LEGISLATIVE COUNCIL

Tuesday 27 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 Attorney-General (Hon. C.J. Sumner):

Motor Fuel Licensing Board—Report, 1989.
Summary Offences Act 1953—Regulations—Traffic Infringement Notices.
Superannuation Act 1988—Regulations—Commutation.

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

District Council By-laws:
Loxton—No. 36—Council Land.
Onkaparinga—No. 9—Swimming Centre.
Port Elliot and Goolwa—No. 31—Traffic.

QUESTIONS

NATIONAL CRIME AUTHORITY

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

1. Was the Attorney-General consulted in any way in the appointment of Mr Gerald Dempsey as a member of the National Crime Authority and as head of the South Australian office of the NCA?

2. What role did Mr Dempsey have in relation to the South Australian office of the NCA before his appointment as a member of the authority and, in particular, did he give advice to the authority on what is now known as the Stewart report?

3. Did Mr Dempsey also give advice to the authority on the scope of the investigations being carried out by Mr Le Grand?

The Hon. C.J. SUMNER: I will have to take those questions on notice. With respect to the appointment of Mr Dempsey, that appointment went through the governmental committee. His appointment was proposed to that committee and agreed to by me as the representative on the committee after approval by State Cabinet.

The Hon. R.I. LUCAS: I wish to ask a supplementary question. What are the terms of Mr Dempsey's appointment? In particular, is he restricted to the South Australian reference, and has Mr Dempsey been appointed for only a limited period?

The Hon. C.J. SUMNER: He has been appointed to be the South Australian member of the authority with the role of conducting the South Australian operations but, as such, he is a member of the authority. While I will have to check the Act, I think that he has all the powers of an ordinary member of the authority, just as Mr Le Grand had.

The Hon. K.T. Griffin: He was only appointed for 12 months, though.

The Hon. C.J. SUMNER: Yes. My recollection is that that is the term of Mr Dempsey's appointment, but I will have to check those facts.

HODBY CREDITORS

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

Leave granted.

The Hon. K.T. GRIFFIN: There are at least 220 creditors of Hodby, who was a defaulting broker and who went bankrupt in October 1986, 3½ years ago. He was subsequently convicted of fraud in relation to the moneys of creditors who had invested with him. As I understand it, the amount of the default is around $6 million. In March 1988, the Attorney-General said that secured creditors of Hodby and other defaulting brokers would be paid 100c in the dollar. So far, that commitment has not been honoured, and they have not been paid in full. Several creditors have died since Hodby was caught; some have had to borrow at high interest rates of 20 per cent or more to cover the loss; and others are experiencing hardship. My questions are:

1. When will the Government honour its two-year-old promise to pay 100c in the dollar to Hodby's secured creditors?

2. Have creditors of other defaulting brokers yet been paid 100c in the dollar and, if they have, which creditors are they and on what dates were they paid?

The Hon. BARBARA WIESE: As the honourable member indicated, some creditors have been paid with respect to this matter. In fact, in October 1988 they were paid an amount of 35.3c in the dollar on their claims. Subsequently, in November of the same year, the commissioner paid an instalment to claimants of 60c in the dollar of the balance of their claims. A further payment of 10c in the dollar of the balance of claims was paid on 3 October 1989 and, as I understand it, the Official Receiver is still attempting to recover further moneys with respect to this matter, and it is anticipated that the fund will in due course receive approximately $500 000 extra.

The amount that now remains to be paid to Hodby claimants is $2.135 million. At this stage I am not in a position to indicate the timing for future payments. However, I will seek an update from the Commissioner for Consumer Affairs and bring back a reply which indicates the most recent position.

TOURIST INDUSTRY

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Minister of Tourism a question about the tourist industry rescue package.

Leave granted.

The Hon. DIANA LAIDLAW: Last November the Federal Government announced a $30 million rescue package for Australia's tourist industry to compensate it for losses that were incurred during the pilots dispute. An amount of $5 million of this package was earmarked to compensate operators, who initially were isolated to the Northern Territory, northern Queensland and Tasmania. However, the Western Australian Government kicked up a huge fuss about what it saw as discriminatory guidelines established by the Federal Government in relation to this rescue package.

As a result of those complaints by the former Premier and the Minister of Tourism in Western Australia, I have been advised that the Federal Government has amended its guidelines and that Western Australian operators are now eligible for compensation along with the operators from the three initial States. However, South Australia has been left out. My questions are:

1. Does the Minister believe that South Australian operators have suffered or are continuing to suffer losses due to the festering pilots dispute?

2. Is the Minister satisfied with the fact that the Federal Government has excluded South Australian operators as being eligible for any portion of the $5 million compensation for losses incurred as a result of the pilots dispute?

3. If not, has the Minister, like her counterpart in Western Australia, issued any protest to the Federal Government to ensure that South Australian operators are eligible for some of that amount and, if so, in what form?

The Hon. BARBARA WIESE: After the initial decision by the Commonwealth Government to allocate a sum of money for a recovery program following the pilots dispute, specific allocations were made to those parts of Australia that had been hardest hit. Western Australia was one of the States omitted. I believe that Western Australia, very rightly, claimed that if the Northern Territory, Queensland and Tasmania were entitled to specific sums of money, it certainly was, too. It put that case to the Commonwealth Government, and its case was recognised. The States that did not receive special allocations of money were New South Wales, Victoria and South Australia, and the rationale for that was, in a sense, sound, although—

The Hon. Diana Laidlaw: You found it acceptable that South Australian operators missed out?

The Hon. BARBARA WIESE: If you would let me answer the question you would probably find out what I said.

The PRESIDENT: Order! The honourable Minister.

The Hon. BARBARA WIESE: The matter that was being discussed at that time was whether or not it was reasonable to allocate a sum of money to those parts of the country that had been hardest hit by the dispute. Only a limited amount of money could be allocated for such purposes and, whilst all the States wanted to put up their hand and take a share of the available resources, those of us in the States that suffered least recognised that the need of those parts of Australia that I mentioned was greater. In many parts of Australia, the effects of the dispute were devastating for the industry. That was not a claim that South Australia, Victoria or New South Wales could make. Therefore, it was difficult to mount a case that would have stood up. It was certainly not a matter that would have been given any consideration whatsoever.

It did not seem to me to be appropriate to mount such an argument, when the money to be allocated was to assist those areas of Australia that had been almost totally cut off during the course of the dispute. Many parts of the country saw virtually no tourists at all for a long time. Some hotels had an occupancy rate of one person for lengthy periods of the dispute. That was not the situation in South Australia, Victoria or New South Wales. Therefore, we took the view that, in the interests of the tourism industry as a whole, taking a national view, it would be appropriate to support those parts of Australia which were being crippled by the effects of the pilots dispute and which were likely to go under altogether without some form of support.

As the honourable member is aware, in addition to that specific rescue package, considerable resources have been allocated to both domestic and international post-pilots dispute campaigns, and South Australia will have the opportunity to participate in those. We will be able to gain access to promotional time on television and elsewhere which will be far more valuable than our monetary contribution to the schemes themselves. That will mean that South Australian operators will be able to build on the successes of last year.

During the last three months of 1989—the most serious months of the pilots dispute—most parts of South Australia enjoyed an increase in visitation. I travelled around the State and spoke to various operators who were pretty keen to keep the pilots dispute going as long as possible because they found it very good for business. They have benefited quite significantly and I will be interested to see the figures for the December quarter from the Australian Bureau of Statistics to get some idea of the sort of impact the dispute had on South Australia and the resulting increase in visitation, certainly at the expense of other parts of Australia that were virtually cut off during the dispute.

It is interesting that only yesterday I received the January figures for accommodation in the central business district. In January 1990 we saw a significant increase in rooms sold and in occupancy rates in our city hotels in the top four and five star categories. That, too, indicates the continuing success of representatives of the South Australian industry and what they have been able to achieve despite the pilots dispute that took up so much of our energies during the latter part of last year.

The Hon. DIANA LAIDLAW: By way of supplementary question, as the Minister appears to be conceding that she was not prepared to fight for South Australian operators who have incurred losses because of the pilots dispute, mainly because the Federal Government was offering only $5 million, will she advise at what stage she may have been prepared to take action? If the Federal Government was offering $6 million or $10 million, would she then be prepared to launch a case on behalf of South Australian operators?

The Hon. BARBARA WIESE: The question is irrelevant and there is no point speculating about such matters. At the point that these matters were being discussed, we were dealing with a package of $5 million—a package that was not even confirmed at the time these matters were being negotiated by tourism Ministers from around Australia. It was not a matter of standing up and fighting for South Australia or otherwise. The guidelines for the expenditure of that money and the allocation of those resources in various parts of Australia precluded South Australia from making any such application.

In my view it was quite wrong that the Commonwealth Government excluded Western Australia from the initial allocation in the first place. Certainly, if I had been the Western Australian Minister I would have made the same sort of representations as did the Western Australian Minister at the time as it was quite clear that, within the terms of the guidelines discussed on the allocation of the resources, Western Australia should have been included because parts of the State—in fact the majority of the State—had been all but cut off by the pilots dispute. Very few flights were getting from the east coast of Australia to Perth and there were no flights for an extensive period to Broome which is in the north of Western Australia and which is becoming a popular tourist destination. There were good reasons why Western Australia should have been included in the package.

The guidelines were very clear, namely, that the money would be allocated to those parts of the country that could demonstrate that they had significantly lost enormous resources as a result of the pilots dispute. South Australia was not in that position. We were in a very happy position

relative to other parts of Australia, as we will discover when the official statistics come from the Australian Bureau of Statistics for the December quarter. We will find that in most parts of the State there was significant gain during the course of the pilots dispute.

If the honourable member is suggesting that South Australia should take a head in the sand or pig-headed approach in a situation like this, when we are discussing the survival of the tourism industry in Australia and the future capacity of this country as a whole to attract people from other parts of the world, she is taking a very narrow, short-sighted and ill-informed approach to the best interests of the industry. I hope that she is never in a position to be able to put her policies into practice.

Tourism Ministers from around Australia had a very different view. We took a national view of the importance of additional resources that might be made available. As to States like South Australia which were relatively much better off than other parts of the country, we recognised that, even though we would not participate in the specific rescue package to which the honourable member has referred, we would be in a considerably better position in relation to promotions by being involved in the remaining part of the package which, after all, comprises the vast bulk of the resources that are being made available by the Federal Government.

VICTORIA PARK RACECOURSE

The Hon. I. GILFILLAN: I seek to leave to make a brief explanation before asking the Minister of Tourism, representing the Minister of Recreation and Sport, a question about the spraying of poison on Victoria Park Racecourse.

Leave granted.

The Hon. I. GILFILLAN: I, along with hundreds, if not thousands, of South Australians use the Victoria Park Racecourse as a part of the parklands, as a place for passive and gentle exercise and enjoyment.

The Hon. Peter Dunn: I see you often.

The Hon. I. GILFILLAN: Yes, members often see me disporting on the turf of Victoria Park Racecourse.

Members interjecting:

The PRESIDENT: Order!

The Hon. I. GILFILLAN: I am sure that the Hon. Rob Lucas sees many people who may not all be disporting but getting up to all sorts of other things, such as taking dogs for a walk and generally relaxing on the very pleasant turf. It is, therefore, of concern, not only to me as a user of the racecourse but also to many thousands of South Australians, to be told that the turf is sprayed at least twice a year with a product called Nemacur. This is an organophosphous product; it is a solid toxin; and a dangerous poison, S7. I refer to a brief description of its character as set out in material which I received this morning from the Department of Agriculture. The safety directions are:

> Very dangerous. Poisonous if absorbed by skin contact, inhaled or swallowed. Repeated minor exposure may have a cumulative poisoning effect. Avoid contact with eyes and skin. Do not inhale dust.
>
> When opening the container and using the product, wear cotton overalls buttoned to the neck and wrist and washable hat, elbow length PVC gloves and full-face respirator with combined dust and gas cartridge or canister.
>
> If product on skin, immediately wash area with soap and water. After use and before eating, drinking or smoking, wash hands, arms and face thoroughly with soap and water. After each day's use, wash contaminated clothing, gloves and respirator.
>
> Obtain an emergency supply of atropine tablets 0.6 mg.

Members interjecting:

The Hon. I. GILFILLAN: Obviously, the members who are laughing do not use the Victoria Park Racecourse for gentle, passive use or they would be taking this matter much more seriously and would recognise that by raising this matter, I am protecting their future health as well as my own. The safety directions continue:

> Not to be used for any purpose or in any manner contrary to this label unless authorised under appropriate legislation. Withholding period: strawberries, do not apply later than 42 days before harvest.

I dwell on this point because it is obvious that it is during this 42 day period that this product is dangerous and lying in areas which are accessible to the public. The literature further states:

> This product is too hazardous to be recommended for use in the home garden.

