan Horse and the Joh for PM proposal fell into a sad state of disrepair and that campaign quickly died.

Unfortunately for the Liberal Party, and the nation generally, the Trojan Horse is now being rebuilt and it is coming in through the preselection college processes, not so much perhaps in South Australia, but particularly in the Eastern States and Victoria, and is expanding a philosophical view of confrontation while restructuring, and it is my view that if those people are successful in building their Trojan Horse and taking over what I would regard as the more progressive side of the Liberal Party's policies then I am afraid that reconstruction and confrontation will simply not be a mix that Australia will be able to manage.

Hopefully, after the next Federal election the people of Australia will have supported another turn for the Labor Government federally, and it is hoped that the reconstructing can go ahead without the confrontation that has been indicated, particularly in speeches leading up to the 1985-86 debacle. I notice that many of those people who were posing as new right confrontationists have become slightly more pragmatic in weaving their way into the mainstream of the Liberal Party, but I am sure that once their position is entrenched within the confines of the Party their voices will become much more vocal and the confrontationist style, particularly of industrial relations within the Liberal Party, will take over. That will do the Liberal Party no good electorally, and it certainly would not do Australia any good if there was a successful combination in winning the next Federal election.

So, I would ring some warning bells as to what we would expect if a coalition Government was re-elected. Certainly, the coalition is a much weakened force, but the new right element, within the Liberal Party, will weave a sorry web for Australia to try to untangle in its period of reconstruction that will go on over the next 10 to 15 years. Fortunately, Australia has got a political system that can be emulated by other countries. We have a balance between the Federal, State and local governments and we have particularly active community groups that provide that balance.

I would like to pay a tribute to the community groups which have emerged, particularly in South Australia and which have involved themselves in community health and have addressed the problems associated with pollution and, I suppose to some extent, problems associated with community health generally. In the South-East a citizens liaison committee has been set up to monitor pollution of underground water supplies and the lake area and, over the past 20 or 30 years, a lot of mistakes have been made that need addressing. The Government is moving towards addressing some of those problems but, with the emergence of a greater general awareness amongst people, we must take cognisance of the relationships between State Government, local government and the departments (that is, the departmental investigating officers associated with underground and aboveground water pollution) and the people themselves.

I understand from the statements that have been made by the Hon. Mr Elliott that he is not completely happy with the existing relationships between the citizens liaison committee and some of the Government departments that provide support and assistance to their programs. I further understand that he is also not happy with some of the decisions that have been made by sections of the liaison committee, but I would have to say that that is a part of the emerging democratic processes in which local communities are now involving themselves. Those community groups will undergo a learning process where they have to come to terms with those problems and have to seek the expert advice that is required to make decisions that are practical, reasonable and able to be implemented.

The group in the Le Fevre Peninsula area involved itself in community health programs associated with asthma (which is a growing problem in which I know the Hon. Bob Ritson is interested) that emerged from the program that was set up by the former Minister for Health (Dr John Cornwall), who I know had a lot of respect in this place on both sides. He did not talk only about community health; he actually acted and he attended a number of meetings that were held by the community groups in the Le Fevre Peninsula area to set up their steering committee HELP.

HELP ran a series of meetings in the Le Fevre Peninsula area that attracted large attendances. Many community groups and individuals expressed their concerns about some of the emerging community health problems associated with airborne pollution emanating from some of the factories in the area. Like the South-East, it is an area where a number of bad decisions had been made in relation to the siting of factories in close proximity to housing programs, and in those days many of the industrial complexes did not have the safeguards, or were not made publicly aware of their responsibilities not just to the health of workers on their sites (which legislation has been able to cover and protect), but also to communities where their overspills or pollution imposed a threat to the health of residents in those areas.

I think that management of many of these factories and industries are now starting to take more cognisance of not just the legislation but also their responsibilities in the communities and are putting into train their own programs to minimise effluent disposal problems and, in consultation with union representatives on site, are trying to minimise those hazards inside and outside their industries.