On checking with the Victoria Park Racecourse, I have found that this product is used at least twice a year. No attempt is made to keep the public off the area and no sign is erected to indicate that such a spray has been used. These are the facts of the situation. I know that I am not allowed to express a personal opinion in this Chamber—and I would not dare to do so—but I indicate that in future I will go on to this part of the public parklands, for enjoyment and exercise, with some trepidation.

It will also be with some concern that I watch the hundreds of people who use that grassed area to sit, exercise, run and generally enjoy themselves with their animals. This material specifically states that this product must not be applied to turf which may be grazed or fed to animals. It is obviously an extraordinarily dangerous product and the facts indicate that it is being used extremely recklessly *apropos* any consideration of public safety. Is the Minister responsible for the racing industry and, therefore, Victoria Park, aware of the use of Nemacur for the control of black beetle on Victoria Park racecourse? Will the Minister direct that the use of this product at Victoria Park cease forthwith? If not, how can he can justify the continuing risk to the public, and/or the total lack of any measures to protect the public?

The Hon. BARBARA WIESE: I will refer the honourable member's questions to my colleague in another place and bring back a reply.

ELECTRICITY TARIFFS

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Minister of Small Business a question about electricity tariffs.

Leave granted.

The Hon. L.H. DAVIS: The Minister of Small Business would be well aware that many businesses both large and small in South Australia are financially bleeding—in fact, they are haemorrhaging—in the face of 20 per cent-plus interest rates, stalling retail sales, tightening profit margins, punitive Government taxes such as land tax, and bureaucratic red tape. The feelings about land tax have been demonstrated in a very public fashion during the past few days.

There has been reasonable expectation on the part of business, particularly small business, which is more vulnerable in these troubled times, that the Government would seize with alacrity any sensible proposals which would help small business weather what is for many the worst financial crisis in living memory. I understand that yesterday Cabinet considered a proposal from the Minister of Mines and Energy, Mr Klunder, which recommended a reduction of electricity tariffs equivalent to 3.5 per cent, effective from 1 March 1990. Indeed, I have a copy of yesterday's submission to Cabinet. Sadly for small business and for South

Australia's future economic prosperity, it seems that Cabinet has rejected that submission. That is my understanding.

The submission put to the Cabinet by Mr Klunder made the point that the Electricity Trust experienced a very strong growth in sales in the first six months of 1989, when sales increased by 8.2 per cent over the preceding year. This was significantly higher than expected, and this additional revenue has meant that there is now a surplus which can be distributed by way of a tariff reduction and which would also allow a restructuring of electricity tariffs to proceed more rapidly than would otherwise be possible.

As the Minister of Small Business, who presumably was present at the Cabinet meeting yesterday, would be only too well aware, the proposal was to approve reductions of electricity tariffs in industrial, general purpose (including, *inter alia*, commercial and charitable organisations) and farm categories as from 1 March 1990. That was at a cost of $9.3 million in revenue forgone over the period to 1 July 1990 and equivalent to a 3.5 per cent average tariff reduction. It would have benefited 90 000 consumers. There was no change in domestic tariffs. The proposal was directed towards helping industrial and commercial users of electricity at a time when they most certainly could do with some help.

So, my questions are quite properly directed to the Minister of Small Business, who was present at that Cabinet meeting. First, will the Minister confirm that Cabinet rejected a recommendation for a 3.5 per cent reduction in electricity tariffs paid by industrial, general purpose and farm consumers? Secondly, why was the package, which could have been of significant benefit to many small businesses, rejected? Thirdly, what possible justification can the Minister give for not supporting a proposed 3.5 per cent reduction in electricity tariffs for small businesses, many of which are going to the wall?

The Hon. BARBARA WIESE: I am not in a position, as the honourable member well knows, to discuss what business is dealt with by Cabinet or to either confirm or deny that that was a matter on our agenda at yesterday's meeting. I can confirm, however, that this Government has a commitment to reducing electricity tariffs affecting people in the business sector, and the Minister of Mines and Energy has made statements to this effect previously. In fact, there has already been, as I understand it, some reduction in the tariff that applies to people in the business sector, and I understand also that it is the Minister's intention to introduce further reductions when it is possible to do so.

As to other plans for the future, with respect to reductions for people in the business sector, that is a matter that I will refer to my colleague in another place, and I will bring back a report.

The Hon. L.H. DAVIS: As a supplementary question, would the Minister confirm that the Treasury opposed a submission to Cabinet yesterday by the Minister of Mines and Energy for a 3.5 per cent reduction in electricity tariffs for certain categories, on the ground that it would reduce by $500 000 the Government's take from its 5 per cent levy on ETSA? Will the Minister explain why the needs of small business, and charities in particular, are not being given higher priority than the Government's greed for more tax revenue, in view of the fact that the levy has earnt the Government more than $37 million this financial year, about $1 million more than the budget estimate?

The Hon. BARBARA WIESE: I have already indicated that I am not in a position to refer to what may or may not be discussed by Cabinet in its meetings, nor am I able to discuss what submissions might be put to it by various Government agencies. I have already indicated that the Government is committed to reducing the electricity tariffs as they apply to people in the business sector. The Minister of Mines and Energy is responsible for that matter, and I have already indicated that I will bring back a report on the plans for the future.

The Hon. L.H. DAVIS: As a supplementary question—

The PRESIDENT: I would draw to the honourable member's attention that supplementaries must relate to the question that he has already asked and to the answer that has been given.

The Hon. L.H. DAVIS: Would the Minister representing the interests of small business in South Australia support a 3.5 per cent reduction in electricity tariffs as from 1 March 1990?

The Hon. BARBARA WIESE: As Minister of Small Business, I am aware of the cost of electricity tariffs on some sectors of the business community, and any proposal which would assist in reducing costs and which would make small business more viable is certainly something that I would support in principle. As to whether—

Members interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: Whether or not 3.5 per cent on 1 March 1990 is a viable option or otherwise is a matter on which the Minister of Mines and Energy can make a recommendation for Cabinet to consider. I do not know whether that is what the Minister is intending, but I have already indicated that I will seek a report from the Minister on his plans for the future.

TOURISM

The Hon. M.S. FELEPPA: I seek leave to make a brief explanation before asking the Minister of Tourism a question about tourism.

Leave granted.

The Hon. M.S. FELEPPA: In the *News* of 19 February we saw the headline 'SA misses the bus'. The article scathingly reported that South Australia had missed the tourist bus by not being sufficiently represented at the Great Aussie Holiday Show at Elder Park on 17 and 18 February 1990 and by not presenting short get-away and weekend deals, while interstate tourism was successful in luring people away from South Australia. My questions are as follows:

1. Is the Minister satisfied that the Government's effort on that occasion was sufficiently worthwhile?
2. What is the strategy of the Tourism Department for such occasions?
3. Is the Minister satisfied that South Australia did not miss the tourist bus on that occasion?

The Hon. BARBARA WIESE: I was extremely disappointed by the article that appeared in the *News* last week because I think it missed the bus itself in terms of the true reality that faces the tourism industry and the rights of people within the industry to accept or reject commercial propositions when they are put to them. I believe that the nature of the article that appeared, and more particularly the editorial on the same day as well as the intensity of feeling that was expressed by the newspaper, tended to be clouded somewhat by the fact that the newspaper itself was involved in setting up the Great Aussie Holiday Show itself.

The facts of the matter were that the organisers of the Great Aussie Holiday Show approached each of the individual regional tourist associations around South Australia many months ago and asked whether they wanted to participate in the show. All those regional tourist associations are autonomous incorporated bodies, and a decision was taken by the majority of them not to participate in the

Great Aussie Holiday Show this year. The reason for that was that this year the associations joined together collectively to participate in a radio advertising campaign, and they wished to put their available promotional resources into that campaign, which has been running very successfully for some months both here in South Australia, encouraging South Australians to holiday in their own State and in Victoria.

That campaign has been very successful, and the regions believed that their money was better spent in continuing to back that campaign than to participate in the Great Aussie Holiday Show. Having said that, I can say that a number of individual operators from South Australia and some local tourist bodies decided to participate, because they had participated before and felt that they had derived value from it. It was their right to make that decision, and they certainly had my full support and that of Tourism South Australia—

The Hon. Diana Laidlaw: Where was Tourism South Australia?

The Hon. BARBARA WIESE: —in making those decisions, and they proceeded on that basis. Tourism South Australia was not represented, for much the same reason. It made a commercial judgment, too, as to the value for money being represented at the Aussie Holiday Show. Tourism South Australia took the view that it was not particularly valuable for it to be present, particularly when one considers that it has an office just up the road from Elder Park and is available and open seven days a week to answer people's queries. People could be directed to the Travel Centre if they had specific queries that could not be answered by those who were present. A commercial judgment was made, and I think that it was a perfectly reasonable judgment.

My concern in the matter is that to some extent some stand-over tactics of a sort seem to have been exerted upon particular regional associations that have chosen to make this decision, and I consider that to be inappropriate. I have suggested to the organisers of the Great Aussie Holiday Show that they meet with the regional tourist associations to discuss the format for next year's show to see whether there is some way of making alternative arrangements which would be more attractive to representatives of the industry and which would encourage either individual operators or regional associations to be represented.

However, I want to make perfectly clear that both Tourism South Australia and I support fully the work of the *News* in staging the Great Aussie Holiday Show. It demonstrates strongly the ongoing commitment that the *News* has had over a number of years to the South Australian tourism industry. I might add that that support has been recognised on numerous occasions by the fact that the *News* has won media awards for the work it has done in providing editorial space to promote the industry.

DANGEROUS REEF

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Attorney-General, representing the Premier and Treasurer, a question about the Dangerous Reef shark viewing platform.

Leave granted.

The Hon. M.J. ELLIOTT: The Treasurer was a co-signatory along with the city of Port Lincoln, Lincoln Cove Development Company Pty Ltd, Nowata Pty Ltd and Ronald Forster to the indenture of 18 April 1989. It is clear, when one reads the documentation, contrary to what people were led to believe, that it was not the idea of the developer to put a shark viewing platform off Eyre Peninsula and that it was forced upon the developer by the indenture as part of the deal whereby the developers took over the Government's interest in Lincoln Cove. The developers were required to put a shark viewing platform out at sea. Dangerous Reef contains one of the few breeding areas for the endangered Australian sea lion. Its importance, and the plans for the platform, were noted by the National Parks and Wildlife Service at least two months before the agreement was signed by the Premier, yet the document allowed the platform to be sited within 50 metres of the breeding colony. This is contrary to what has happened at Seal Bay, Kangaroo Island, where a one kilometre prohibited zone is required for a similar breeding colony.

The concern that has been expressed to me is that this is yet another example of where some bright spark thought something would be a good idea and where it has then been pushed through by the development lobby, contrary to any conservation interests. Therefore, I ask the Premier the following questions:

1. Who was the NPWS authority who sanctioned that the present siting of the platform would not in any way be detrimental to the sea lion population, contrary to the opinion of both independent local and interstate experts?

2. Who decided that an environmental impact statement was not necessary?

3. Will both Special Projects and State Development cease pushing projects before legitimate environmental concerns have been properly considered?

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

MARINELAND

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Minister representing the Minister of State Development or the Government a question about the Marineland redevelopment.

Leave granted.

The Hon. J.F. STEFANI: On Sunday 25 February 1990 an advertisement appeared in the *Sunday Mail* placed by Tourism South Australia and the Department of Lands. The Government called tenders from developers who had flair and imagination and who were interested in purchasing and developing the heritage Estcourt House and its 2.6 hectares of Crown land on the best metropolitan coastal site with an absolute seafront position and with direct access to a magnificant stretch of white sandy beach abounded by unspoilt sand-dunes.

The advertisement boasted that it was an opportunity which could not be repeated in South Australia and possibly the rest of Australia. It expressed a commitment from the Government to assist the successful developer to ensure that the project was a success. Given that South Australia now has three major seafront tourist projects being developed, namely, the Grand Hotel at Glenelg, the Zhen Yun hotel at West Beach and the Estcourt House tourist proposal, I am informed that it is normal practice for a feasibility study incorporating detailed and in-depth market research to be prepared before such projects are commenced.

In view of the competing interests which are emerging in these three projects and because a large area of public land has been alienated at the West Beach Reserve by the Premier's Department in its negotiations with Zhen Yun, my questions are:

1. Will the Minister confirm or deny the receipt and/or the knowledge by him and/or by any Government department of a report on the commercial viability or otherwise and in particular incorporating details of the market research on the Zhen Yun hotel project?

2. What did the report indicate?

3. Why was the report omitted from the documents tabled in Parliament by the Government?

4. Will the Minister make available the complete details of the report and without delay table all details of the feasibility study on the Zhen Yun hotel by next Thursday?

The Hon. BARBARA WIESE: I am not sure whether my colleague in another place will be able to meet the honourable member's deadline, but I will refer his questions to my colleague and bring back as much information as I can as soon as I can.

DISPOSABLE INCOME

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Minister of Consumer Affairs a question about statistics on disposable income in South Australia.

Leave granted.

The Hon. T.G. ROBERTS: My question relates to statistics on disposable income. Costs and pressure on disposable income are causing great concern in the Australian and South Australian community. I note that in the Australian Bureau of Statistics report for the September quarter Adelaide was listed as the cheapest Australian capital for key household goods. Another report is due shortly. Has the Minister any information about this matter and can she say whether Adelaide has maintained its position in the meantime?

The Hon. BARBARA WIESE: I am pleased to be able to provide further information about this matter because the latest statistics—the statistics for the December quarter—have just been released by the Australian Bureau of Statistics. I am delighted to say that what they indicate is that, for the second consecutive quarter, Adelaide has emerged as the cheapest capital city in Australia for key household goods. In fact, Adelaide has remained the cheapest—

Members interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: —capital for 53 selected items.

Members interjecting:

The PRESIDENT: Order! The honourable Minister has the floor.

The Hon. BARBARA WIESE: Of them, Adelaide was the cheapest in 18 categories and equal cheapest in one. In fact, Adelaide was dearest only for the price of onions and eggs. With regard to eggs, I suspect that that probably reflects the fact that at some time in the past the Government was unable to succeed in introducing some deregulation into this industry. However, the overall picture is continuing to be very healthy, and I think we can be very pleased that, for the second successive quarter, Adelaide comes out the cheapest.

CONFLICT OF INTEREST

The Hon. J.C. IRWIN: I seek leave to make a brief explanation before asking the Minister of Local Government a question about conflict of interest.

Leave granted.

The Hon. J.C. IRWIN: Members would be aware that the Lord Mayor of Adelaide has, on a number of occasions recently, reflected on the provisions of the Local Government Act regarding conflict of interest. In the *Advertiser* of 22 February the Lord Mayor is reported to have said that commercial lawyers, developers, architects, and land agents and valuers engaged in city development projects should be banned from membership of the Adelaide City Council. Does the Minister agree—

Members interjecting:

The PRESIDENT: Order!

The Hon. J.C. IRWIN: —with the Lord Mayor's suggestion? If she does, would she go further and list other occupations that should be banned because they are, or may be in future, engaged in city projects? For instance, would the Minister include those persons with heritage and environmental expertise? If she does not agree with the Lord Mayor, why not?

The Hon. ANNE LEVY: This is a matter of, 'Have you stopped beating your wife yet? Answer "Yes" or "No".' I have had no report or correspondence at all from the Lord Mayor on the proposals that have been mentioned in the *Advertiser* and I am not able to comment on their veracity or otherwise. A committee is looking at the conflict of interest provisions in the Local Government Act and, if I receive any correspondence from the Adelaide City Council on this matter, I will suggest that it take up its concerns with the committee that is looking at those provisions.

I feel that it would be most inappropriate to indicate personal opinions in this matter, as it must obviously be thoroughly discussed and canvassed throughout the local government community in South Australia before any implementation legislatively. I suggest that such questions are probably better addressed to the Local Government Association to determine the position of the local government community on these matters before they are considered at a Governmental level.

Obviously, one has to be careful that the exclusionary powers are not such that there is nobody left able to stand for election to the city or any other council. The conflict of interest provisions in the Local Government Act are designed to ensure that people who have a conflict of interest—which need not be a pecuniary interest—do not participate in discussion or vote on any matter in which they have that conflict of interest. Personally, I feel that this is probably the desirable provision to be looking at, but I would certainly be prepared to look at any submission that I receive from the Local Government Association on this matter.

RIB LOC LIMITED

The Hon. T. CROTHERS: I seek leave to make a brief explanation before asking the Minister of Tourism, representing the Minister of Industry, Trade and Technology, a question on the subject of the South Australian-based company Rib Loc Group Limited.

Leave granted.

The Hon. T. CROTHERS: The activities of the company Rib Loc Limited recently came to my attention. Rib Loc claims that it has achieved a world breakthrough in piping technology worth millions of dollars in exports. This new product—Ribsteel—will, it is claimed, create an additional 10 jobs in the first year of production, followed by a further 30 to 40 new jobs in the following year. Further, the company believes that the product will earn between $1 million or $2 million during its first year of production here in South Australia, growing to more than $25 million during

the next three to four years of production. In addition, overseas sales are expected to be $5 million to $10 million in the first year, and $20 million to $50 million in the second year.

Rib Loc established itself in South Australia in 1986 and currently employs 70 people at its Dry Creek factory. It presently exports piping to Hong Kong, Singapore, Vanuatu and New Caledonia. The Chairman of the group (Mr Bill Menzel) has indicated that, in order to cope with the anticipated demand for the new product, his company will have to double the size of its factory. My questions are:

1. Does the Minister believe that the success of the Rib Loc Group in South Australia and its plans to upgrade its business clearly demonstrate the faith of that small business in South Australia and the South Australian Government's policies towards small business?

2. What help does the Government of South Australia provide for small businesses wishing to commence business here, relocate here or expand their present—

The Hon. R.I. Lucas: Electricity tariffs.

The Hon. T. CROTHERS: The Opposition interjects again. Surely they would be the greatest drawback—

The Hon. L.H. Davis: As you would know, they use a lot of electricity.

The Hon. T. CROTHERS: We get a lot of static from you!

The PRESIDENT: Order! The Hon. Mr Crothers.

The Hon. T. CROTHERS: —or expand their present business circumstances?

The Hon. BARBARA WIESE: The Government has been very involved in assisting small and large businesses to relocate to South Australia and to establish businesses here. Numerous schemes are available which are designed to assist these people, either by way of guaranteeing loans or providing access to loans or other forms of assistance. Most of that assistance is provided through the resources of the Department of Industry, Trade and Technology and, as the honourable member has indicated, that department has been involved in the matter to which he referred. I am happy to refer his questions to my colleague in another place and bring back a reply.

The PRESIDENT: Order! Before calling the Hon. Mr Gilfillan, I advise him that only one and a half minutes remain for questions.

OLYMPIC DAM RADIATION

The Hon. I. GILFILLAN: I seek leave to make a brief explanation before asking the Minister of Tourism, representing the Minister of Health, a question relating to radiation at Roxby Downs.

Leave granted.

The Hon. I. GILFILLAN: Two recent studies have cast doubt on the adequacy of radiation protection standards and procedures at the Olympic Dam project. The Bier V report, produced by the National Research Council in the US, studies the incidence of cancer in the survivor population of the nuclear explosions at Hiroshima and Nagasaki.The report concluded that the risk of developing cancer from low levels of radiation exposure is three to four times as high as previously thought and that there is no threshold beneath which the effects of radiation can be disregarded.

The Gardner report studies the incidence of leukaemia in the children of workers at Sellafield reprocessing plant in the United Kingdom. This report, published in the British Medical Journal on 17 February 1980, confirmed a statistical link between a worker's radiation dose and genetic mutation of their sperm cells and the incidence of leukaemia in their offspring. Both reports confirm that risk estimates used to derive present radiation exposure limits underestimated the risks and consequently workers, including those at Roxby, are being exposed to unacceptably high levels of radiation exposure.

Under the codes of practice as legislated in the Indenture Act, workers at Roxby must be informed of all health risks involved in their exposure to radiation, including genetic damage. There is no reference made to the risk of genetic damage in the Olympic Dam Project Induction Manual, the medium through which workers are informed of such risk; nor is there any monitoring of induction lectures that workers receive, so there are no guarantees that workers are receiving information on the risk of genetic damage. This situation highlights the need to support the recent calls for workers representation on the Radiation Protection Committee. In light of this information, can the Minister answer the following:

1. In reference to Roxby, what action is the Minister undertaking in response to the need for a reduction in the present radiation exposure limits, and how is he intending to redress the obvious inadequacy regards workers' education of radiation exposure and the risks of genetic damage?

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

The Hon. BARBARA WIESE (Minister of Tourism): I move:

That so much of Standing Orders be suspended as to enable the Hon. Mr Gilfillan to finish his question and to enable me to reply.

The Council divided on the motion:

Ayes (17)—The Hons J.C. Burdett, T. Crothers, L.H. Davis, M.J. Elliott, M.S. Feleppa, I. Gilfillan, K.T. Griffin, Anne Levy, R.I. Lucas, Carolyn Pickles, R.J. Ritson, R.R. Roberts, T.G. Roberts, J.F. Stefani, C.J. Sumner, G. Weatherill, and Barbara Wiese (teller).

Noes (4)—The Hons M.B. Cameron, Peter Dunn, J.C. Irwin (teller), and Diana Laidlaw.

Majority of 13 for the Ayes.

Motion thus carried.

The Hon. I. GILFILLAN: My second question is as follows:

2. Given the new information concerning a connection between radiation exposure and genetic damage, how will the State Government face the very real possibility of liability in the advent of a genetically related disease causing death in the offspring of a uranium mine worker?

The Hon. BARBARA WIESE: I will refer the honourable member's questions to my colleague in another place and bring back a reply.

CRIMES (CONFISCATION OF PROFITS) ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 13 February. Page 52.)

The Hon. K.T. GRIFFIN: This Bill seeks to do a number of things. It seeks to extend the definition of 'property' to include any interest in any real or personal property. It seeks to provide for the whole of any property to be forfeited where a third party has an interest, for example, a joint tenant, and the property cannot be severed, partitioned or realised separately from that interest. In that respect, when the property has been sold, the third party interest is pro-

posed to be paid out. The Bill expands the definition of 'proceeds of an offence' to include property derived directly or indirectly from the commission of an offence where the property is converted to another form in one or more transactions. The Bill provides for forfeiture of property received by a person where the recipient knows of its origin or receives it in circumstances that should raise a reasonable suspicion as to its origin from criminal activity.

The Bill also provides that a person who commits or is a party to the commission of an offence and who obtains any benefit through 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. There is a reverse onus of proof in serious drug offences to provide that all property is to be forfeited except property that the court is satisfied is not the proceeds of offences against the law of South Australia or any other law.

The Bill provides for the appointment of an administrator to administer forfeited and restrained property and proposes that the salary of the administrator, who is responsible to the Attorney-General, is to be paid from the proceeds of confiscated assets. Law enforcement officers are given wider powers to gain access to documents necessary to follow the money trail and the transfer of what is described in the Bill as 'tainted property'. There is a power in the Supreme Court to make what are called monitoring orders. They require a financial institution to report on transactions affecting an account or accounts with that institution. Finally, the Bill recognises forfeiture and restraining orders made by courts in other States under corresponding laws.

There are a number of areas of concern in relation to the legislation. We support the second reading, but some issues need to be addressed at this stage because some may well be the subject of amendment in Committee. The first area of concern is the appointment of the administrator. The administrator is a person nominated by the Attorney-General to administer property forfeited or subject to restraining orders under the Crimes (Confiscation of Profits) Act. That person will be responsible to the Attorney-General, remembering that the Attorney-General is also responsible for the Crown Prosecutor, who will be making the application for the forfeiture of assets. On the one hand, there is an officer applying to the court for an order for forfeiture, and on the other there is an officer (also responsible to the Attorney-General) who is responsible for the administration of those assets which are forfeited or subject to restraining orders.

We see an immediate conflict, and certainly in day-to-day administration there is the prospect of a sizeable conflict between the prosecutor on the one hand and the administrator on the other. It seems that a more appropriate way of dealing with this, recognising that it is necessary to have somebody responsible for monitoring the restraining order or forfeiture order, is that that responsibility be placed with the Sheriff. The Sheriff is an officer of the Supreme Court and has responsibility for executing writs and warrants, including those which relate to the sale of property, to satisfy an order of the court. In my view, the Sheriff is the more appropriate person to exercise the responsibility of administrator.

The second area on which I need further clarification relates to the reference to offences under the Companies (South Australia) Code, the Companies (Takeovers) Code and the Securities Industry Code as being prescribed offences. Under the Act, a number of offences are prescribed and dealt with specifically. The forfeiture legislation applies only in relation to those offences which are prescribed. In the principal Act they are limited to: an indictable offence or an offence against specified sections of the Fisheries Act; only one section of the Lotteries and Gaming Act; several specified sections of the National Parks and Wildlife Act; one section of the Racing Act; and several sections of the Summary Offences Act.

In this Bill it is proposed that all offences under the Companies (South Australia) Code, the Companies (Takeovers) Code and the Securities Industry Code be prescribed offences. That could well be undesirable, because there are offences such as failure to lodge an annual return or a prospectus, and a number of others, which could be regarded as minor offences when compared to others under those codes. What ought to be clarified is the nature of the offences intended to be the principal offences covered by the legislation under those codes. If all offences are to be covered—and that is a procedure that is followed for convenience—I suggest that this is a sloppy way of applying a significant piece of legislation which provides for very dire consequences for offenders, and that we should look at specific offences rather than general offences under those three codes.