Some people would say, 'If you do not like the environment you live in, then the factories and industries were here first and you should move out. You should go to an area that is more amenable to your health,' but I do not think that is a viable answer, either. The people on the Le Fevre Peninsula, particularly in the Port Adelaide area, and also those in the South-East, are prepared to accept the advantages offered by those industries in their areas, but would like the environmental contaminations eliminated, and I think we have the will and the technologies now to be able to do it with a minimum of fuss. It is a matter of maximising the commitment, both at the managerial level of these industries and with union and community cooperation, and that is the key to eliminating the risk: those community health problems associated with the industry fallout can be minimised.

I think that in the early stages of their development the ambitions of some community groups are a little optimistic in some of the targets set, particularly if a problem has been a long-term one in the community. It does need a lot of cooperation and talk in the early stages to establish the criteria by which to set standards. In the early stages of

community activities concerning the elimination of community health problems or pollution generally, there must be a fair amount of goodwill. If that goodwill is not evident on any side (that is, those supplying the information and those trying to work the problem through) and a confrontation situation is reached where the weight of the law is relied upon to protect one's position, then the process becomes slower and probably a lot more ineffective.

It is my recommendation to the Hon. Mr Elliott to advise the people in the South-East to go through avenues other than using the big stick and to keep all avenues open for discussion. Hopefully, then, the information that is required to make logical decisions will finally be put on the table and discussed in a way that brings about a solution to the many problems that are emanating out of the area under discussion.

The meeting that Dr John Cornwall set up initiated a steering committee which had the membership of the Dale Street Women's Health Centre, the Port Adelaide Community Health Service, Health and the Environment (which is HELP), the Port Adelaide Residents Environmental Protection Group, North Western Suburbs Health and Social Welfare Council, the Port Adelaide council, the Department of Environment and Planning, the South Australian Health Commission, and the Northern Community Health Research Unit, so it involved a broad cross-section of community groups and Government departments.

What tends to happen when community groups are set up to monitor these problems is that there is a feeling there is something wrong but they really do not have the necessary information to prevent it immediately. They have to call on expert departmental advice as to what the pollutants are and they must then get the cooperation of all those people involved to try to come to terms with it.

This was done during the early stages, identifying the problem and trying to find the solution. The group itself did not have to go far to identify the problems, because there were a number of them emerging, particularly in children with upper respiratory problems such as asthma. As anyone who has had young children with asthma would know, it is very debilitating, disrupts the whole family and is very hard to come to terms with when young children are gasping for breath at night and must be constantly picked up.

In some cases they need to be hospitalised, although in others treatment programs can be carried out to minimise the effects in the early stages of asthma. However, in general cases, asthma requires medication and a very sympathetic medico to carry out a long-term plan of treatment. As a parent, one must hope that, by the time the child reaches five or six, it grows out of it. Unfortunately, as the Hon. Dr Ritson is probably aware, a number of older people who have never had a history of asthma are now having to be treated for it. People are now developing asthma in their late 50s and even into their 60s, and a number of specialists—not just in South Australia but throughout Australia—have identified a number of airborne pollutants, some associated with agricultural chemicals and some associated with industrial pollution. A number of those have been identified in the Port Adelaide area. A number of natural elements such as rye grass, cypress and a number of other grasses can trigger off asthma attacks.

It is very difficult to avoid contact with many of the naturally occurring elements that are causing problems for asthmatics, but there is much we can do in community health, both at an industrial level and at a community level, to cut back on the airborne pollution in a number of our suburbs and country areas. In many cases, the country area triggers being identified and followed up through specialist groups with information coming from both overseas and interstate are tending to indicate airborne pollution, particularly from crop spraying close to townships.

Legislation has been introduced by the State Government to come to terms with cropdusters using chemical sprays flying close to townships. There has been a reaction from the community, in some cases, that the legislation is too harsh, but I am sure that there will be a cooperative viewpoint when all the dangers associated with some of the substances being sprayed on crops and finding their way into our communities are recognised by those people who are using them, as well as by those who must put up with some of the drift.