The Offenders Aid and Rehabilitation Service, upon consideration of this Bill, has drawn attention to the potential hardship to innocent parties, for example, the wife and children of an offender who may, as a result of the confiscation of jointly held property, be put out into the street. This organisation realises that a discretion is given to the court but wonders if that is sufficient protection.

In that context, one could also envisage a situation in which an offender and his pensioner parents may be joint tenants of a residence which was purchased partially from the profits of criminal behaviour. It may be that the profits cannot be realised unless the property is sold and the court is then able to make that order. However, generally speaking, the court has limited power to make such an order. For example, it cannot make an order fixing the amount to be paid and then defer the sale of the jointly held property, securing the liability by way of a mortgage over the real property.

I ask the Attorney-General to consider giving the court more flexibility in that respect. In fact, I will propose an amendment to give the court greater flexibility to ensure that, so far as is possible, hardship to innocent third parties, even though related to the criminal, can be avoided.

An amendment in clause 4, which deals with the liability to forfeiture, is directed towards a person who participates in (or is an accessory before or after the fact) the commission of an offence as well as to the person who may be the principal and have been convicted of such an offence. Notwithstanding the need to trace so-called tainted profits from criminal activities, if an attempt is made to forfeit the property of a person who has committed an offence but not been convicted, the court ought to be satisfied beyond reasonable doubt that the person involved in the commission has in fact committed an offence.

I will propose an amendment along these lines because when dealing with confiscation legislation I believe it is important to ensure that there is no injustice. Forfeiture should occur only in relation to profits from criminal activity and, where it relates to profits other than those which might be tainted and traced to third parties, it should be established that it is the profit from criminal behaviour.

The Legal Services Commission has drawn to my attention a problem which I understand it has raised with the Attorney-General on previous occasions: as required by law, it is using its funds to provide legal aid to persons charged

with serious criminal offences but whose assets are either frozen or subsequently forfeited. At present, the principal Act does not allow for reimbursement to the Legal Services Commission of the cost of the whole or any part of the legal aid provided.

Consequently, others may be denied legal aid because the Legal Services Commission has used its funds for the purpose of defending a person charged with a crime and is not able to recover them. In my view, the legislation should at least enable the court to make an order allowing for the reimbursement of some of the legal costs incurred in a defence in order to ensure equity among those who might otherwise receive legal aid but who may be denied it as a result of the expenditure of funds in another matter. This should be discretionary; the court ought to have this power as it is in the best position to make such judgments.

This Bill makes provision for dealing with the forfeiture of proceeds from the publication or prospective publication of material relating to an offence. This relates to biographical type material, and arises from the sorts of public utterances of criminals like Spiers. There was some controversy about that in 1988. It is my view that such persons ought not to profit from criminal behaviour or from stories which arise from their criminal behaviour. Their criminal notoriety should not be the basis of financial reward.

However, I suppose there could be some hardship, partly because there is no time-frame within which the forfeiture may occur, nor is there reference to a proportionate forfeiture in circumstances where part of the publication relates to an offence and other parts to other activities. The Offenders Aid and Rehabilitation Service, in writing to me on this Bill, has made some observations on this and, whilst one might question whether certain persons who are named in this letter may be 'inspirations', nevertheless, I think it appropriate to refer to what it has to say, as follows:

> Notoriety for profit provisions do not allow for any exceptions. Our literature is full of examples of people who have been convicted of an offence and whose experiences and life story for various reasons are an inspiration to others—examples—Jesus of Nazareth, the Apostle Paul, Socrates, John Bunyan, Caryl Chessman, Alexander Solzhenitsyn, Charles Colson; the list could go on and on. Even in Australia, we have people like Barry Goode, Lindy Chamberlain, Ray Thyer, Harry Miller, Derryn Hinch, etc. Each of these people has some positive moral lesson for society and should not be prevented from receiving a benefit for publishing their point of view.

I have some sympathy with the general view expressed by the Offenders Aid and Rehabilitation Service, and it is therefore appropriate for us to consider amendments which might tighten up this very broad provision. I propose that we consider a period of 10 years from the date of the commission of the offence within which profit from notoriety might be forfeited. I know that is an arbitrary figure and I am flexible on whether it ought to be 10 years, 15 years or another period. However, some time limit ought to be placed on it.

The other proposition which ought to be included in order to enable the court to have discretion is to provide for the court to attribute a portion of the proceeds to that part of the publication or material which relates to the criminal behaviour or criminal notoriety and that part which does not. The latter part would not be forfeited: the former would be.

The only remaining matter on which I have some concern is that the Crown is entitled to recover from the Criminal Injuries Compensation Fund any costs awarded against it in proceedings under the Crimes (Confiscation of Profits) Act. It seems to me that, if proceedings are taken by the Crown and costs are awarded against it in circumstances where it fails, costs really ought to come out of general revenue and not from the Criminal Injuries Compensation Fund. I have no difficulty with that part of the costs of administering the Act and the work of the Sheriff or the administrator—whoever gets up—being taken from the proceeds of the confiscation of assets, but I do have a difficulty with the deduction from the Criminal Injuries Compensation Fund of costs of proceedings taken by the Crown where the Crown is unsuccessful.

Subject to those matters, as I have indicated earlier, the Opposition supports the second reading of this Bill and, during the course of the Committee stage, we will have the opportunity to consider in more detail the amendments which I have foreshadowed.

Bill read a second time.

WRONGS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 13 February. Page 53.)

The Hon. K.T. GRIFFIN: This is a difficult Bill. I want to propose from the outset that the Government should withdraw it and undertake some more detailed consultation with a variety of persons and bodies having an interest in this area. It is potentially controversial. It results from the recommendation of a task force established by the Attorney-General on the Children's Protection and Young Offenders Act, but that task force did not undertake wide-ranging consultation on this issue. Also, the Bill itself was not the subject of consultation before its introduction prior to the election or since that time, except when circulated by me to a range of people with a particular interest in it. There are differing points of view.

The Bill seeks to impose a liability on parents for the negligence of a child under the age of 15 years who commits a tort and is guilty of an offence arising out of the same circumstances. For the purposes of this section, a parent is defined as the child's natural or adoptive mother or father. That, incidentally, is more restrictive than the definition of 'parent' in the Wrongs Act—a definition which extends to grandmother, grandfather and others.

So, for the purpose of this Bill, it is more limited. Each parent is jointly and severally liable with the child for injury, loss or damage resulting from the tort, 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. A defence is provided. That defence to any claim arises where a parent is able to prove that he or she generally exercised, to the extent reasonably practicable in the circumstances, an appropriate level of supervision and control over the child's activities.

The difficulty with the Bill is that parents cannot supervise their children 24 hours a day, seven days a week, 52 weeks of the year. The Liberal Party holds the very strong view that parents have a moral obligation to properly supervise their children and to bring them up so that they respect other persons and their property, abide by the law and understand what is right and what is wrong. However, as I say, parents cannot physically supervise their children 24 hours a day, seven days a week, 52 weeks of the year. Children under 15 years of age attend school and school related activities for about 35 hours per week and, during that period of time, they are under the supervision of teachers and not parents.

Yet, the Government's Bill could make a parent liable for damage caused by a child whilst under the care of a teacher or in circumstances where the child was truant from

school without the parents' knowledge. Mother and father could be liable for damages where they have left the child with a baby-sitter and either the baby-sitter has not exercised adequate supervision of the child, or the child has left the premises without the knowledge of the baby-sitter, who may believe that the child is asleep. The child may cause damage and then the parents could be liable.

Parents with children at boarding school could face the same liability if the children caused damage whilst at the boarding school. Where parents are separated or divorced the non-custodial parent may still have a liability where the child causes damage.

One important aspect of the Bill is that it does not address the issue of a child being under the care, custody or control of the Minister of Family and Community Services. One can, of course, have a situation where a real devil of a child could, in those circumstances, commit an offence and cause damage. The parents do not have any legal control yet may continue to have legal liability whilst the Minister of Family and Community Services escapes responsibility.

The Bill does not address the issue of foster parents who have no legal liability but have the actual responsibility for supervising a child. The natural parents may continue to have a liability where the child commits a tort and causes damage. Then you have the question of a child who may be mentally disturbed. A child in those circumstances may be regarded as uncontrollable but the parents may be diligent. They may be caring parents who endeavour to provide adequate supervision but still are not able to prevent the child from causing damage and committing an offence. You may have children who are autistic, where the measure of supervision and control is good but the child nevertheless still commits an offence and causes damage. In those sorts of circumstances, does one regard appropriate levels of supervision as being at a higher level for children who fall into that category than for children without those disabilities? So, there is a difficulty there.

A parent has a defence to a claim for damages if the parent proves that the parent generally exercised, to the extent reasonably practicable in the circumstances, an appropriate level of supervision and control over the child's activities. There are questions about what 'generally exercised' means. What does 'reasonably practicable in the circumstances' mean? What is an appropriate level of supervision and control?

I return to the example of a child who may be a difficult child but whose parents endeavour to maintain adequate supervision and control. Because of his or her particular difficulties and nature, the child may require a higher level of supervision than would other children without those particular problems.

A number of bodies to which I referred this Bill have come back to me with observations. The South Australian Council of Social Service is opposed to the Bill.

The Hon. R.J. Ritson: It will be a tax on the poor to some extent, won't it?

The Hon. K.T. GRIFFIN: Quite obviously, and that is what SACOSS says. For the purposes of the record, I will read the relevant parts of the letter from the Executive Director of SACOSS. The letter indicates a concern about the implications of the Act and states that the comments were brief because they are presently in the middle of preparing budget submissions. The letter states:

To put our concerns simply, this Bill does not right the Wrongs Act. We believe that children should become more responsible for their own bad behaviour and are uncertain that this Act is a step in the right direction, as it places more responsibility on parents. We also believe negligent parents should be more accountable. However, we do not see this Act as having positive influence on such parents.

Further, we do not believe this Act is successful in a social justice sense in redressing the wrongs caused by children. We believe that the Act will actually compound hardship as opposed to alleviating it. Some families will no doubt be forced to sell their homes and possibly go further into debt, to meet the costs of their children's behaviour. In cost benefit terms the State will have to deal with another family in hardship.

The Act is very broad and there is some confusion as to its interpretation. What is the situation when a child truants school and commits an offence? Under the Act there is some argument as to whether the parent is responsible, by implication the school may also be liable. What of cases where children are in guardianship and it is the Minister who is responsible? What is the situation for non-custodial parents? No distinction is made in this latter case within the Act. What is the situation when a child sneaks out his bedroom window and commits an offence (a not uncommon occurrence). The continual problem of street children is also seemingly not addressed within the Act. Are their parents to be made more accountable? In all the above there would be many instances when the parents had done all they could and will experience real hardship as the parents will be the ones on trial. I would contend that the State is inadvertently coaching irresponsible behaviour by children as it seeks to prove the parents' innocence rather than the child's guilt.

The above demonstrates the lack of clarity in relation to this Bill. The effectiveness is further questioned by the arbitrary selection of the age of 15 as a cut-off point for the Act. We are aware this is to tie in with entitlement to leave school and practical supervision issues, however, there will then be greater ambiguity for offences committed by children in the 15 to 16 age group.

It is our belief the Bill would compound hardship, be costly to exercise in relation to court costs, etc., and would probably only relate to a very small number of cases. The Bill does not seem to provide any real benefit nor take positive action to minimise the increase in juvenile crime. The limited resources in this area would, we believe, be better allocated in more preventative measures rather than these punitive ones. The cost to the State of this Act seems out of proportion with any benefit that it might bring. SACOSS does not support the introduction of this amendment.

There are a number of points there, and I have referred to them specifically. Another point made is that inadvertently there may be some coaching of irresponsible behaviour by children resulting from the Bill whereby it is required to prove the parents are not liable, rather than focusing on the behaviour of the child.

In consequence of this letter, it is important to identify a couple of things from the statistics. In relation to the Minister of Family and Community Services, the 1988-89 annual report of the department indicates that, at 30 June 1989, 1 357 children were under guardianship or control orders. At the same time in the previous year, the number was 1 423. At least the anecdotal evidence is that a large number of those are the children who commit a disproportionate number of offences that might bring them to the notice of the Children's Court and thus ultimately make their parents liable under this Bill.

The other point that the SACOSS submission makes is that the Bill may apply only to a small number of persons. If one takes specific offences, the working party report indicated that, in the nine month period 1 July 1987 to 1 March 1988, 19 arson offences were alleged against children under 15 years of age. That was out of a total of about 90 cases. While the Bill is not limited to arson, it tends to put it into some perspective. Obviously, there is much anger about children burning down schools, about vandalism and about other offences which occur and for which the community picks up the cost. Whilst superficially one may find the legislation before us attractive, in my view it is likely to create more problems than benefits, more hardship and injustice than justice, and to target a relatively small number of persons within the community. Another area on which one could focus is that, in 1988-89, 70 assault offenders were under 15 years, and there were 98 offenders in the area of wilful damage.

As I indicated, the Legal Services Commission was also opposed to the legislation. It holds the view that the Minister of Family and Community Services ought to be included in the definition of 'parent' if the Bill proceeds. The letter to the Attorney-General in respect of proposed section 27 *(d)* (1) states:

> . . . renders a parent jointly and severally liable, etc., if the parent was not at the time of the commission of the tort exercising an appropriate level of supervision and control, for example, child care, child minder, school teacher, baby sitter. Therefore, as the legislation stands in those cases the plaintiff can make out a case without having to prove the negative. The plaintiff pleads merely damage resulting from the tort caused when the child was being supervised by a delegate. The parent would then have to establish a defence of generally appropriate supervision and control (section 27 *(d)* (3)), which would involve carrying the onus of proving that it was appropriate to have a delegate in the situation, or that the delegate was in fact suitable (appropriate).

It also draws attention to the Law Society submission to which I will refer in a moment in relation to insurance. It concludes with a request to the Attorney-General, as follows:

> . . . you consider the problems set out above and suggest that the legislation simply has too many potential problems to become law.

The Law Society is also opposed, and its opposition is based on conclusions that the proposal is unworkable and undesirable. Again, for the purposes of the record, it is important to read the bulk of the letter to me from the Law Society relating to this issue, as follows:

> The Criminal Law and Civil Litigation Committees of the Law Society have considered the Bill. It is the society's view that the proposed legislation is both unworkable and undesirable.
>
> 1. Unworkable
>
> The liability of the parent or parents is predicated upon what really amounts to establishing negligence in supervising the offending child. There has been a marked and deliberate reluctance in the courts to impose that sort of liability on parents. Certainly, the relectance is demonstrated in the area of personal injury claims but, nonetheless, it is relevant here. We attach herewith two recent decisions of the Full Court of the Supreme Court of South Australia, namely:
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> *Robertson and another v. Swincer* Full Court of Supreme Court of South Australia, judgment delivered 21 September 1989, Nos 1758, 1759, 1760; and
>
> *Towart v. Adler and others and Brian Towart Third Party* Full Court of Supreme Court of South Australia, judgment delivered 31 October 1989, Nos 1871, 1872, 1873.
>
> We indicate that special leave to appeal to the High Court in the *Robertson and another v. Swincer* decision was refused by the High Court.
>
> The above cases speak for themselves and in our view although confined to the area of 'liability of parents and other custodians of children for injuries sustained to the children', the analogy with the situation posed by this Bill is strong indeed. Central to the working of this proposed legislation is the legal interpretation of what constitutes 'an appropriate level of supervision and control over the child's activities'. No doubt in the appropriate case a court will be forced to attempt a definition of that wide ranging phrase but, bearing in mind the comments of the Full Court in the above cases, we would suggest that a wide and generous conclusion will be reached in favour of the parent. For the same reason that our Supreme Court declines to embark upon an examination of the relationship between parent and child in the personal injury area, the courts will be similarly reluctant in this area. In our view, as a matter of principle, such open ended legislation should be avoided.
>
> 2. Undesirable
>
> If per chance some intelligible interpretation of this legislation is possible and therefore it becomes workable, we nonetheless think it is undesirable from a social point of view because it probably exposes the parents of wayward children to a liability which they cannot insure against. It is contrary to public policy for a person to enforce a contract of insurance which amounts to him collecting an indemnity against the financial consequences of the commission of an offence. (See: *R. Leslie Ltd v. Reliable Advertising and Addressing Agency Ltd* (1915) 1 KB 642. *Askey v. Golden Wine Co. Ltd* (1948) 2 All E.R. 35 and *Smith v. Jenkins* (1970) 119 C.L.R. 397 per Windeyer J. at page 42), *Sutton Insurance Law in Australia and New Zealand*, 1st Edition para. 14.17).
>
> It is not entirely clear from the legislation whether or not the parental liability arises by reason of the parents being treated as having in some statutory way committed an offence themselves. However, the above authorities make it clear that a deemed commission of offences also cannot be insured against. Certainly, in the Attorney-General's second reading speech he makes it clear that the intention of the legislation is to in effect penalise the parents or guardians of children under 15 who 'have materially contributed to the criminal conduct of the child'.

The Law Society refers to two decisions of the Full Court of South Australia at the end of last year, where it was attempted to establish in civil proceedings the liability of parents for accidents in which the children were involved. However, in both instances the Full Court was reluctant to find any liability on the part of the parents and generally made some very critical comments as to the attempts to make the parents liable for tortious action of the children in those circumstances.

Some groups have considered the Bill and others have not had adequate opportunity. Parent and school organisations have reinforced the view that parents should have, at least, a moral responsibility for the behaviour of children. Of course, they indicate that they have not had any consultation from the Government and I think some further consultation in that area would be necessary.

As I said when I commenced my second reading contribution, the Bill is potentially controversial. It seeks to create a legal principle that is difficult to interpret and would undoubtedly not only target the parents of those children who may, for example, burn down schools but also a wide range of parents who, in most circumstances, are good parents exercising what they believe to be reasonable supervision and control over their children.

If the legislation passes into law, undoubtedly it will bring greater pressures to bear on families, and on parents in particular. When parents become aware of the implications for them and their own family in any liability, it may not only result in tighter control over children but in more draconian measures to prevent children being out. But, even if that occurs, in no instance will a parent be able to ensure total supervision and control of the behaviour of children for every minute of every day of every week of every year. As children get older—and I speak from experience, as others will have also experienced—it is impossible to ensure that they always do as the parent tells them and that trouble is not created by them when they are on their way to school, out at a football match or staying at a friend's place.

It is all those difficult areas that indicate to the Liberal Party that, while there is some sympathy with trying to make children and parents accountable, that is not achieved by this law and is most likely to create a greater level of injustice than justice. In those circumstances, if the Government does not agree to withdraw the legislation, the Opposition will have no option but to vote against it. If the Bill passes the second reading stage, we will then pursue other options.

At the moment significant groups of considerable standing in the community believe that this legislation is unworkable, undesirable and impractical, such that any law which is reflected in this Bill, if it were passed, would be quite inappropriate, would be a bad law and would create more trouble than benefit to the wider community.

The Hon. DIANA LAIDLAW: I support the comments of the Hon. Trevor Griffin, and will confine my remarks to one aspect of the Bill, that is, the definition of 'parent'. For the past four years I have done considerable work in the area of community welfare and, therefore, in the areas of homeless youths in residential care and children who are under the guardianship or control of the Minister of Family

and Community Services or the Director-General of Community Welfare.

I am also well aware of the reflections of Commissioner Burdekin in his report on homeless youth about a year ago, who was very scathing of the practices adopted by States in respect of the care and control of children who are deemed to be wards of the State. It is my view, supported by considerable evidence in the community, that many of the children who are in the care and control of the Minister or who are residents of residential care centres and shelters in South Australia and, therefore, subject to supervision by residential care workers associated with the Department for Community Welfare or by a variety of church groups, are particularly difficult to control and supervise. They are responsible for a considerable amount of terror within the community and of the fear among the general public concerning their actions with motor vehicles, housebreaking and general intimidation.

It is unfair to narrow the provisions of this Bill to liability on the part of parents who have legal custody of their children but who may not have actual control of their children because the children may be in residential care units around the State. It is also unfair on those parents who do not have legal custody of their children because the Minister has guardianship and control of them. Under this Bill, parents whose children do something wrong and whose actions are subject to torts may be liable for compensation and can be held responsible for the actions of their children although they may not be under the supervision or control, legal or otherwise, of their natural parents. That is an enormous failing of this Bill.

An extension of responsibility under the Bill to the Minister or the Director of Local Government may see more resources provided to care workers who seek to supervise and control the behaviour and conditions of younger people who have been subject to the law. I am most concerned that, in our community, either as a consequence of a lack of resources or a lack of resolve, there is very little supervision of a lot of children who are no longer living with their parents and are subject to the guardianship of the Minister. As I said, I do not want to get into the argument of why that is the case.

From speaking with homeless youth in Hindley Street and elsewhere, I consider it alarming to find that many of the kids on the streets are those from residential care units as opposed to secure care units, who should be supervised and not out on the streets at all hours because they are legally under the care and control of the Minister; nor should they participate in the crimes to which some of them openly refer simply to gain the money and the means to survive on the streets.

For the reasons that I have outlined, I believe that there is a major deficiency in the Bill and I find it very difficult to support it. I am aware that, in New South Wales, the community welfare policy prior to the last election speculated on the possibility of introducing a similar measure, but the Government has found that the practical reality is that this is particularly difficult to implement.

The Hon. C.J. Sumner: They just announced it.

The Hon. DIANA LAIDLAW: It has not been introduced. I did not receive that advice when I made inquiries last week. I will make further inquiries. As I said, I was aware that it was part of the community welfare policy at the last election but I did not know that it had been announced. I am keen to see that Bill to determine whether it contains the number of deficiencies in the Bill before us.

From working with unhappy families I, too, have developed the misgiving, which has been expressed by SACOSS in its correspondence to the Hon. Trevor Griffin, that it is a danger in this Bill that negligent parents will be even less responsible rather than more responsible as a consequence of these provisions. There is a distinct possibility that, in terms of trying to rehabilitate families to reach some understanding between parents and their children, legislation such as this could be a factor that seeks to divide rather than cement relationships.

I also believe that there is some hypocrisy in this legislation. When we debated the tobacco sponsorship Bill some time ago, the Government spent an enormous amount of energy talking about peer pressure on younger people. I find it quite extraordinary that, when we come to actions that give rise to the attention of young people before the law, in this Bill it is the parents, solely, who will be seen to be responsible for that behaviour. There is no consequence of peer group pressure or other matters that may give rise to irresponsible behaviour by young people. It is important to encourage responsibility by young people. I do not believe that irresponsible behaviour is solely the responsibility of parents. Many other people in the community have a role in that, including the young people themselves. For a variety of reasons, I share the qualifications expressed by the Hon. Trevor Griffin in relation to this Bill.

The Hon. R.I. LUCAS: I oppose the second reading of the Wrongs Act Amendment Bill. In doing so, I indicate that I believe that the Bannon Government's attitude to this Bill is indicative of all that is wrong with the Bannon Government. It is not the only example that we could give of the Bannon Government's attitude, but it is a good example of what is wrong with its approach and with that of the Attorney-General to law reform.

All members on both sides of the Chamber (irrespective of what attitude they take to this legislation) will agree that for some time there has been a good deal of concern within the community about, for example, the level of vandalism, damage and arson being inflicted upon school buildings. As the shadow Minister of Education for four years, I have raised with the Minister and the Government on a number of occasions what I see as the lack of appropriate security or security measures taken by the Bannon Government, in particular the Minister of Education, the Department of Education and the Department of Housing and Construction, in relation to the security of school buildings. Widespread concern exists about damage being caused by young offenders, particularly in relation to school buildings and property. It was the result of that pressure that we see before us not only this legislation but also some of the amendments to the Children's Protection and Young Offenders Act.

In the lead-up to the election last year the Bannon Government, through the Attorney-General and the Minister of Education, made a promise that they would look at new ways of coping with the problem. One of the first thoughts that came to mind was, 'What we have been doing has not worked—let's blame the parents.' This is the genesis of the legislation that is currently before us. There is no doubting that the Bannon Government saw in this legislation a vote-catching promise that was superficially attractive to the community and, indeed, to significant sections of the media in South Australia.

I have not had time to track back in relation to the media comment, but in the lead-up to the election the promise made by the Bannon Government was supported by at least one, if not two, of the daily newspapers in South Australia, and certainly one or two of the television stations gave sympathetic support to the promise made by the Bannon Government in relation to making parents pay for the sins

of their children. The result of this vote-catching promise made by the Government was this ill-considered piece of legislation that we have before us at the moment.

The Hon. C.J. Sumner: It was introduced before the election.

The Hon. R.I. LUCAS: It might have been, but the promise was made and we now have the legislation before us. The Hon. Trevor Griffin has exposed starkly all the flaws of the Bill before us and I do not intend to go over all the details during the second reading debate. However, I will make one or two general comments and explore one section of the legislation in relation to schools and teachers.

I share the concerns of the Hons Trevor Griffin and Diana Laidlaw in relation to the general approach of the legislation. It seems to be saying to the South Australian community that, if children commit offences, in certain circumstances the parents can be deemed responsible and, irrespective of the circumstances of the parents, family and children, a monetary penalty—perhaps a significant one—can be inflicted upon the parents. If the family happens to be rich and well-endowed, I guess there will not be too much of a problem for them to pay the monetary penalty that might be imposed.

However, I suspect that that will account for only a small proportion of families potentially caught up in the legislation, if passed, and that in the main we will see caught up in this legislation parents who are struggling to make ends meet, to meet their mortgage commitments, to feed and clothe their young children and to control the activities of their children both during the day and perhaps also at night. It will create great difficulty for the many families in those circumstances. Rather than assisting in a resolution of the problem with which we are confronted as a community, it will only create further problems for those families.