One of the problems we find with the information given to the people in contact with many of the elements associated with the chemicals is that people do not understand the risks. In many cases, people have different levels of tolerance: some people can stand more than others. Some people just cannot stand to be in the general area of a pollutant that brings on an asthmatic or bronchial attack, while other people have very strong resistance to it, so there is no uniform basis on which to tackle the problem using people's experiences since most people have different tolerance levels, and there tend to be academic arguments about the degree of tolerance to what causes a particular bronchial or asthmatic attack.

The other identified asthma bug is the house mite, and there is some debate as to just how much of the problem is caused by that mite. Other problems that are being studied now through genetic investigation include the genetic defects of individuals which make them susceptible to asthma. When the group in Port Adelaide identified the problem and outlined in a report what it would like to see happen, the department responded very favourably and a number of grants were made to various organisations, including Flinders University, which gained a grant to investigate the problems associated with asthma.

I understand that much interstate and overseas information is being pooled and analysed. If we take the reports in the local press, Australia and New Zealand appear to be two of the worst affected areas in the world in relation to asthma, and South Australia, apparently, rates very highly among the worst in Australia and New Zealand.

The Hon. R.J. Ritson: Elizabeth, when they get dust storms.

The Hon. T.G. ROBERTS: Yes, Elizabeth is bad, and I am told that Whyalla is, also. It is a combination of dust and grass.

The Hon. R.J. Ritson: On the other hand, Norfolk Island should be very good.

The Hon. T.G. ROBERTS: Yes, although I am told that the South-East close to the sea is very bad. Areas such as Mount Gambier, Millicent and Mount Burr have always been very bad because of the pollen, but there are a number of naturally occurring pollutants with which it is very difficult to come to terms in eliminating the community health problems associated with asthma. However, I am sure that local government, working in consultation with our State Government departments and local communities, can identify those pollutants which can then be isolated and, hopefully, we can clean up areas which have been identified and make them a much better working and living environment.

The legislative approach to the elimination of either industrial or community health problems is the right way to go, as long as information being fed in by the departments through the local community groups is accurate—not based on emotion but based on accurate research—and is shared

between the departments and the people in the communities, not in a patronising way but in such a way as to allow people to work together.

I am quite confident that the legislative program before us will continue to make South Australia a better place in which to live, and I hope that the return of the Federal Labor Government, whenever the election is called, will complement the State's programs for restructuring which I mentioned earlier in my response.

The Hon. G. WEATHERILL: It is with pride that I second the motion of my colleague, the Hon. Terry Roberts, in support of the address given to us last week by His Excellency the Governor with which he opened the first session of the Forty-Seventh Parliament of South Australia.

I wish to take this opportunity to address the question of the current state of the trade union movement in Australia. Before commenting on the current state of the trade union movement, I would like to refer to a number of statistics. Between 1986 and 1988, union numbers fell by 58 000 in Australia. This was the biggest fall since 1929. In 1954, 59 per cent of the Australian workforce was unionised. By 1989 this figure had fallen to below 40 per cent. During the 1980s the slump in union numbers has been right across the board—in all States, all age groups, every industry, both sexes and in the public and private sectors.

Members should consider the following facts: one of the fastest growing classifications of work is clerical employment in the private sector. The rate of unionism is 18 per cent. The fastest growing industry today is finance, property and business services. The rate of unionism has fallen from 42 per cent in 1976 to 28 per cent in 1988. Between 1976 and 1988, 266 000 new jobs were created in the wholesale and retail trade industry—with only a net increase of 29 000 union members. This is a recruitment factor of one in nine. The workforce of tomorrow—teenagers aged between 15 and 19 years—are unionised at a rate of 27 per cent. The majority of new jobs in the 1990s will be held by women. Females are presently unionised at a rate of 35 per cent—11 per cent fewer than males. Nine out of 10 new jobs are now in the private sector, where unionism sits at 32 per cent, compared with 68 per cent in the public sector. If the crisis continues to the year 2000, unionism in Australia will drop to 25 per cent of the workforce.

To summarise, trade union membership is falling. The reasons for this fall are as follows: first, the fall in employment growth in the public sector where union membership has traditionally been high; secondly, an increase in employment growth in the services sector where union membership has traditionally been low; thirdly, an increase in the participation rates of women in the workforce whose level of unionism is traditionally low; fourthly, an increase in the growth of part-time work where union membership has traditionally been low; and fifthly, low and falling rates of unionism among young people.