The Hon. Diana Laidlaw touched briefly on the effects on those struggling families of the ultimate implications of this legislation, if passed. We will explore this aspect in greater detail in Committee. If indeed we get to the Committee stage, obviously quite some time will need to be devoted to the whole series of questions that have been raised by my colleagues during the second reading debate, and there are also many other questions that have not yet been raised.

I should like to touch briefly on one issue raised by the Hon. Trevor Griffin in relation to schooling and the responsibility of either the parents or teachers in relation to offences that might be committed on the way to school, more particularly during normal school hours, or in relation to a whole variety of activities after the close of school at 3.15 p.m. or 3.30 p.m., perhaps through to 5 p.m. or 6 p.m. when the parents resume responsibility for their children. As members in this Chamber would know, children indulge in a whole variety of activities at the close of school at 3.15 p.m. or 3.30 p.m.

There are sporting activities at the school that the child attends, at a neighbouring school or at a local park—and there is a range of other areas. Students are involved in a range of activities which may involve travelling, on behalf of the school, with teachers after school hours to other schools, whether, say, for debating courses or for language tuition at the South Australian Secondary School of Languages. There are students, say, of the age of 11 or 12 years, perhaps still in primary school, attending after-school care programs, in effect, run by committees of the school or by teachers or parents associated with the school, who are supposed to be on or near the school location from anywhere between 3.30 p.m. up to 6 p.m. or 6.30 p.m. We also have before-school care, perhaps from as early as 7 a.m. or 7.30 a.m. until the commencement of school at 8.30 a.m.

In many other debates in this Chamber we have discussed the notion of teachers being *in loco parentis*, being responsible for our children during those school hours or perhaps those activities shortly after school hours. The interpretation that the Hon. Trevor Griffin has put on the Bill, after discussion with many others, is that under this legislation potentially parents are still liable for any offences that might be committed during those school hours, even though teachers might be deemed to be *in loco parentis*.

A number of teachers have raised with me the view that they would like this issue explored in greater detail during the Committee stages, especially in relation to previous discussion on education Bills about teachers being deemed to be *in loco parentis* and responsible for the activities of the child during school hours. Obviously, there is a range of potential interpretations of this situation, and I will be interested, as will many teachers, in the considered response of the Attorney-General to what is a significant matter of interest for those people.

As the Hon. Mr Griffin indicated, a number of parent organisations have addressed this Bill briefly. For example, in a brief letter to the Hon. Mr Griffin the South Australian Association of State School Organisations (SAASSO) indicated its support for this legislation. It stated:

> Children should suffer the consequences of their own wrongdoing.

The letter states further:

> We also have a strongly held view of this association that children who are minors should be under the care and protection of their parents, and parents should be prepared to face up to their responsibilities in so far as it is a contributing factor in the wrongdoing of the child.

That is a supportive comment from SAASSO for the approach adopted by the Attorney-General and the Bannon Government in this matter. But, as the Hon. Mr Griffin has indicated, a significant number of other responsible bodies in South Australia, such as SACOSS, the Law Society and the Legal Services Commission have indicated their strong opposition to either the whole Bill or significant parts of it.

In summary, I believe that the Bannon Government's approach to this issue of great concern has been a knee-jerk one. It has been ill-considered, and should not be the way that we as legislators approach what is a significant problem in the community.

The Hon. C.J. Sumner: It was based on a report that went on for over two years.

The Hon. R.I. LUCAS: A lot of things may be based on a report that went on for over two years; the Attorney-General likes some of them, but others such as FOI for four or five years he opposed. We could all make judgments about Government working parties and reports in the way that the Attorney-General has when it has suited him on various occasions. The Liberal Party did not provide input or comment on this working party.

I believe that the reason for the Government's approach is that it is not prepared to take off the kid gloves in relation to the treatment of young offenders. If vandalism and damage is being inflicted on schools, the young offenders involved should be made to clean up the mess. If they have defaced school property they should be held responsible for their actions by being compelled to clean up the mess they have made. The Liberal Party supports a tougher approach and, through the Hon. Mr Griffin, it will support the toughening up of some of the provisions of this Bill. In particular, it will propose some toughening up amendments in relation to community service orders which I believe the members

of Council should support. With those comments I oppose the second reading of this Bill and urge all members of the Council to do likewise.

The Hon. R.J. RITSON: I, too, oppose this Bill. I can understand the emotional impact of the general proposition that kids who are not looked after properly and are let run riot to cause damage and who have no money or capacity to restore the damage are a big problem in society and that their parents should be made to pay. That is a simple proposition which touches the heart but it is not simple to do anything about it. It is a simple Bill but, to the simple, all things are simple.

The Hon. Mr Griffin and some of my colleagues have already explained some of the complexities and difficulties contained in this Bill, and I will spend a short while dealing with a few of them. First, it appears to place a degree of strict liability on parents as a class, regardless of whether a fair result is obtained. So, unlike the common law which requires the principle of negligence to be established, namely, that the ordinary and reasonable parent should have foreseen that to exercise a degree of control would have prevented the damage, it is not provided in this Bill first up. Strict liability of the parent is provided first up and a codified defence is provided in proposed new section 27d (3). The difficulty is that no-one knows how this legislation will operate.

It has often been said that statute law is more certain than common law: that in common law one often does not know what the law is or whether it has been broken until a judicial decision is made in the case of a particular dispute, whereas statute law enables one to know beforehand and before choosing one's actions what the law is. However, in the case of this statute the practical effect will turn on the phrase 'an appropriate level of supervision'. Nobody in this Chamber knows what sets of circumstances the word 'appropriate' will cover. It may be necessary to await the development of a long line of judicial decisions in all sorts of unforeseen circumstances before anyone will know what is an appropriate level of supervision. I doubt that anyone can determine generally the proposition of what is an appropriate level of supervision; we will have to wait upon the details of each dispute. The appropriate level of supervision may be vastly different from one case to the next.

I am concerned about the simplicity of using the word 'parent' and choosing parents as a class upon whom to visit this liability. Certainly, the general public will think mainly or only of parents when considering children who may not be adequately supervised. I am sure that my colleagues have raised this point. In a case where a non-custodial parent lives in Sydney and the child breaks a number of windows around the town in Adelaide whilst under the care of the other parent, I suppose it would be open to the parent living in Sydney to argue that, given that he lived in Sydney, no supervision was an appropriate level of supervision for him to exercise. We will have to wait on the pronouncements of judges to determine that sort of thing. In the case of children under the care of the State, in the first instance at least, the parent is caught up in the act, although the child may be fostered, and foster parents do not appear to have any liability for the control of the child; it involves only the parents with whom the child is not living.

Another thing that bothers me a little (and I see this in the course of my work from time to time) is that a lot of emerging teenagers become rather rebellious as part of their development and are difficult, if not impossible, to control in the parental home. Often that is no fault of the parents, but often the assistance of the Department for Community Welfare is sought. The department will often help these teenagers with counselling, with accommodation and, perhaps, with some limited level of supervision. Certainly, the department cannot lock children up just because they are rebellious and have committed no offence. In any case, departmental officers are often in a better position to do what they can for a rebellious teenager than anybody else. Why should not the liability fall upon a department social worker, as much as upon a parent, in those circumstances?

It seems to me that the problem is not simply one of parents not controlling their children. That is an over simplification of the problem of a bereft and distressed generation of young people growing up feeling confused about their responsibilities to society. The simple view asks why parents cannot control their children; why they should not be made to control them. The real view is that it is a vastly complex mess of, admittedly, in some cases, inadequate parenting, and often of inadequate social supports—a fall-off in standards of social behaviour generally throughout society. In fact, I believe that we are now reaping the harvest from the crop that was sown in the permissive 1970s, when Dr Spock was still believed, before he recanted; and when parents brought children up, perhaps, without a lot of hugging and kissing. There is a whole generation—or part of a whole generation—destined to be the future under-class.

It is a very big problem, and it is too simplistic to consider that it will diminish by one jot with the passage of this legislation. Maybe a few people will be able to get their windows fixed at no expense, because the parents of the miscreant child had enough money to pay his new liability to fix the windows but, by itself, this legislation will do nothing to solve the problem. It is a sop to the simplistic, and probably correct, public view that parents ought to look after their kids. The SACOSS letter says it better than I can. The Attorney-General read it, so it is in *Hansard*. It made the point that the liability to pay will probably fall hardest upon the poorer sections of society with least ability to pay, with the highest unemployment in their district and with the poorest housing. All these things—unemployment amongst the parents' generation and poor housing—contribute to antisocial behaviour on the part of children.

For this social sin we get not a social solution, not a deep study or giant commitment to rectify social problems but a Bill which, on the face of it, would place a strict liability on a non-custodial parent and no liability on a social worker or foster parents. This is a Bill which, in its operation, is unknown and, to understand the meaning of it, we must wait upon a series of judicial decisions about what are appropriate levels of supervision in each of a number of different types of case.

There it is: it is a simple Bill which is not a solution to a complex problem that is not being addressed at its root cause, which is extraordinarily difficult to interpret, and the results of which cannot be predicted. The Bill has nothing to recommend it at all, and I oppose the second reading.

The Hon. R.R. ROBERTS secured the adjournment of the debate.

CHILDREN'S PROTECTION AND YOUNG OFFENDERS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 13 February. Page 56.)

The Hon. K.T. GRIFFIN: The Bill results from a number of recommendations of the Children's Protection and Young Offenders Act working party, which produced its final report

in September 1989. It is important for me to identify what I understand to be the major amendments proposed by the Bill.

The Bill seeks to increase from $500 to $1 000 the maximum fine that a Children's Court can impose and to increase from $2 000 to $5 000 the amount of compensation which can be required to be paid. Both the existing figures were fixed in 1979, 11 years ago. Community service orders are to be available to the court as a discrete sentencing option. That is opposed to the present situation, where community service orders are available where default is made in payment of a fine. In introducing community service orders as a discrete sentencing option, the Bill limits the number of hours which can be ordered to 60, of which no more than eight hours per day or 24 hours per week can be required.

Where a young offender is to be dealt with as though he or she were an adult in an adult court, under section 47 the court is to be open to members of the public, and the prohibition on the publication of a report of those proceedings is lifted. Victims of crime are to be given a right to know when a child has appeared before a children's aid panel.

A person can, without incurring liability, refuse or fail to disclose an appearance before a children's aid panel, for example, to an employer or prospective employer. A decision by a Children's Court magistrate will be able to be reviewed only by a judge of the Children's Court, and an order of the judge of the Children's Court will no longer be able to be reconsidered by another judge, but must be dealt with by way of an appeal to the Supreme Court. That area has long been the subject of tension within the magistracy, in particular, because of the capacity of the Children's Court to review its own decisions. Except in respect of a sentence of life imprisonment, a non-parole period can be fixed where a young offender is to be transferred to an adult prison on obtaining the age of 18 years, and remissions can be earned.

Now, unless the Government makes some point of the fact that we are endorsing that and thus the Government's parole system, I hasten to say that what this part of the Bill seeks to do is to allow a young offender to be treated no differently from an adult offender when the young offender turns 18. It certainly does not indicate any support for the Government's parole system, which we have constantly said needs to be radically overhauled.

Children currently in a training centre, where a non-parole period is to be fixed, will be able to earn remission from the commencement of the operation of this Bill. This raises the possibility that young offenders sentenced under the present system may be earning remissions of a sentence fixed under different circumstances. What I would like the Attorney-General to do is to explain whether my impression is correct or whether there are safeguards which prevent a repeat of the 1983 experience where adult offenders sentenced under a different parole system, where a non-parole period was fixed and was intended to be the point before which no application could be made for parole, subsequently were dealt with under the Government's present parole system and earned remissions off that non-parole period. I would like to have further explored by the Attorney-General the inter-relationship of the new provisions with the old and their application to sentences imposed under a different system.

Where a young offender is to be dealt with in an adult court, that court is now able to take into account the general deterrence of a penalty when sentencing a child as an adult. The Legal Services Commission raises a question about that in the context of deterrence. The LSC opposes the principle of deterrence as being contrary to all present day philosophy about sentencing young offenders but makes the point that if deterrence is to be considered there is a problem with the drafting of proposed section 7 (1) *(da)* which suggests that the only underlying sentencing criterion for sentencing a child as an adult is the deterrent effect. Obviously, that cannot be the case; all the sentencing principles ought to be applied. If there is a problem with the drafting I would like the Attorney-General to indicate what he proposes to do about that.

The Bill also provides that a prosecutor is required to furnish the court with particulars of any injury, loss or damage resulting from an offence. In respect of children's aid panels, presently where there is an alleged drug offence, the panel consists of a police officer, a Department for Community Welfare worker and a person approved by the Minister of Health. The Bill seeks to remove the requirement for a person appointed by the Minister of Health. The basis for that proposal is an argument that the Department for Community Welfare workers are receiving training in drug counselling through the Drug and Alcohol Services Council.