Having looked at the changes to the trade union movement and the reasons for those changes, I now turn to the consequences. A fall in union influence means, first and foremost, that working people lose even further political and economic power compared with those who employ them. This will have its effect in two ways: first, at the workplace and, secondly, in the community. At the workplace, workers will feel powerless to stop reduction in wages and conditions, dismissals, poor safety standards, and victimisation of workers who stand up for their rights. In the community, the political process will be dominated by the employers of labour. Rights to workers compensation, industrial action to protect our own interests, social welfare and the environment will all be exploited.

It will occur in this way. The unionised workforce will be approached individually by the employer. Employees will be played off against one another, and by dividing the workers from one another the employer will never have any challenge to their authority. This is the Liberal Party's vision for Australia—one dominated by the interests of employers. This is why the union movement in Australia must grow and be assisted in that growth by the Australian Labor Party.

While unions have much to answer for in terms of their present position in Australia, they must restructure and grow. They remain essential to the long-term welfare of the Australian community. The lessons of Britain and America teach us that conservative governments with weak trade union movements spell disaster for people. The UK, like the rest of the world, has seen a dramatic change in the composition of its workforce during the past 15 years. This change has resulted in a sharp decline in the manufacturing sector, with most of the new jobs being created in the services area. Most of these jobs are part time, temporary or subcontract.

The Thatcher Government has increased this rate of decline by allowing market forces to completely dictate the change. Between 1979 and 1986—the first seven years of Thatcher—manufacturing employment in the UK fell by a massive 28 per cent. This massive shedding of jobs occurred in areas where unions were well organised and the percentage of union membership was high. These were the traditional union strongholds. The crushing defeat of the miners union in 1984 resulted from a dispute over the shedding of jobs. In 1920, miners and their families comprised 20 per cent of the total population—today it is only a fraction of that. The National Union of Miners has lost 60 per cent of its membership during the Thatcher years.

I now turn to union membership decline. Between 1979 and 1986, the level of workers who were members of trade unions declined from 59 per cent to 46 per cent. Because the new jobs being created in the services sector are mostly part time and in small work places, they are difficult for unions to organise.

In 1986, only 10 per cent of workers employed in the distribution, hotels and catering industries were unionised. This compares with 67 per cent in the metal goods, engineering and vehicles sector.

Young people are either not employed or are employed in the new growth areas which are poorly unionised. Consequently, they have little contact with unions, and are increasingly unlikely to do so. Surveys conducted by the union movement show that young people, more so than any other group, have a negative opinion of unions.

In regard to women, union surveys also show that part-timers have lower expectations about the benefits of unionism than full-timers. Women also consistently identify less with unions than men do. The problem is that unions identify less with women workers and their special problems and needs. These two facts have grave implications for the future. It is in the area of part-time female employment, which has boomed with the growth of the services sector, that unions need to seek members from—and it is these people who need the most convincing.

In 1983 an American union buster had been appointed to head the National Board. When pit closures were announced at the beginning of 1984 Thatcher was perfectly placed for the union response. For twelve months the miners, supported by their families, stayed on strike. However, the bitter and violent dispute ended in victory for Thatcher when they went back to work in 1985. Thatcher used all

available means to defeat them, including targeting opinion polling in key mining villages to gauge the level of community support and reaction to the pit closures. Many people saw the miners' strike as a turning point for the U.K. trade union movement. Thatcher won a moral and political victory that has allowed her to further undermine the ability of unions to organise effectively.

Just after that period Thatcher also targeted the young people, particularly in the north of England, who were assisting the miners by collecting money from people in shopping centres for the miners' soup kitchens during that 12 month period. Not only did she gaol them between the hours of 8 a.m. and 6 p.m., but she went further than that, and these young people are still victimised today by having their mail opened before being delivered to their houses. When you think about the royal mail that is quite disgusting.