If the amendment succeeds, it will mean that drug offences will be treated no differently from other offences before a children's aid panel. Other children's aid panels comprise a police officer and a person from the Department for Community Welfare, except in the context of truancy, where an Education Department worker is also involved. In the context of an appearance by a young Aboriginal person before a children's aid panel, there is a proposed change to the panel to allow an Aboriginal police aide to take the place of the police officer.

As Aboriginal police aides are providing valuable police service to the Aboriginal communities in particular, it is appropriate for them to be part of the children's aid panel process in dealing with young Aboriginal offenders. That is a commendable step forward in dealing with young Aboriginal offenders. There are a number of other amendments, but they are relatively minor in nature.

I have some concerns about the Bill. My first concern is about the removal of the third member of the children's aid panel in respect of drug offences. I am not satisfied that community welfare workers are adequately trained in drug counselling. Even if they were, drug-related offences by young offenders are of such a serious and potentially ongoing nature that it is important to have a police officer rather than a community welfare worker, and someone with specific day-to-day involvement in drug counselling and rehabilitation. I support the maintenance of the *status quo.*

A victim is to be entitled to be informed of the fact that a child has appeared before a children's aid panel. Victims like to know what is happening with offenders at all stages of the criminal justice process. I can see no explanation for the victim being informed after the appearance before the children's aid panel. I propose that a victim should be informed when a child will appear before a children's aid panel as well as when a child has appeared, and there will be an amendment to that effect on file in due course.

I am concerned about what is in effect a mandate to lie. That is a situation where a person who has appeared before a children's aid panel can refuse or fail to disclose that appearance. This creates a real dilemma. On the one hand, in the majority of cases the commission of the offence should not be relevant to something like employment. On the other hand, where the offence is relevant to the employment, I believe that employers in particular have a right to know whether a potential employee has been guilty of a

particular offence, or has, in the case of a young offender, appeared before a children's aid panel.

For example, it may be fraud. If an accountant has an application from a young person for employment and that young person is guilty of some credit card or computer fraud offences or has appeared before a children's aid panel for the purpose of dealing with that, it seems quite wrong for that young person to be able to decline or fail to disclose those offences. On the other hand, the dilemma is that if that is disclosed the young person might not get the chance to prove himself or herself. So, I express concern about that provision in the Bill. At this stage I do not intend moving an amendment, but it does create a dilemma, and anything that tends to legitimise a lie is to be deplored.

I have raised this in relation to expunction of criminal records and I still strongly maintain that position in relation to adult offenders. Consistently, my view is that it should apply also to young offenders, but the philosophy of the legislation is different, that records are not disclosed in any event and that appearances in court or before children's aid panels are generally of a private nature. Of course, the exception to that will be the appearance of a child before a children's aid panel where that fact is disclosed to a victim.

In relation to community work, there are a number of issues. First, I think that 60 hours is too short. For adults it is 320 hours and I believe something much longer would be appropriate for young offenders. Remember, we are dealing with young offenders who may be almost 18 years and it is not too much to expect a young offender in his or her teens to be spending more than 60 hours on community work where there has been a significant breach of the law and a breach of that person's responsibility to the community. My proposal is to increase that figure up to 120 hours.

I note that for community work attendance of a child at any educational or recreational course of instruction approved by the Minister is to be taken to be performance of community service. I do not have any difficulty with a court being able to order attendance at educational or recreational courses properly approved and supervised, because they may be of benefit to the rehabilitation of that young offender.

However, I do have an objection to it being regarded as community service—it is not community service. It is not putting anything back into the community in the sense of pay-back for the damage caused to society by the offence, and it brings the community work system into disrepute when one relates attendance at educational or recreational activities, in a sense pleasureable activities, to putting something back into the community.

I am proposing to delete that from the allowable community service options but to include in the Bill a provision which would enable the court, as a discrete sentencing option, to order the attendance of a young offender at an approved educational or recreational activity, and that maintains the initiative but takes it out of the area of community work. With respect to adult offenders, I have previously tried to have that similar provision deleted from the community work regime, but that has not been successful, although it does make community work something of a farce for adult offenders when self-development—educational development—is ordered as a community work option.

The Bill provides that community work is not to be work that would ordinarily be performed by a person for fee or reward and for which funds are available. That provision is already in the Act in relation to existing community work orders, but I will move to have it deleted from both the Bill and the Act. This provision seems to be designed to protect the work opportunities of those who are employed in the community and, in my view, it would have the effect of preventing some valuable community work on public property such as painting or repainting, repairing vandalism and the removal of graffiti. I think there are important options that cannot be ignored and I believe that the provision that is presently in the Act and in the Bill to exclude certain areas of work ought not to be approved.

The other area which is of major significance and which is one I have pursued on a number of occasions is the amendment to section 93 of the Act. This section deals with the reports of proceedings in a Children's Court which are limited by the provisions of the Act. It is my view—a very strongly held view—that section 93 is unnecessarily limiting when it comes to proceedings relating to offences. I am not suggesting in any event that the identity of a child should be disclosed or that any information tending to identify the child should be made available. However, I believe that the media, as the conduit of information to the public, should be able to report the proceedings that occur in a Children's Court without identifying the child. I will certainly move an amendment to enable that to occur.

The steps that the Attorney-General has taken to make the proceedings involving a young offender appearing in an adult court open to public scrutiny are to be commended. I believe that the next step is to open up the proceedings in the Children's Court to greater public scrutiny. One can argue that that may result in sensationalising proceedings. That is a risk, but there is a very strong argument that this opening up of the Children's Court to public scrutiny will result in a greater level of public accountability of the court, a greater exposure of its activities to public scrutiny and, in the longer term, a much better understanding by the public of what actually happens in the Children's Court.

There is a lot of concern about some of the penalties that are imposed in the Children's Court. It is all very secret at the present time. There is the view that was expressed by Mr Liddy SM several years ago about the sniggering behind the hand of young offenders as they left the court that they had got only a slap on the wrist. All that needs to be open to public exposure so that the facts can become known.

One of the instances drawn to my attention a year or so ago was the matter of a house that was vandalised by two young offenders. One had a string of previous convictions and a very bad record but got an $80 fine and a three month bond for this further act of gross vandalism which caused damage amounting to something like $14 000. In my view that is intolerable and has to be corrected. If that penalty had been exposed to public scrutiny, by the media being able to attend in court and to report proceedings, it seems to me that there could have been public comment on it which would have resulted in possibly some criticism of the penalty—which would thus make the court ultimately more accountable.

Essentially, they are the matters of concern in the Bill. The Opposition proposes to support the second reading but, during the Committee stage, we will move a number of amendments that, in our view, will make both the Bill and the system of the Children's Court and related proceedings much more effective, in the interests not only of the young offender but also the wider community.

The Hon. DIANA LAIDLAW: I, too, support the second reading of this Bill and endorse the remarks made by the Hon. Mr Griffin. There is a whole range of concerns in relation to the system involving young offenders and juvenile justice in this State, some of which are addressed in this Bill. Briefly, I will refer to some of the areas of major

concern. They include the over-representation of Aborigines in the juvenile justice system; the inadequate accommodation for young offenders in secure care (and the Government has yet to make a decision about what it will do in terms of replacing the current SAYRAC and SATAC units); the inadequate provision of services to emotionally disturbed young offenders; the fact that so many young offenders leave institutional care without basic literacy and living skills (and that has been the subject of a number of reports but with little action to date in this State); and the fact that young people released on remand are not always assured of appropriate support and supervision.

Of course, there is the further issue of the perception amongst young offenders and the wider public that the juvenile justice system in this State is a joke, that it is an object of ridicule providing little deterrence. As I said, this Bill seeks to address some of those issues, and for that reason essentially I support this initiative of the Government.

I will speak to a number of the amendments proposed by the Hon. Mr Griffin. In relation to community work, I share his concern about the provision as outlined in proposed new section 58d *(h)* which provides:

> . . . the attendance of the child at any educational or recreational course of instruction approved by the Minister will be taken to be performance of community service;

I believe very strongly that those two issues should be separated. I support the notion that a great deal can be done in terms of education and recreation and sport to help young offenders both in regard to discipline and later rehabilitation. I think that rehabilitation, particularly for young offenders, is a most important element of the sentencing process and one that has been neglected.

I refer briefly to the Sport, Recreation and Juvenile Crime Report released by the Australian Institute of Criminology in 1988. That report contains a number of recommendations seeking to extend the availability of approved courses in education, sport and recreation as sentencing options for young offenders. The report also refers to overseas wilderness and survival camps that operate in the United States where there has been considerable evidence of positive change in the nature and outlook of young offenders who have participated in these programs. They also have a very positive outlook when they return to their home environment. However, one of the difficulties with such courses in the United States is that, although there is often a marked improvement in the youths themselves, there is very little improvement in the home environment and the parental attitude. Work should be done to address that issue, as well.

In France, there are extensive sport and leisure programs for young people, including delinquents and young offenders. Again, they have reaped positive benefits not only for young offenders but for the wider community in long-term, cost-effective measures and in terms of recidivism, which has declined quite dramatically when children have participated in such sport and leisure programs. A number of programs have operated for some time in Australia, particularly among Aboriginal communities. That has not been the case in this State but, in Victoria and the Northern Territory, they have also been successful.

The greatest shortcoming of such programs is the frustration that administrators have in gaining sufficient funds to maintain a high quality program and, therefore, achieve better results for young offenders and society. I have a very strong belief that educational and recreational courses of instruction, including sporting courses of instruction, approved by the Minister, should be seen as a sentencing option for young offenders. However, they should also be seen as distinct from community service work; therefore, I will support (in fact, I have urged that amendments along this line be moved) the amendments to be moved by the Hon. Trevor Griffin. Proposed new section 58b states:

> A court cannot sentence a child to community service unless the court is satisfied, on the report of an officer of the department, that there is, or will be within a reasonable time, a placement for the child at a community service centre reasonably accessible to the child.

I support that provision but, having read quite widely on the subject and having mentioned the frustration in respect of wilderness camps and other initiatives for such offenders, I suggest that the lack of money to operate such programs is a matter of concern.

The Hon. K.T. Griffin: How much are they making available?

The Hon. DIANA LAIDLAW: I am not too sure. I believe it will be important to question this aspect during the Committee stage of the Bill because, if community service orders are to be a viable sentencing option for the courts, and if they are to be of benefit to young offenders, we must ensure that money is available for the placements, for the materials required and for the supervisors. In urging the Government to make such funds available, I stress that this program is very cost effective compared with institutional care. In most instances, it has been found to be far more effective in the development of the young person concerned.

I will support the amendments to be moved in relation to opening up the Children's Court to the media. If the Children's Court is to be seen as a credible court within this State, it must be far more accessible and much more accountable to the public for its operations. One of the frustrations within the community in respect of juvenile justice is that there is little information at hand with which to make judgments whether the court is proceeding in the best interests of both the young offender and the community at large. It would be of benefit within the confines that the Hon. Mr Griffin has outlined for the court to be made more accountable and to be seen to be working in the general interests of the community. I support the second reading of this Bill.

The Hon. R.I. LUCAS: In supporting the second reading, I will address one general issue, although at the Committee stage I may address other points. Over the past four years, whether as a member or when wearing my hat as shadow Minister of Education, Youth Affairs or Children's Services, I have become aware of community concern, rightly or wrongly—it is hard to tell; we may know with the gradual opening up of the Children's Court—at the lenient attitude applied to continuing young offenders. A number of people have raised examples of repeat offenders, juveniles who have offended on quite a number of occasions, in some cases on 10 or 20 separate occasions. A colleague raised with me the case of a juvenile who had offended on seven previous occasions; yet, when the juvenile came under notice again for a reasonably serious offence, that young person was released on a good behaviour bond.

Such actions and the results of those actions are unacceptable to the general community and to the majority of members in this Chamber and in another place, whether they be Liberal or Labor members of Parliament. As I said, there is a general perception in the community that the courts take a kid glove approach to punishment, deterrence and the sentencing of repeat offenders. As legislators, we must address this general community concern. I cannot see much in this Bill, although there is some toughening in relation to young offenders, which the Liberal Party will support. The Hon. Mr Griffin will be moving for further

toughening in relation to community service orders, and I will support that.

Some young offenders, who never learn and who continue to offend and cause problems in the community, start at about 12 or 13 years old and, by the time they are 15, 16 or 17, they have offended on quite a number of occasions. In those circumstances, it is unacceptable, in effect, to give them a bag of lollies and send them on their way.

I have never been a supporter of minimum sentences or terms. On occasions I have been persuaded of the need for such, and we have some examples. Indeed, the Liberal Party and I supported the concept of a minimum sentence or term in relation to some crimes. Perhaps in this case and in this area Parliament needs to consider, not for somebody who has offended once or twice at the age of 13 but for continued offenders who have chalked up a dozen or so offences by the age of 16 or 17 years and continued virtually to be let off, some form of minimum sentence so that such young offenders are not able to get off with a good behaviour bond. That is only one option that I raise in the second reading debate on this Bill. There may be better ways of coping with or handling the problems I have raised.

I take this opportunity to say that perhaps we cannot resolve the issue on this occasion. However, I know from past experience that we are sure to see this Bill and other legislation coming before the Parliament. I urge the Attorney-General and members of the Bannon Government to address the issues and the community concerns about repeat young offenders to ascertain whether there is some way that we as members of Parliament can deal with the problem. With those few words I indicate my support for the second reading.

Bill read a second time.

RETIREMENT VILLAGES ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 14 February. Page 126.)

The Hon. K.T. GRIFFIN: The Opposition supports the second reading of the Bill. The principal Act came into operation on 30 June 1987 and since that time a task force has reviewed the operation of the Act. As a result this Bill has been introduced. It seeks to insert a provision for a disclosure statement to be given by the authority administering a retirement village to a prospective resident. The statement would be prescribed in regulations and deal essentially with financial information. I saw a copy of the disclosure statement which was circulated last year. It may have been updated since then, and I will make a few observations on it in due course.

The Bill also provides that a resident's contract will be taken to include a warranty that information in the disclosure statement is correct. One of the areas that was not exposed to public comment was the extension of the cooling-off period from 10 business days to 15 business days. There has been a mixed reaction to that. The Commissioner for Consumer Affairs rather than the Corporate Affairs Commission is to assume responsibility for the administration of the Act, and the charge in favour of residents, which is specifically provided for in section 9 of the Act, is to be clarified, such clarification to be made retrospective to 30 June 1987. That is necessary to ensure that some uncertainty as to whether or not the charge ranks before any first registered mortgages by finance institutions does in fact occur.

I have sent out the Bill to a number of organisations and individuals. The general reaction is that, apart from some concern about the extension of the cooling-off period from 10 business days to 15 business days, the Bill is unlikely to enhance the rights of prospective residents. One residents association made representations to me that more substantive changes were necessary to ensure that the rights of residents were protected. That residents association wanted an amendment to ensure that at least two members of any board of management of an operating body of a retirement village should be nominees of residents.

In this group of retirement homes they say that there is difficulty having the views of residents taken into consideration at the operating board level, although a number of residents are experienced business and professional people, many of whom have retired but some of whom have not. They gain the strong impression that, notwithstanding their established professional and business confidence, they are treated as geriatrics, and any attempt to get involved in the management and control of their own lives and assets is resented and certainly discouraged.

I do not intend to move an amendment in this respect at this stage as the matter was only raised with me at the end of last week. I have some sympathy for the proposition that is being put. The difficulty is that I have not had an opportunity to consult with a range of people who might be affected by the proposition. It may have some unintended consequences for operating bodies where the operating body has a responsibility for more than one retirement village.

I wish to give further consideration to that matter and, if it can be established as a reasonable proposition that it will not have unintended consequences but will give residents a stronger voice in the operation of their retirement village which, after all, is financed by them, I will consider an appropriate amendment in the House of Assembly, which will consider the matter until after the next two weeks recess. It is an important issue and one of the many affecting retirement villages on which we receive regular complaints from residents in particular.

A number of organisations with which I have consulted have said that the extension from 10 days to 15 days in the cooling-off period will not achieve anything. One of the bodies (I do not think it is appropriate to identify it, but it is responsible for running a number of hostel-type homes) states:

> Because the dilemma of a resident wishing to move out is so real, it is easy to be persuaded that the root problem is the inadequate time for 'cooling off'. The resident argues that 'If I had originally had more time to study the agreement I would never have moved in'.
>
> The reality is that many incoming residents are primarily concerned about the immediate benefits of living in a village and may not focus on the fine print about what happens should they decide to leave. The last thing in the mind of a person who is convinced they should move into a village is the question of what happens if they become unhappy and wish to leave. Often people move into aged care accommodation under various pressures, for example, health, family concerns, etc.
>
> For this reason, the extension of the cooling-off period will have little, if any, effect in alleviating the underlying problems.

Two suggestions are offered, one dealing with refunds during a 12-month settling-in period less a penalty for a person wishing to leave after a few months, and the second dealing with a refund of equity in the original loan within six months after leaving, less, of course, a retention, with the balance being paid on the resale of the licence. It was submitted by this group that amendments along the lines of these two alternatives would have more impact on overcoming the problems faced by a small number of resident-funded residents and in reducing the number of complaints.

Another institution which operates in predominantly hostel-type accommodation says:

> There are no significant concerns with the amendments from the voluntary sector's point of view except the change of 'cooling off' period. I believe that the existing period of ten days is quite reasonable and longer than most contractual arrangements. Why should a further five working days be added? Indeed, why should it be 'working days' at all?
>
> This sort of arrangement is messy when we deal with hostel residents who are in urgent need of care. The general situation is that people are admitted to care before the 'cooling off' period has concluded! We need to fill the unit to assist improve our viability and the prospective resident needs the care!

The Real Estate Institute of South Australia indicates that it is uncomfortable with the proposed 15-day cooling-off period, which is certainly in excess of the period which applies under the Land Agents, Brokers and Valuers Act. The institute says that, in the absence of knowledge of the submissions made to the Commission for the Ageing calling for the extension of the cooling-off period, it is not able to reach any conclusion on the merit of that proposal and is, therefore, unable to support it.

The difficulty to which I draw attention is that the extension of the cooling-off period probably will not make any difference and will not reinforce the rights of the resident or prospective resident. As a result of the alteration to a period of 15 days, a number of retirement villages will need to undertake a review of existing documentation, which at present refers to the statutory 10-day period. Another correspondent dealing more with the disclosure statement than the cooling-off period makes the following observation:

> As a general comment, I fail to see how form 6—

that is, the proposed disclosure statement—

> will alter anything. In my experience most people are already confused by all the documents and notices, and one more will only add to the confusion. People either seek legal advice on the documents or just do not bother. If there must be a disclosure statement, why not incorporate form 1 of the regulations and schedule 2 of the Act and the disclosure statement into one form? A substantial amount of information which is currently included in form 1 will also be included in form 6. If a village gets into financial strife, all the paperwork will not be of any benefit.

I agree. I have seen that an extraordinary amount of paperwork is handed to residents when entering a resident funded village. It is my view that most prospective residents do not have the inclination to read it and, even if they did, would find it too confusing.

The only other point I wish to make relates to the priority to be given to the residents' moneys, that is, a charge in priority to other mortgages, charges or encumbrances. The proposal is to be made retrospective to 30 June. So far no-one who is likely to be affected has raised any objection to this proposal. On the copy of the disclosure statement in front of me, the administering authority is required to state whether the title is endorsed with the mortgage and, if so, whether the mortgage takes priority over the interests of residents.

It has been drawn to my attention that this appears to require the administering authority to give a warranty far in excess of what is provided in the Act, namely, the charge ranking in priority to the mortgage. The word 'interest' is too wide and specific reference should be made to either the charge or the right of the resident to repayment of a premium, which is all the Act talks about. I draw the Attorney-General's attention to this matter and, if it has not been changed, I urge him to do so before the form is completed upon the passage of this legislation.

A number of other issues in relation to resident-funded retirement villages, such as the promises that are made and subsequently cannot be delivered, admission to hospital or nursing home accommodation which subsequently cannot be honoured, and a whole range of other issues, need careful examination. The Opposition will give attention to those matters between this session and the next and, if it feels that there may be some advantage in the formation of a select committee during the next session of Parliament to try to bring together all the complaints in relation to resident-funded retirement villages with a view to proposing a rational and reasonable solution to the problems which not only residents but operators face in this developing area of accommodation for the ageing, it will consider that step. I support the second reading.

The Hon. L.H. DAVIS: I support the remarks of my colleague, the Hon. Trevor Griffin, and I wish to make some brief remarks about this Bill, which seeks to amend the Retirement Villages Act 1987. There has been bipartisan support for the introduction of legislation to protect the aged in that all important step of moving into a retirement village. This is a major area which deserves adequate protection at law.

It raises an interesting philosophical argument: we believe that Parliament should not interfere with the rights in the community generally except where it is necessary to protect the rights of citizens. In the area of retirement villages, which burgeoned in the 1980s as the population of Australia and South Australia in particular aged, a number of unacceptable rorts have developed which quite often left ageing people financially disadvantaged, very upset and often confused.

So, the Retirement Villages Act of 1987 was a necessary piece of legislation and it is pleasing to see that, generally speaking, it has worked well. It is important that it be reviewed from time to time because, in the next 25 years, we will see an increase of about 50 per cent in the number of people aged 65 years and over in South Australia. In fact, South Australia has more people over the age of 65 as a percentage of the total population than any other State in Australia.

As I have mentioned, housing is a prime concern. It is important that the rights of the aged are protected when it comes to housing. One of the popular housing projects which emerged in the 1980s was the retirement village, which offered full facilities for aged people, ranging from people who could look after themselves through to those who needed daily assistance. It provided facilities for recreation, sport, visitors, gardens and leisure activities generally. Many of the retirement villages that have been developed have been a credit to the people who have had the imagination and the foresight to consult with the ageing in the planning of those retirement villages. I refer to groups such as the Cooperative Retirement Services Organisation.

This amendment to the Retirement Villages Act comes about as a result of a task force which was established in 1988 and which reported in 1989. It focused on the need for adequate disclosure of information to prospective residents.

Form 6 has taken that into account to ensure that, prior to purchasing a unit in a retirement village, the prospective purchasers are fully aware of the various provisions of the contracts, such as the services they will receive for the money that they pay to the administering authority; the circumstances in which they will receive a refund and the amount of the refund; and the nature of their tenure in the retirement village, which can vary according to the nature of the contract they enter into.

The Hon. Trevor Griffin has covered the matters that have been raised in this Bill. At this stage, I want to confine my remarks to the cooling-off period provision, which has

been amended. The second reading explanation notes that the Justice and Consumer Affairs Committee approved the issue of extending the cooling-off period from 10 business days to 15 business days, recommended by the Commissioner for the Ageing in response to consumer submissions on this point. The explanation makes the point that this has not been exposed for public comment. Form 6, released for public comment, referred to the 10 business days cooling-off period, presently prescribed by section 6 (4) of the Retirement Villages Act 1987.

I subscribe to the notion of a rather longer cooling-off period in the case of purchasing a unit in a retirement village than we have in the community generally for real estate. I do not seek to argue that point in any way. However, I do think it is somewhat unfortunate that this amendment has not been exposed for public comment.

The Hon. C.J. Sumner: It has been on the Notice Paper since October.

The Hon. L.H. DAVIS: It was not exposed for public comment.

The Hon. C.J. Sumner: What could be more public than having a Bill in Parliament? What other sort of exposure do you want?

The Hon. L.H. DAVIS: The Attorney-General is begging the question that I have asked. I am simply saying that this amendment to alter the cooling-off period from 10 business days to 15 business days, unlike the other amendments which we are debating, had not been exposed for public comment at the time the legislation was introduced in Parliament. It is no good for the Attorney to grandstand and make a ridiculous point. Obviously, once the Bill is in the Council, everybody is aware of it: it is a public document.

I raise the matter because I suspect that, from the comments I have heard, the 10-day provision is working relatively well. When one looks at the practical aspects of a 15 day cooling-off period, one is talking about three business weeks. In reality, we are talking about 21 days, including weekends: a three-week period. It has been put to me by a tenant who was disadvantaged by the fact that, when he sought to leave a retirement village, his contract was inconvenienced by this long cooling-off period. The tenant made the unfortunate error of opting out of a retirement village to buy a unit outside, where the cooling-off period was rather shorter. Because he was in a difficult situation, he entered into a contract which was not subject to the prior sale and, as a result, he ended up owning two properties. Of course, that is no excuse for leaving the existing provision as it is, but I simply make the point that a 10 day cooling-off period is a fairly long time: it is a fortnight.

Presumably, before people enter into a contract for a retirement village, form 6 gives them information. They get much more information than they normally would get if they entered into a normal contract to buy a house in the community, for example. I would like to see this matter discussed further during the Committee stage. I would appreciate any additional information the Minister has on this point which may help clarify the position. I emphasise again the basic point, that I certainly agree with the notion of a cooling-off period, and I may well be persuaded that 15 business days is a reasonable cooling-off period.

I am pleased to see that the task force, comprising as it did representatives from Government and non-government organisations, including retirement village operators and a representative resident from a commercially administered village, has had input into this important area, and that the legislation now before us is a product of that discussion during 1988-89.

Bill read a second time.

DA COSTA SAMARITAN FUND (INCORPORATION OF TRUSTEES) ACT AMENDMENT BILL

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

ADJOURNMENT

At 6.3 p.m. the Council adjourned until Wednesday 28 February at 2.15 p.m.