In 1986, Rupert Murdoch's News International revolutionised the British newspaper industry when it sacked 6 000 workers, opened a super high-technology printing operation and struck a single-union, no-strike agreement with the EETPU. In 1983, News International had begun negotiations with the six newspaper unions about the move to the high-tech Wapping plant. Not long before Wapping was due to open, News International imposed four non-negotiable conditions on the unions. These were:

1. Legally binding agreements.
2. No strike clauses.
3. Abolition of closed shop.
4. The absolute right of management to manage.

As well, News International foreshadowed a sharp reduction in the number of jobs at the new plant. Five of the six unions rejected the deal outright, the sixth, the EETPU, accepted all of the conditions. When the five unions went on strike in January 1986, Murdoch sacked 6 000 workers and gave the EETPU sole coverage at the Wapping plant. After a prolonged and bitter dispute, which saw the full range of Thatcher's anti-union legislation used against striking workers and their unions to a devastating effect, Murdoch won out creating a small and flexible workforce to produce his papers at greater profit than before.

In hindsight, it became apparent that Murdoch had 'set up' his workforce to strike so that he would not have to make redundancy payments, and that all along the EETPU had been prepared to make a deal on Murdoch's terms.

Following its failure to comply with the directives of the TUC, the Electrical, Electronic, Telecommunications and Plumbing Union (EETPU), was expelled from the TUC in September 1988. Like the Australian and U.K. union movements, the U.S. peak union body, AFL/CIO, has undertaken a wide ranging review of the future for the union movement. The 1985 report 'The changing situation of workers and their unions' analysed the problems they faced, especially the rapid decline in union numbers. Some recommendations were as follows. First, unions need to develop new organising techniques to attract members. Unions must be willing to change and adapt to their special circumstances, with a special emphasis on maintaining contact with unemployed and former union members.

Unions need a sophisticated and planned approach to using the mass media. Union spokespersons need media training, and every effort should be made to convey to the general public the good news things that unions do. The traditional reliance on union meetings must be supplemented by reaching directly into homes with radio, television and video.

Union organisers should be carefully chosen and trained. Broad recruitment efforts should be made within and without the labour movement for organisers, and they should be extensively trained for the job. They must have a flexible approach and should experiment with new organising techniques. Workplaces with fewer than 25 employees should be targeted for special attention. A mechanism for mediation should be established, in order to avoid wasteful competition and to resolve raiding disputes.

The term 'new right' is used to describe a new breed of radical and reactionary conservatives. It is generally accepted that they represent a bolder, more aggressive conservatism, pushed to the forefront of world attention. The new right in Australia, which has openly adopted Thatcher and Reagan as its heroes, came to prominence in 1986. At first the new right operated as a non-parliamentary pressure group seeking to influence policy from the outside, but lately it has had a notable change of direction, by seeking to gain a solid foothold within the Liberal Party. The new right has come to the conclusion that only by assuming political power will it see its extreme views realised.

The Liberal Party in government would repeat the United Kingdom and United States experience, and the trade union movement would face its greatest test in the face of this confrontation. We can expect a massive fight between unionists and such a conservative Liberal Government. A fight such as this could destroy Australia, given its present delicate economic position. Fortunately, South Australian electors understood this prospect when they re-elected the ALP for a further term of government in this State. I remain hopeful that the ALP can convince the Federal electorate of the seriousness of this message.

In conclusion, I remind all honourable members of the importance of the trade union movement to the current shape of the Australian community. A vote for policies that would diminish the power of the trade union movement would involve a dramatic shift in power to those who employ labour. Such a shift in power would be a disaster for those the ALP represents; the poor, the weak and the disempowered.

I congratulate Dr Lawrence, the first woman Premier of Western Australia and the first woman Premier in Australia. I was also very excited this week to hear that Nelson Mandela had been released from prison after 27 years. He retained his commitment from the day he went in to the day he came out, and I congratulate him. It was quite amazing to find that the first reaction of Maggie Thatcher to the release of Nelson Mandela was to drop all sanctions against the South Africans. She made no comment whatever about this wonderful man being released from prison after so long; a man who had done nothing wrong. I would like to give credit for the research for the publication *Can Unions Survive.*

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

ADJOURNMENT

At 4.38 p.m. the Council adjourned until Wednesday 14 February at 2.15 p.m.